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Councillor Conduct Committee

Thursday, 14 March 2013 at 7.00 pm
Room 2, Civic Centre, Silver Street, Enfield,
EN1 3XA

Contact: Penelope Williams
Secretary
Direct : 020-8379- 4098
Tel: 020-8379-1000
Ext: 4098
Fax: 020-8379-3177 (DST)
Textphone: 020 8379 4419
E-mail: Penelope.Williams@enfield.gov.uk
Council website: www.enfield.gov.uk

Councillors: Yasemin Brett (Chair), Tom Waterhouse (Vice-Chair), Chris Murphy and Michael Rye OBE

AGENDA – PART 1

1. WELCOME AND APOLOGIES

2. DECLARATION OF INTERESTS

Members are asked to declare any disclosable pecuniary, other pecuniary or non pecuniary interests relating to items on the agenda.

3. COUNCILLOR CODE OF CONDUCT (Pages 1 - 10)

To review the Councillor Code of Conduct which Council formally adopted in July 2012. A copy of the code is attached.

4. TERMS OF REFERENCE (Pages 11 - 12)

To review the terms of reference of the Councillor Conduct Committee. The terms of reference are attached.

5. MINUTES OF THE MEETING HELD ON THURSDAY 14 FEBRUARY 2013 (Pages 13 - 16)

To receive and agree the minutes of the meeting held on Thursday 14 February 2013.

6. DATES OF FUTURE MEETINGS

To note the dates agreed for future meetings of the Committee:

- Thursday 2 May 2013

7. EXCLUSION OF PRESS AND PUBLIC

To pass a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for any items of business moved to part 2 of the agenda on the grounds that they involve the

likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

There is no part 2 agenda.

The Code of Conduct for Members of London Borough of Enfield

Purpose of the Code

1. The purpose of this Code of Conduct is to assist you in the discharge of your obligations to the Authority, the local communities and the public at large by:
 - a) setting out the standards of conduct that are expected of you when you are acting in that capacity, and in so doing
 - b) providing the openness and accountability necessary to reinforce public confidence in the way in which you perform those activities.
2. The Code applies equally to co-opted members of Council Committees who are entitled to vote on any issues coming before those committees.

Scope of the Code

3. The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.
4. The obligations set out in this Code are also complementary to related Codes and Protocols of the Authority within the Council's Constitution and elsewhere.
5. References to committees or meetings of the Authority within this Code also refer to Council, Cabinet, sub-committees, panels and working groups, as well as joint-committees.

Public Duties of Members

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you.
7. You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the views of the residents of your ward.

General Principles of Conduct

8. In carrying out your duties, in exercising the functions of the Authority, or otherwise acting as a Councillor, you will be expected to observe the following general principles of conduct. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

8.1 Selflessness

You should take decisions solely in terms of the public interest. You should not seek to gain financial or other material benefits for yourself, your family, or friends.

8.2 Integrity

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

8.3 Objectivity

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

8.4 Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

8.5 Openness

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

8.6 Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

8.7 Leadership

You should promote and support these principles by leadership and example.

8.8 *Respect for Others*

You 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. You should respect the impartial role of the authority's statutory officers, and its other employees.

8.9 *Duty to Uphold the Law*

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

8.10 *Stewardship*

You should do whatever you are able to do to ensure that the Authority uses its resources prudently and in accordance with the law.

Expectations of Conduct

9. You shall base your conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
10. You shall at all times ensure that your use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that you observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute.

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:
 - (1) Treat others with respect and courtesy.
 - (2) You must not -
 - (a) Do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010)

- (b) Bully any person;
 - (c) Lobby, intimidate or attempt to lobby or intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration or determination 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) You should 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;
- (4) You must not 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority
- (5) You must not prevent another person from gaining access to information to which that person is entitled by law.
- (6) You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

13. You shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others:
 - (1) Act in accordance with the Authority's reasonable requirements including the requirements of its ICT policy and the policies listed in the Constitution which you are deemed to have read and understood.
 - (2) Ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (3) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
14. You shall observe the following rules when making decisions on behalf of or as part of the authority:
 - (1) Have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
 - (2) Give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.
 - (3) Have regard to the rules and advice on the registration and disclosure of interests as set out in paragraphs I & J of this Code.

Registration and Declaration of Interests

15. You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.
16. Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.
17. In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.
18. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest.

Duties in respect of the Authority's Councillor Conduct Committee and the Monitoring Officer

19. The application and guidance on this Code shall be a matter for the Authority and for the Councillor Conduct Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
20. You shall co-operate, at all stages, with any investigation into your conduct by the Authority or those persons acting on its behalf. Failure to do so is likely to be a breach of this Code.

Registration of Interests

21. You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.
22. When considering registering or disclosing any interests, you should ask yourself:

“Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest? “

If the answer to this question is “yes”, then you should disclose that interest.

23. Within 28 days of becoming a member of the Authority, or of knowing you have a disclosable pecuniary interest, you must notify the Monitoring Officer. You must also draw attention to any relevant interest, where it is required or appropriate to do so, in any proceeding of the Council or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member. Such registration and disclosures must be made even if the interest has already been included in the register of interests or where there is a notification pending to the Monitoring Officer.
24. You should approach the Authority's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation. If it is agreed that you have such an interest, you will be obliged to register it but details will not be disclosed in the published version of the register. Similarly, when at a meeting, you only need to state the fact that you have a disclosable interest, and not details of the interest itself.

Disclosable Pecuniary Interests

25. The following will constitute pecuniary interests for the purposes of section 30(3) of the Localism Act 2011

Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
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.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where

(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and

(b) either

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) 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.

Other Pecuniary Interests

26. Other financial interests (if any) that would qualify as grounds for bias in an application to quash a decision of the Authority.

Other Non-Pecuniary Interests

27. Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority.

Memberships

28. In addition, this Code requires you to disclose any interests in any business of the Authority where it relates to, or is likely to affect, either:

(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 which exercises functions of a public nature, is directed to charitable purposes, or has a primary purpose of influencing 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.

Register of Gifts and Hospitality

- 29 You shall comply with the Council's agreed policy on gifts and hospitality and disclose to the Monitoring Officer the offer or receipt of any gift or hospitality with an estimated value of £25 or more. Offers made but refused must also be disclosed.

Disclosure and Duties in Respect of Interests Held by Members

30. Declaration of interests not included in the Register

- (1) If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest – see paragraph 13 of this Code)
- (2) You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification)
- (3) You must then act in accordance with paragraph 2 below.

31. Disclosable Pecuniary Interests

- (1) Where you
 - (a) are present at a meeting of the authority and
 - (b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

- (c) not participate, or participate further, in any discussion of the matter at the meeting
 - (d) not participate in any vote, or further vote, taken on the matter at the meeting
 - (e) leave the room until the conclusion of the matter under discussion
- (2) Where you are an executive member taking a portfolio decision and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.

- (3) Where you have taken a portfolio decision that is subsequently discussed at a meeting of the authority, you must not try to influence the outcome of that discussion or take any further part in the proceedings unless answering questions to facilitate those discussions
- (4) If you have a disclosable pecuniary interest in a matter coming before a meeting of the authority, you can make a written request to the Monitoring Officer beforehand for a dispensation, which may allow you to participate in the discussion and vote.

A dispensation may be granted in the following circumstances:

- (a) Where members of the decision making body have disclosable pecuniary interests in a matter that would “impede the transaction of the business”
- (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter
- (c) That the authority considers that the dispensation is in the interest of persons living in the authority’s area
- (d) That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of dispensation must specify how long it will last, up to a maximum of 4 years.

Dispensations under (a) and (b) above shall be decided by the Monitoring Officer, with the right of appeal to the Councillor Conduct Committee. Those in (c) and (d) shall be considered by the Councillor Conduct Committee, after consultation with the Independent Person(s).

- (5) Failure to register a disclosable pecuniary interest could be a breach of the Code and a criminal offence. You must register all such interests relating to you, your spouse, civil partner or partner.
- (6) If a disclosable pecuniary interest 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 interest. Failure to do so could be in breach of this Code.
- (7) If you fail to comply with the Code of Conduct (whether or not the finding is made in accordance with the Council’s agreed arrangements) the Authority may have regard to that failure in deciding:
 - (a) whether to take action in relation to you, and
 - (b) what action to take.

Terms of Reference - Councillor Conduct Committee (Updated: Council 28/03/12 & 09/05/12)

REMIT

To deal with policy, complaints against councillors and issues concerning the members' Code of Conduct.

The procedure to deal with complaints against councillors and co-opted members will be considered by Council 04/07/12.

MEMBERSHIP

4 Members, 2 from the Majority Party and 2 from the Minority Party to include both group whips.

Council will therefore be asked at the Annual Council meeting to agree to this being exempt from the proportionality rules.

Membership to be appointed at the Annual Council meeting, with the chairman and vice-chairman coming from each of the political groups.

The Independent Person(s) and the Monitoring Officer will be asked to attend the meetings to offer advice and support.

Meetings to be scheduled on a quarterly basis but only to meet if there was business to be transacted.

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COUNCILLOR CONDUCT COMMITTEE - 14.2.2013**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON THURSDAY, 14 FEBRUARY 2013****COUNCILLORS**

PRESENT Yasemin Brett (Chair), Tom Waterhouse (Vice-Chair), Chris Murphy and Michael Rye OBE

OFFICERS: Asmat Hussain (Assistant Director Legal) and James Kinsella (Governance Team)

Also Attending: Lawrence Greenberg and Christine Chamberlain (Independent Persons)

677**WELCOME AND APOLOGIES**

The Chair took the opportunity to formally welcome Christine Chamberlain to her first meeting of the Committee following her appointment as one of the Council's Independent Persons.

678**DECLARATION OF INTERESTS**

None received.

679**DISPENSATIONS**

RECEIVED a report from the Director of Finance Resources and Customer Services (No.165) relating to the granting of a general dispensation for councillors on the decisions due to be taken by Council (27 February 2013) in relation to the setting of the Council Tax, housing matters and rents plus members allowances.

NOTED

1. Following on from the decision made at the previous Councillor Conduct Committee on 28 January 2013, members were being asked to consider granting a general dispensation enabling all members to participate in the discussion and vote on decisions relating to the setting of the Council Tax, Housing Rents & Members Allowances at the Council meeting on 27 February 2013.
2. The need for the Committee to consider granting a general dispensation was on the basis that the previous specific exemptions allowing members to participate in the decision making process on these issues had not been carried over to the new Code of Conduct legislation. The Assistant Director Legal Services confirmed that Section 106 of the Local

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Government Finance Act 1992 would still require any Member who was two or more months in arrears on their Council Tax to declare their position and not vote on any issue that could affect the calculation of the budget or Council Tax.

3. The Monitoring Officers view that it would be prudent (in view of 2. above) for a general dispensation to be granted for all members in relation to decisions on the setting of the Council Tax, Housing Rents & Members Allowances, which would apply until the next Council election in 2014.
4. The confirmation provided by the Assistant Director Legal Services that Lawrence Greenberg (Independent Person) had been consulted on the recommendations within the report and that Christine Chamberlain (as newly appointed Independent Person) would also be briefed on the advice received in relation to the exemptions for the dispensations being sought.
5. Whilst supportive of the need for the dispensation, members expressed their concern that the previous exemptions had not been included under the legislation relating to the new Code of Conduct and standards framework.

AGREED

- (1) To grant the requests for dispensations in the following areas, effective until the next Council election in 2014:
 - (a) an allowance, payment or indemnity given to members or any ceremonial honour given to members;
 - (b) setting Council Tax or a precept under the Local Government Finance Act 1992, as amended from time to time or any superseding legislation.
 - (c) setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012 as amended from time to time and any superseding legislation.
 - (d) Housing matters and rents (provided that those functions do not relate particularly to the members tenancy or lease).
- (2) The dispensations in (1) above be approved under Section 31 (4) of the Council's Councillor Code of Conduct, on the grounds that it would be in the interests of persons living in the Borough for as many members as possible to be able to debate and decide on the issues in question.

680

COMPLAINT AGAINST A COUNCILLOR

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In view of the nature of the update to be provided, which related to a complaint against an individual councillor, the Committee agreed that it would need to be considered as a Part 2 agenda item.

Members apologised to members of the press who had attended the meeting for this item on the grounds that it had been listed for consideration on the Part 1 agenda. Whilst the item had only been listed for the purpose of noting, members were advised that the potential for any more detailed discussion would require this to be considered under Part 2 of the agenda.

681

MINUTES OF THE MEETING HELD ON 17 OCTOBER 2012

AGREED that the minutes of the Councillor Conduct Committee held on 17 October 2012 be received and confirmed as a correct record.

682

DATES OF FUTURE MEETINGS

NOTED the following dates scheduled for future meetings of the Committee during the 2012/13 Municipal Year:

Thursday 14 March 2013

Thursday 2 May 2013

683

EXCLUSION OF PRESS AND PUBLIC

AGREED to pass a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for the following item (Complaint Against Councillor - Update) moved from the Part 1 to Part 2 agenda on the grounds that it would involve the likely disclosure of exempt information as defined in paragraph 1 (information relating to an individual) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information Variation Order 2006).

684

COMPLAINT AGAINST COUNCILLOR - UPDATE

The Committee received an update from the Assistant Director Legal Services confirming:

- the receipt of two formal complaints against a councillor relating to an alleged breach of the Councillor Code of Conduct. Details of whether these had been submitted by residents within the Borough would need to be confirmed by the Assistant Director Legal Services, although members recognised that there was no restriction on where complaints could be made from;

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- that consideration of the complaints by the Monitoring Officer were currently “on hold” pending confirmation of any investigation being undertaken by the police.

(Exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972 as amended)