

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON WEDNESDAY, 13 JUNE 2012**

COUNCILLORS

PRESENT Yasemin Brett (Chair), Tom Waterhouse (Vice Chair), Ingrid Cranfield and Michael Rye OBE

OFFICERS: John Austin (Assistant Director - Corporate Governance) and Asmat Hussain (Assistant Director Legal) Penelope Williams (Secretary)

Also Attending: Councillor Chris Murphy and Lawrence Greenberg, former Chairman of the Standards Committee

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WELCOME AND APOLOGIES

Councillor Brett welcomed everyone to the meeting including Councillor Murphy as an observer and Lawrence Greenberg the former Chairman of the Standards Committee.

There were no apologies for absence.

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DECLARATION OF INTERESTS

There were no declarations of interest.

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STANDARDS REGIME - NEW ARRANGEMENTS

The Councillor Conduct Committee received three reports from John Austin, Assistant Director Corporate Governance, concerning the new arrangements to replace the standards regime. These were:

- A draft new Member Code of Conduct
- A revised complaints process
- Draft recruitment pack for the appointment of Independent Persons.

1. Introduction

John Austin introduced his report as follows:

- The old regime including the whole framework, the Standards Board for England, the requirement for independent members and the investigative process for complaints, had been abolished.

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- In its place, Councils were obliged to produce their own Member Code of Conduct, based on Nolan principles, but the need for Council's to have their own Standards Committee had been removed.
- The new statutory instruments including details on disclosable interests had become law in the week preceding this meeting, but the guidance was yet to be published. The new arrangements should be in place from 1 July 2012.
- All councils have had to devise new codes. Several models were available, including from the Local Government Association and AcSES, the Council Monitoring Officers Professional Association.
- The Enfield Code had been adapted from the AcSES model, taking account of the old code, as well as the decisions made by Council in March, and the comments from last week's meeting of the Member and Democratic Services Group.
- As both the Code and the process for considering complaints had been drafted without reference to the guidance, it will be necessary to review them once the guidance becomes available. A formal review procedure will be put in place.
- It was suggested that the draft code be circulated to the political groups for comment, before being formally adopted at full Council in July. This will be subject to any later revisions which will also have to be agreed by Council.
- An amendment sheet was tabled proposing firstly that paragraph 2 on page 8 was deleted, because the previous test of bias does not appear in the new act, and secondly to delete the existing paragraph 2.5 on page 12 replacing it with:

“Failure to register a DPI (Disclosable Pecuniary Interest) is a criminal offence. You must register all DPI relating to you, your spouse, civil partner or partner. If a DPI arises in relation to your family member or person with whom you have a close association or personal relationship and you are aware that they have the interest you must disclose and register that DPI. Failure to do so will be a breach of the code of conduct.”

2. Comments on Code of Conduct

- 2.1 Failure to register a disclosable pecuniary interest will be a criminal offence. Members were concerned to make clear the difference between what would be a criminal offence and what would be just a breach of the code.
- 2.2 The term “legal action” paragraph 3.2 (page 13) (e) covers more than just criminal legal action.

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- 2.3 The change to the paragraph 2.5 (page 12) suggested above has been made to make it clear that in the legislation a criminal offence will only apply to “the member their spouse, civil partner or partner”, although the Council’s code will suggest disclosure of other relationships and associations.
- 2.4 It was suggested that the paragraph should be split after the word “partner” and that DPI should be spelt out.
- 2.5 Members wanted the paragraph 2 (page 8) to be retained as they felt it provided good guidance.
- 2.6 The word “purely” in paragraph B point 3 (page 3) should be left out.
- 2.7 The word “partner” will be included with “spouse and civil partner” wherever it is mentioned.
- 2.8 The phrase “or of knowing when you have a disclosable interest”. would be added after “Within 28 days of becoming a member of the Authority”. Paragraph 3 (page 8)
- 2.9 “Registration and” would be included in paragraph 3 (page 8) following the word “Such”.
- 2.10 In paragraph C, point 7, (page 3) the word “special” would be changed to “particular”, and “and communities” taken out.
- 2.11 At the end of paragraph H, point 20 (page 7) the sentence “Failure to do so will be in breach of the code” would be added.
- 2.12 Pages 9 and 10 have been taken directly from the statutory orders and set out the areas where members have to register interests. This has attracted much comment and may be subject to change in the future.
- 2.13 Members felt that Paragraph 8 Part 5-7 of the old code referring to personal interests where it relates to or is likely to affect “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 and any body” should be reflected in the new code. Members in positions have influence and may benefit in many ways not strictly financial.

3. Comments on Procedure for Handling Complaints

- 3.1 The word “repetitive” in 3.2 (a) (page 14) should be replaced with “frivolous”.
- 3.2 The complainant in 4.1 (page 14) should be given an email contact address as well as contact name and number.

- 3.3 It should be stated in paragraph 3.1 (page 13) that anonymous complaints will not be considered.
- 3.4 Paragraph 5.6 c (page 16) had been discussed by the Member and Democratic Services Group. It refers to the right of appeal and relates to a test of reasonableness based on Wednesbury Principles, which is a recognised legal reference. The question is did the committee, in reaching its decision, only consider relevant issues and come to a conclusion that any reasonable body would make in the circumstances. This is the test used when a case goes to judicial review. The paragraph will be separated into two bullet points and amended to make it read more clearly.
- 3.5 Appeals will only be considered if new evidence can be produced or if evidence received can be proved to be damaged, not just because someone does not like the result. This will be made clear in the process document.
- 3.6 A letter will be produced, with explanatory notes, to go with the code when it is sent to members for comment. Lawrence Greenberg offered to send a leaflet to help.

Lawrence Greenberg left the meeting at this point.

Page numbers refer to the numbers in the “to follow” papers.

4. Appointment of Independent Persons

John Austin highlighted the following

- The nature and status of the role had changed. An independent person was not the same as an independent member.
- Council had decided that Enfield should appoint two independent members.
- The process, role, description, person specification and application form were modelled on the previous ones, taking account of changes in the legislation.
- Members were asked for their view on paying an allowance to the independent person. After some discussion, members agreed that an allowance in the region of £500 should be paid. Benchmarking with other councils will be carried out, before a final amount is put forward to Council. This matter would also be referred for discussion at the Members and Democratic Services Group when revisions to other special responsibility allowances are reviewed.

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- Independent persons will be invited to every meeting of the Councillor Conduct Committee, but their primary role will be outside the meetings. Their advice and views will be sought on all complaints.

AGREED that

1. The new Code of Conduct, revised complaints process and the recruitment pack for independent persons, with the above amendments, be recommended for approval at full Council on 4 July 2012, subject to comments from the political groups.
2. The documents will be sent for comment to all members for discussion at political group meetings, before they are referred to full Council.

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WORK PROGRAMME 2012/13

The Councillor Conduct Committee received a draft work programme for 2012/13.

AGREED the work programme with the following additions and amendments:

1. The code of conduct would be reviewed in March 2013 before the end of the municipal year. An extra meeting of the committee would be arranged for this.
2. Training would be provided for all members, including members of the Planning Committee, on the new arrangements. A training schedule and content would be discussed at the October meeting.
3. A short item would be included on the agendas for each of the area forums, to inform the public about the changes. This would be discussed as part of the Communication Strategy in October.
4. The Committee Terms of Reference would be reviewed in January 2013 rather than October 2012 to allow more time for the changes to settle down.
5. Member Training, on the principles of mediation, would be considered.

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MINUTES OF THE LAST MEETING OF THE STANDARDS COMMITTEE

The minutes of the last meeting of the Standards Committee held on Thursday 29 March 2012 were received and noted.

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DATES OF FUTURE MEETINGS

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The Committee noted the dates agreed for future meetings:

- Wednesday 17 October 2012
- Wednesday 16 January 2013 – changed from Thursday 17 January 2013
- Thursday 2 May 2013

AGREED that an additional meeting would be arranged in March 2013 to review the Code of Conduct.