

Public Document Pack



To all members of the Councillor Conduct Committee

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Date: 3 August 2012

Dear Councillor

Councillor Conduct Committee (Wednesday 8 August 2012): To Follow papers

Please find attached the papers relating to the following item marked as “To Follow” on the agenda for next Wednesday’s meeting of the Councillor Conduct Committee:

Agenda Item 3: New Declaration of Interest Form (Pages – 1 - 22)

Please note the attached papers also include for discussion, a copy of the guidance for Councillors issued by the Department for Communities and Local Government entitled “Openness and Transparency on Personal Interests”.

To remind you Wednesday’s meeting will be taking place at 7pm in Committee Room 1 at the Civic Centre.

I hope these papers and the arrangements for next week’s meeting are clear, but if you should have any queries then please come back to me.

Many Thanks

Jacqui Hurst
Governance Team

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**The London Borough of Enfield
 DRAFT Members' and Co-opted Members'
 Disclosable Pecuniary
 and Other Interests**

Councillor's Full Name: _____

Note – Throughout this document;

The “authority or authority’s area” refers to the whole of the area covered by the London Borough of Enfield rather than the ward, the Member represents.

Any reference to “the code” refers to the Code of Conduct for Members of London Borough of Enfield.

Reference to the “Form” refers to *The London Borough of Enfield Members and Co-Opted Members' Disclosable Pecuniary and Other Interests Form*.

Declaration:

I, [please state name]....., a Member of The London Borough of Enfield, give notice that I have set out my interests below in the appropriate areas, and have put '**NONE**' where I have no such interest in any area.

I understand and acknowledge the following:-

1. I must complete, sign and return this notice within 28 days of becoming a member of the Authority, or of knowing I have a Disclosable Pecuniary Interest;
 - i. I understand that I must register my disclosable pecuniary interests and all Disclosable Non-Pecuniary Interests.
 - ii. I must register all other interests as required under the code or other enactment, or where I am required to do so or where it is appropriate for me to do so

by providing written notification to the Council's Monitoring Officer of the details required as set out in this form.

2. If my circumstances change I must, within 28 days of becoming aware of any changes to the interests specified above, provide written notification to the Monitoring Officer of that change.

I understand that I should do this by making the necessary amendments to this form. I understand that in order to do this, I will be required to *amend, initial and mark* this form **or** I will complete a new form.

3. Part 1 of this form contains Disclosable Pecuniary Interests as prescribed by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012; whereas Part 2 contains *Non-Pecuniary Interests* which the Council has decided are appropriate for me to register¹.
4. Disclosable Pecuniary Interests include not only my interests but also the interests of my spouse, partner, civil partner, family member(s) or persons with whom I have a close association or personal relationship; so far as I am aware of the interests of that person(s).
5. Failure to register a Disclosable Pecuniary Interest could be a breach of the code and a criminal offence. I understand that must register all such interest relating to me, my spouse, civil partner or partner. I understand that if a pecuniary interest arises in relation to a family member or person with whom I have a close association or personal relationship and I am aware that they have such an interest, I must disclose and register that interest(s).
6. I recognise that any offence arising from the requirements of the Localism Act 2011 or breach of the code, may be investigated by the police and referred to the Director of Public Prosecutions. I understand that **upon conviction a Member or co-optee may be fined up to a maximum of £5,000.**
7. If I feel I have an interest which, if disclosed on a public register, could lead to me or a person connected to me being subject to violence or intimidation, then I must disclose this as a sensitive interest to the Monitoring Officer and am obliged to register this interest. I understand that the details of this interest will not be disclosed in the public version of the register.
 - i. I understand that when I am at a meeting that I only need to state the fact that I have a sensitive interest, and do not need to give details of the interest itself.
8. I must, within 28 days of receiving any gift or hospitality in my capacity as a Member, with an estimated value of at least £25, provide written notification of that interest, including details of the person(s) from whom it was received. I am aware that my obligation to disclose applies to offers made but refused. I understand that I should disclose such interests by completing the 'Registration of gifts and hospitality' form and return it to :-

The Monitoring Officer
London Borough of Enfield
Civic Centre
Enfield
EN1 3XA

9. I must notify the Monitoring Officer should I change my home address.

I recognise that I have a legal duty to complete this form and that I must not:

1. Omit any information ought to be given in this notice;
2. Provide information that is materially false or misleading;

¹ Currently awaiting statutory guidance in respect of disclosable non-pecuniary interests which the council has decided are appropriate for members to register.

3. Fail to update this information as my circumstances change.

Full name	
Member's Signature	
Date	
Monitoring Officer's Signature	
Date	

(PART 1)**Disclosable Pecuniary Interests**

Please answer all parts of this form. You must enter information in every box. If you do not have an interest in a particular question please put "None". All of your interests must be properly recorded in the appropriate areas.

Please provide details of :-

Disclosable pecuniary interests	You	Your spouse, partner, civil partner, family member(s) or persons with whom you have a close association or personal relationship
a) Employment, office, trade, profession or vocation Any employment, office, trade, profession or vocation carried on for profit or gain.		
b) Sponsorship Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.		
c) Contracts Any contract which is made between the relevant		

<p>(cont'd)</p> <p>person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <ul style="list-style-type: none"> i. under which goods or services are to be provided or works are to be executed; and ii. which has not been fully discharged. 		
<p>d) Land</p> <p>Any beneficial interest in land which is within the area of the relevant authority.</p>		
<p>e) Licences</p> <p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>		
<p>f) Corporate tenancies</p> <p>Any tenancy where (to your knowledge)—</p> <ul style="list-style-type: none"> i. the landlord is the relevant authority; and ii. the tenant is a body in which the relevant person has a beneficial interest. 		
<p>g) Securities</p> <p>Any beneficial interest in securities of a body (Cont'd) where—</p>		

- | | | |
|---|--|--|
| <p>i. that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>ii. either—</p> <ul style="list-style-type: none">a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; orb. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. | | |
|---|--|--|

(PART 2)**Disclosable Non-Pecuniary Interests as Required under the Code**

2. Please answer all parts of this form. You must enter information in every box. If you do not have an interest in a particular question please put "None". All of your interests must be properly recorded in the appropriate areas.

Please provide details of your membership of, or your occupation of a position of general control or management in any: -

a) Bodies to which you have been appointed or nominated by the authority as its representative

Example: Any outside organisation that you have been appointed to by full Council e.g. Enfield Homes, London Council Committees, London Council Forums, Enfield Strategic Partnership.

b) Public authorities or bodies exercising functions of a public nature

Example: North London Waste Authority, Barnet, Enfield & Haringey Mental Health Trust Foundation

c) Bodies directed to charitable purposes

Example: Any Charitable Trusts e.g. Edmonton United Charities, Old Enfield Charitable Trust, Southgate Relief Charity, London Borough of Enfield Mayors Charity, Freemason Lodge.

d) Bodies one of whose principal purposes include the influence of public opinion or policy

Example: Political Party, Single Interest Action Groups, National Trust, Friends of the Earth, Age Concern, Enfield Business and Retailers Association, Enfield Harte Crime Forum.

Please retain one copy and send the original to Democratic Services



Department for
Communities and
Local Government

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To all Local Authority Leaders

Dear Colleague,

I wrote to you on 28 June about the new standards arrangements for council members. I am now writing to let you know that we have today published a guide for councillors on openness and transparency on personal interests.

This is a practical guide which will help all to properly understand the new arrangements and shows clearly how these arrangements strike a common sense balance between accountability of elected representatives and personal privacy. I would hope that you and all members of your council will want to carefully look through the guide – I am sure that you will find it helpful as you go about your day-to-day business as elected members serving your local communities.

The guide gives straightforward information about how councillors should be open and transparent about their personal interests. It makes clear to monitoring officers that any heavy bureaucratic, 'gold plated' approach has no place in the new localist standards arrangements.

The guide equally makes clear that every councillor should be giving their monitoring officer all the information they need to get and keep their register of members' interests up to date. The legal requirements mean that sitting councillors, just like newly elected councillors, should be registering their disclosable pecuniary interests.

Moreover, a member's disclosable pecuniary interests, as the guide explains, include certain interests of their spouse or civil partner. But as the guide also explains, there is no requirement that in the register a member's interest should be differentiated from those of his or her spouse or civil partner or that the names of the spouse or civil partner should be disclosed.

Copies of the guide are available on my Department's web-site. We are confident that this will help all those who have chosen to serve their communities as councillors to ensure that there is openness and transparency about their affairs whilst their legitimate privacy is properly respected.

BOB NEILL MP

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Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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This document/publication is also available on our website at www.communities.gov.uk

Any enquiries regarding this document/publication should be sent to us at:

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August 2012

ISBN: 978-1-4098-3604-9

The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of honesty - that **'holders of public office have a duty to declare any private interests**

³ <http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>

relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are

⁴ http://www.public-standards.gov.uk/Library/Seven_principles.doc

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests of your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a

criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex

Description of disclosable pecuniary interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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