

REPORT FOR: STANDARDS COMMITTEE

Date of Meeting: 9 May 2012

Subject: The Standards Regime

Responsible Officer: Hugh Peart Director of Legal and Governance Services

Exempt: No

Enclosures:

- Report to Standards Committee 29 February 2012
- Model code of conduct produced by DCLG
- London Borough of Harrow current code of conduct
- LGA model code of conduct
- Draft Arrangements

Section 1 – Summary and Recommendations

This report sets out options for the future of the Standards Regime at Harrow.

Recommendations:

The Committee is requested to:

1. Consider the options put before them; and
2. To agree what model code and procedure for dealing with complaints should be referred to full Council.

Section 2 – Report

1. Background

- 1.1 The background for the need to adopt a new regime for the regulation of standards of conduct for elected and co-opted Councillors was set out in the report for the meeting of the Committee held on 29 February 2012.
- 1.2 There are essentially two elements of the regime – the code itself and the ‘arrangements’ for dealing with alleged breaches of the code, including sanctions.
- 1.3 At the meeting of the Committee on 29 February it was resolved that the Head of Legal Services should meet with the political groups to explain the implication of the Localism Act 2011 and that a report be presented to a meeting of the Committee to finalise recommendations to the Council.

2. Current situation

- 2.1 The Head of Legal Services has now met with Labour and Conservative representatives. The following principles are common to the discussions.
- 2.2 The Monitoring Officer in consultation with the Independent Person should have discretion to filter complaints that are outside of the code. A question has arisen about whether there should be a right of appeal to any decision made by the Monitoring Officer. One way to deal with this could be that one of the other Independent Persons reviews the decision and then asks the Monitoring Officer to revisit his decision in light of this review.
- 2.3 The member complained about should have the ability to put in written submissions to the Assessment Sub-Committee and to be told about the complaint soon after it is received.
- 2.4 Some members felt that not only the complainant should have a right of review but also the councillor subject to the complaint.
- 2.5 The final hearing should be in public but that the initial decisions should be held in part II.
- 2.6 Some members felt that there should be an informal Assessment Sub Committee to which proportionality would **not** apply and could be chaired by an independent member. This would mean that a decision would either be made by the Monitoring Officer or by Full Council or by a decision making committee of council. If such a committee was set up proportionality would apply to it and it would be chaired by an elected member, with a membership possibly limited to 5 members.
- 2.7 Members would like to retain their current independent members possibly as co-opted members of the council committee.
- 2.8 There is a question about whether the Standards Committee should continue with an overarching policy and training / monitoring role as the Council still has the duty to promote high standards of conduct under the Localism Act. The decision could be taken to retain the Standards Committee or these functions could be hived off to another committee.

2.9 Members wanted a cost effective regime.

2.10 A copy of a draft procedure is enclosed for members to consider.

2.11 In respect of the procedure, the issue of sanctions needs to be considered. At the meeting on 29 February, members expressed interest in withholding allowances as a sanction. The Head of Legal Practice reported that Counsel's opinion had been sought on this and indicated that it was likely to be unlawful but agreed to revisit the issue and report back to Committee. In brief, Counsel's advice is:

- The scheme of allowances is set down in regulations and is related to the functions performed by the member;
- 'There is no room for a local authority to make a scheme which involves the payment of allowances to a member which does not reflect the nature of their activities and functions: whether as a 'basic allowance', or a 'special responsibility allowance'. Furthermore, the express provision conferring power on a local authority to withhold a payment when the member is suspended suggests that there is no power to withhold a payment, or part of a payment, in any other circumstances'.
- The general power of competence is subject to any legislative limitations. Section 2(2)(a) of the Localism act provides that 'The general power does not enable a local authority to do anything which the authority is unable to do by virtue of a precommencement limitation'; the latter term is defined at section 2(4) as 'a prohibition, restriction or other limitation expressly imposed by a statutory provision'.
- Counsel's opinion is that the Courts would be likely to read the 2003 Regulations [Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 2003/1021)] as imposing a 'limitation' on when members' allowances can be withdrawn, that is where the member is suspended or partially suspended (see regulation 4(3) and 5(3)). In other words, the 'power' to withhold allowances is limited to those circumstances. The section 1 power cannot confer on the LA power to do something which is subject to such a legislative limitation.
- Even if there was a power to withhold allowances, they amount to a 'form of remuneration for the work that they [members] do for the authority' and the right to the allowance would be treated as a civil right which engages Article 6 (right to a fair trial) of the European Convention on Human Rights;
- It is possible that an argument could be made that the above was not the case, but Counsel believes that on balance the Article 6 rights would be engaged;
- The consequence of this is that there would have to be some form of independent appeal panel which could **not** involve members or co-opted members (and probably not an 'independent person') of the authority.

2.12 In respect of the code, the options are:

2.12.1 To retain an amended version of the current code.

2.12.2 To follow another Code such as that recommended by the DCLG or by the LGA.

2.12.3 Members agreed that the 10 principles should be retained including respect. There was also a feeling that as an interim measure a code should be adopted that closely follows the current code.

2.12.4 The Committee needs to decide what model code and procedure should be put to full Council as the old regime comes to an end on 30 June and new arrangements need to be put in place as soon as possible after that time.

3. Financial Implications

Having a Standards Committee and members does have financial implications for the Council. The remuneration of the IP is yet to be set but it is recommended that it is at the same level as the current independent members. The delegation of more matters to the Monitoring Officer and the ability of the Assessment Sub Committee to receive written representations from the parties is likely to expedite matters and to save costs. Also the removal of the Review Sub Committee and rights of appeal will save on the cost of convening additional meetings and the time of officers. Given this it is likely that the new regime can be contained within existing budgets.

4. Risk Management Implications

The Council must have a Code of Conduct and a procedure for dealing with complaints. This report addresses these points.

5. Equalities implications

It is important that all members of the public are able to have access to a system to enable them to easily voice their concerns about the conduct of Councillors.

6. Corporate Priorities

This report incorporates the corporate priority of:

- United and involved communities: A Council that listens and leads.

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input type="checkbox"/>	on behalf of the Chief Financial Officer /
Date: ...30/4/12.....		
Name: Jessica Farmer	<input type="checkbox"/>	on behalf of the Monitoring Officer /
Date: 30/4/12.....		

Section 4 - Contact Details and Background Papers

Contact: Jessica Farmer Head of Legal Practice 0208 4241889

Background Papers: Localism Act 2011

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REPORT FOR: Standards Committee

Date of Meeting: 29 February 2012

Subject: The Future of a Standards Regime at the London Borough of Harrow

Responsible Officer: Hugh Peart Director of Legal and Governance Services.

Exempt: No

Enclosures: Current Code of Conduct, Local Government Association Draft Code.

Section 1 – Summary and Recommendations

This report sets out options for the future of the Standards Regime at Harrow.

Recommendations:

The Committee is requested to:

1. Consider the options put before them.
2. Adopt those options as appropriate for referral on to Council.
3. Ask officers to work on further options as necessary.
4. Appoint an interview panel and chair to interview candidates for the Independent Person (IP). (If this is required?)
5. Instruct officers to advertise the IP positions.

Section 2 – Report

1. The Localism Act 2011

The Localism Act 2011 (The Act) makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is proposed to be July 2012. This report describes the changes and recommends the actions required for the Council to implement the new regime.

2. Duty to promote and maintain high standards of conduct

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

3. Standards Committee

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

- 3.1 The composition of the Committee will be governed by proportionality. The present restriction to only one member of the Executive on the Standards Committee will cease to apply;
- 3.2 The current co-opted independent members will cease to hold office. The Act establishes for a new category of IPs who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as IPs for 5 years. The new IPs may be invited to attend meeting so the Standards Committee, but are unlikely to be co-opted onto the Committee; (This part of the Act is subject to lobbying and transitional provisions may mean that the current independent members can become IPs).
- 3.3 The current independent members can be co-opted members of the Standards Committee but they can only be voting members of the Standards Committee if the Standards Committee is not a decision making body, otherwise they can act in an advisory capacity only but they can not be IPs.

Recommendation 1 –

- a. That the Council establish a Standards Committee comprising 8 elected members of the Council, appointed proportionally;
- b. That the Leader of the Council be requested to nominate to the Committee only one member who is a member of the Executive;

4. The Code of Conduct

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. The

Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- 4.1
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 4.2 The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. The Council may still retain the ten principles from the old code. Regulations to be made under the Act will require the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs). The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations,
- 4.3 The Act prohibits members with a DPI from participating in authority business, and the Council can adopt a Standing Order requiring members to withdraw from the meeting room. So the Council's new Code of Conduct will have to deal with the following matters –
 - a General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. In practise, the easiest course of action would be simply to re-adopt Paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its Code of Conduct subsequently if the need arises; and
 - b Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.

Recommendation 2 –

- a. That the Monitoring Officer be instructed to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should –
 - i. equate to Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its Committees and Sub-Committees, to retain the ten principles in the old code or should follow the model code as drafted by the Local Government Association; and
 - ii. require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.
- b. That, when the Disclosable Pecuniary Interests Regulations are published a report will be put before the Standards Committee.

5. Dealing with Misconduct Complaints

5.1 “Arrangements”

The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct by Council members and by, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct. The advantage is that the Act repeals the requirements for separate Assessment, Review and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

5.2 Decision whether to investigate a complaint

In cases where the complaint does not fall within the code of conduct the Monitoring Officer could take the decision that the matter is dismissed. In other cases the councillor complained about could be asked to respond in writing to the complaint and the response and the initial complaint could be put to an Assessment Sub Committee to decide if the matter should be investigated or not.

5.3 “No Breach of Code” finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to Pre Hearing Sub-Committee and the Sub-Committee take the decision to take no further action. This decision could be delegated to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels appropriate. It would be sensible if copies of all investigation reports were provided to the IP to enable him to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to Standards Committee for information

5.4 “Breach of Code” finding on investigation.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Panel constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result

5.5 Action in response to a Hearing finding of failure to comply with Code.

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is as follows:

- 5.5.1 Reporting its findings to Council for information;
 - 5.5.2 Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - 5.5.3 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
 - 5.5.4 Instructing the Monitoring Officer to arrange training for the member;
 - 5.5.5 Removing from all outside appointments to which he/she has been appointed or nominated by the authority ;
 - 5.5.6 Where the breach involves inappropriate use of facilities withdrawing such facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - 5.5.7 Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 5.6 There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

Recommendation 3 –

That the Monitoring Officer be instructed to prepare and submit to Council for approval "arrangements" as follows –

- a. That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- b. That the Monitoring Officer be given delegated power, after consultation with the IP, to dismiss allegations that do not fall under the code of conduct. and to report quarterly to Standards Committee on the discharge of this function;
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the IP, and reporting the findings to the Standards Committee for information;

- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the investigation findings will be reported to a Hearings Panel of the Standards Committee for local hearing;
- e. That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
 - i. Reporting its findings to Council for information;
 - ii. Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council) that
 - a) He/she be removed from any or all Committees or Sub-Committees of the Council;
 - b) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - iii Instructing the Monitoring Officer to arrange training for the member;
 - iv Removing from all outside appointments to which he/she has been appointed or nominated by the authority ;
 - vi Where the breach involves inappropriate use of facilities, withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - vi Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Recommendation 4 –

That a meeting be arranged between the Chair of Standards Committee and the Group Leaders for the Council discuss how the new system can best operate.

6. Independent Person(s) (IP)

The “arrangements” adopted by Council must include provision for the appointment by Council of at least one IP.

- 6.1 The IP must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting).

A person is considered not to be “independent” if –

- 6.1.1 he or she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Council
- 6.1.2 he/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Council (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an IP); or

- 6.1.3 he/ she is a relative or close friend of a current elected or co-opted member or officer of the Council, or of any elected or cop-opted member of any Committee or Sub-Committee of such Council.

For this purpose, “relative” comprises –

- (a) the candidate’s spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate’s grandparent;
- (d) any person who is a lineal descendent of the candidate’s grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

6.2 The functions of the IP(s) are –

- 6.2.1 They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- 6.2.2 They may be consulted by the authority in respect of a standards complaint at any other stage; and
- 6.2.3 They may be consulted by a member or co-opted member of the Council against whom a complaint has been made This causes some problems, as it would be inappropriate for an IP who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

6.2 How many IPs?

The Act gives discretion to appoint one or more IPs, but provides that each IP must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one IP, provided that a couple of reserve candidates are retained and can be activated at sort notice, without the need for re-advertisement, in the event that the IP is no longer able to discharge the function.

6.4 Remuneration

As the IP is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the IP no longer comes within the scheme of members’ allowances. It is proposed that the IP is remunerated in the same way as the current independent members.

Recommendation 5 –

- a. That the IP is remunerated in the same way as the current independent members.
- b. That the Monitoring Officer advertise a vacancy of the appointment of 1 IP and 2 reserve IPs. (Unless transitional provisions mean that this is not necessary.)
- c. That a Committee comprising 2 labour members and 1 conservative member of the Standards Committee be set up to short-list an interview candidates, and to make a recommendation to Council for appointment.

7. The Register of Members' Interests

The Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define “Disclosable Pecuniary Interests” (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council’s website.

- 7.1 At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests regulations are awaited to describe the nature of these interest. The Act extends the requirement for registration to cover not just the member’s own interests, but also those of the member’s spouse or civil partner, or someone living with the member in a similar capacity. The provisions of the Act in respect of the Code of Conduct require an authority’s code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

7.2 Registration on election or co-option

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member. In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct. There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.

Recommendation 5 –

- a. That the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council’s Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- b. That the Monitoring Officer ensure that all members are informed of their duty to register interests;
- d. that the code of conduct includes a provision that members update their register of interests within 28 days of a change occurs.

- e. That once regulations are published a report is put before the next meeting of the Standards Committee.

8. Disclosure of Interests and Withdrawal from Meetings

As set out above, DPIs are likely to be broadly equivalent to prejudicial interests, but with important differences. So –

- 8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a panel, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.
- 8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a “pending notification”). So, members of the public attending the meeting will in future need to read the register of members’ interests, as registered interests will no longer be disclosed at the meeting.
- 8.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.
- 8.4 If a member has a DPI in any matter, he/she must not –
 - 8.4.1 Participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or
 - 8.4.2 Participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.
- 8.5 Failure to comply with the requirements (paragraphs 8.2, 8.3 or 8.4) becomes a criminal offence, rather than leading to sanctions;

Recommendation 6 –

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

9. Disclosure and Withdrawal in respect of matters to be determined by a Single Member

9.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under portfolio powers.

9.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –

9.2.1 Unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and

9.2.2 Standing Orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.

9.4 The Act here effectively removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

Recommendation 7 –

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

10 Sensitive Interests

The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest". If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

11 Dispensations

11.1 The provisions on dispensations are significantly changed by the Localism Act.

11.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

- 11.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
- 11.2.2 That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.
- 11.3 In future, a dispensation will be able to be granted in the following circumstances –
 - 11.3.1 That so many members of the decision-making body have DPs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
 - 11.3.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - 11.3.3 That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
 - 11.3.4 That, without a dispensation, no member of the Cabinet would be able to participate on this matter or
 - 11.3.5 That the authority considers that it is otherwise appropriate to grant a dispensation.
- 11.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 11.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer.
 - 11.5.1 Once regulations are published they will be reported back to the Standards Committee with recommendations on dispensations.

12. Transitional Arrangements

Regulations under the Act will provide for –

- a. Transfer of Standards for England cases to local authorities following the abolition of Standards for England;(Harrow do not have any such cases)
- b. A transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer; (The council currently have one investigation which has not been completed)
- c. Removal of the power of suspension from the start of the transitional period; and

- d. Removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

13. Financial Implications

Having a Standards Committee and members does have financial implications for the Council. The remuneration of the IP is yet to be set but it is recommended that it is at the same level as the current independent members. The delegation of more matters to the Monitoring Officer and the ability of the Assessment sub Committee to receive written representations from the parties is likely to expediate matters and to save costs. Also the removal of the Review Sub Committee and rights of appeal will save on the cost of convening additional meetings and the time of officers. Given this it is likely that the new regime can be contained within existing budgets.

14. Risk Management Implications

The Council must have a Code of Conduct and a procedure for dealing with complaints. This report addresses these points.

15. Equalities implications

It is important that all members of the public are able to have access to a system to enable them to easily voice their concerns about the conduct of Councillors.

16. Corporate Priorities

This report incorporates the corporate priority of :

- United and involved communities: A Council that listens and leads.

Section 3 - Statutory Officer Clearance

Name: SteveTingle.	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 21.2.12		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 21.2.12		

Section 4 - Contact Details and Background Papers

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Background Papers: Localism Act 2012

To all Local Authority Leaders

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www.communities.gov.uk

11 April 2012

Dear Colleague,

I am writing to let you know that my Department is today making available an illustrative text for a code of conduct for members and co-opted members of local authorities. This text provides local authorities with an example of what a local authority's code of conduct for the new standards arrangements might look like.

We have made provision in the Localism Act 2011 for the abolition of the Standards Board regime, and the Standards Board itself was abolished on 31 March. The Act also makes provision for new standards arrangements including the involvement of an independent person in allegations of misconduct, a new criminal offence for failing to declare or register interests, and the requirement for local authorities to adopt a code of conduct that is consistent with the seven 'Nolan' principles of standards in public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as making provision for the registration and disclosure of pecuniary and non-pecuniary interests.

The model code of conduct was a key part of the Standards Board regime, a top-down, centrally imposed regime that became a vehicle for vexatious complaints. Moving to new arrangements means that local authorities will be free to discard the model code and adopt their own, Nolan compliant, code. In order to give local authorities an idea of what a Nolan compliant model code featuring provisions about pecuniary and not pecuniary interests might look like, I am attaching an example. As you will see, it is very different to the model code that formed part of the Standards Board regime, while clearly requiring that members act in a manner that promotes and maintains high standards of conduct.

Together, these measures will ensure high standards in public life, prevent corruption, and put a stop to petty, vexatious complaints that consume local authority resources and damage the reputation of local government.

We have produced this example of a local code to provide certainty to local authorities who wish to adopt a lighter touch code compared to the centralist, top-down model code, and to help local authorities (especially parish councils) who might otherwise consider they need to commit valuable resource to creating a code to ensure compliance with the Localism Act. I hope you find the example code of conduct helpful.



BOB NEILL MP

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

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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.

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

DRAFT Arrangements
for dealing with standards allegations under the
Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the authority to appoint at least one Independent person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members.

3 Making a complaint

If you wish to make a complaint, please write or email to –
“The Monitoring Officer”

Civic Centre
PO Box 2
Station Road
Harrow
HA12UH

Or – monitoringofficer@harrow.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct. In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from Reception at the Civic Offices. Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress.

If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal referral to the Assessment Sub Committee which is a committee of elected members. Where the Monitoring Officer has

taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. This member will be asked to put their response about your complaint in writing to the Monitoring Officer. If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

If you are willing for your complaint to be dealt with by way of mediation then this option will be given to you if the Monitoring Officer feels that this is appropriate.

If you or the member you complain about are not happy with the Monitoring Officer's decision either party may ask for another Independent Person to look at it and for the Monitoring Officer to reconsider his decision in light of this.

The Assessment Sub Committee will decide whether the matter should be investigated or whether no further action should be taken

5 How is the investigation conducted?

Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview. The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then send the matter for local hearing before the Hearings Panel

Local Hearing

The Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct.

Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to arrange training for the member;
- 8.6 Remove the member from all outside appointments to which he/she has been appointed or nominated by the authority ;
- 8.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendent of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5;
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel. If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.