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Councillor Conduct Committee

Tuesday, 25 June 2013 at 7.30 pm
Room 3, Civic Centre, Silver Street, Enfield,
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Councillors: Yasemin Brett (Chair), Tom Waterhouse (Vice-Chair), Tahsin Ibrahim and Michael Rye OBE

Independent Persons: Lawrence Greenberg, Christine Chamberlain

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 CONDUCT COMMITTEE ANNUAL REPORT 2012/13 (Pages 1 - 8)

To receive and agree the Committee's Annual Report for 2012/13.

4. ARRANGEMENTS FOR THE RECRUITMENT OF INDEPENDENT PERSON

To update the Committee on the arrangements for the appointment of an Independent Person, to replace Lawrence Greenberg, whose term of office comes to an end on 30 June 2013.

5. WORK PROGRAMME 2013/14 (Pages 9 - 10)

To agree the Committee's work programme for 2013/14.

6. MINUTES FROM THE MEETING HELD ON 2 MAY 2013 (Pages 11 - 14)

To receive and agree the minutes of the meeting held on 2 May 2013.

7. DATES OF FUTURE MEETINGS

To note the dates agreed for future meetings of the Committee

- Thursday 5 September 2013

- Tuesday 3 December 2013
- Tuesday 25 March 2013

8. 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).

PART 2

9. COUNCILLOR COMPLAINTS

To receive an update from the Monitoring Officer on complaints received against councillors.

London Borough of Enfield

Councillor Conduct Committee

Draft Annual Report 2012/13

1. INTRODUCTION

This is the first Annual Report of the London Borough of Enfield's newly formed Councillor Conduct Committee. It sets out the key issues we have dealt with during the past year and looks ahead to our priorities for 2013/14.

2. MEMBERSHIP

The Councillor Conduct Committee in 2012/13 was made up of four councillors (two from each party, including each of the party whips), supported by two independent persons.

Councillors

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

Independent Persons

Lawrence Greenberg (appointed 7 November 2012 for a term of office ending on 30 June 2013)

Christine Chamberlain (appointed 30 January 2013 for a term of office ending on 30 June 2014)

Officers

The Committee's lead officers were John Austin (Assistant Director of Governance and Monitoring Officer), Asmat Hussain (Assistant Director Legal Services and Deputy Monitoring Officer) and Penelope Williams (Committee Secretary).

3. TERMS OF REFERENCE

The terms of reference of the Councillor Conduct Committee, as set out in the Council's Constitution (see Part 2 – Section 2.7), are to deal with policy, complaints against councillors and issues concerning the members' Code of Conduct. The Committee is ultimately responsible for the promotion and monitoring of high standards of conduct among Enfield councillors.

It also provides advice on the code of conduct for both councillors and co-opted members, on member training, and can grant dispensations to members from requirements relating to members' disclosable pecuniary interests.

In May 2013 the Committee agreed changes to the original terms of reference to include the following:

- To promote and maintain high standards of conduct by councillors and all co-opted members.

- To assist councillors and co-opted members to observe their Code of Conduct and all other Codes within the Constitution.
- To monitor the operation of the Councillors' Code of Conduct and report when appropriate to the full Council on the adoption or revision of the Code and all other codes within the Constitution.
- To consider requests for dispensations by councillors, and co-opted members relating to interests set out in the Code of Conduct.
- To discharge such other functions either general or specific as the Council may from time to time allocate to the Committee.

These changes are due to be ratified by Council in July 2013.

4. MEETINGS

The Committee held ten meetings during the year: on 13 June 2012, 8 August 2012, 17 September 2012, 8 October 2012, 17 October 2012, 16 January 2013, 28 January 2013, 14 February 2013, 14 March 2013 and 2 May 2013. Three dealt with the appointment of independent persons.

5. CHANGES TO THE STANDARDS REGIME

- 5.1 The Localism Act (November 2011) made fundamental changes to the system of regulation of standards of conduct for elected and co-opted members of local authorities. Previously local authorities were obliged by law to adopt a national code of conduct and to have a Standards Committee to oversee the behaviour of their councillors and receive complaints. This no longer applies.

Instead, local authorities, who have as before a responsibility to provide and maintain high standards of conduct amongst councillors, have had to draw up their own local codes. The new regulations also made it a criminal offence for councillors to deliberately withhold or misrepresent a financial interest.

The new arrangements came into effect on 1 July 2012.

- 5.2 On 30 March 2012 Council agreed to replace the Standards Committee with the Councillor Conduct Committee.
- 5.3 At our first meeting the Councillor Conduct Committee considered and agreed a new code of conduct and complaints procedure which were put to Council for approval in July 2012.
- 5.4 There was some discretion as to what should be included new code provided that it was consistent with the seven principles listed below. Enfield's code was based on the old code with the addition of the new

requirement for registering and disclosure of disclosable pecuniary, other pecuniary and non pecuniary interests.

As required under the act, the new code of conduct was consistent with the following seven principles:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Committee decided that in addition the following principles which had been in the old code should be included as well as a public interest test for councillors to follow.

- Respect for others
- Duty to uphold the law
- Stewardship

“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?”

- 5.5 The new code included the requirement that disclosable pecuniary, other pecuniary and non pecuniary interests must be declared and registered. Members with disclosable pecuniary interests still have to withdraw completely from a meeting where the relevant item is being discussed.
- 5.6 The Committee decided that members should continue to refresh their register of interests at least annually, even though this was no longer a statutory requirement and that disclosable pecuniary interests’ must be declared at meetings, even though they may have stated them on the register or have notifications pending.
- 5.7 A new complaints process was also drawn up providing a much more streamlined process. Under this new process the Monitoring Officer in consultation with one of the independent persons was given delegated authority to filter complaints and to decide whether they merited investigation or to seek alternative ways to resolve them.
- 5.8 If appropriate, the Monitoring Officer (in consultation with an Independent Person) can refer the outcome of an investigation to the Councillor Conduct Committee. The Committee will consider the investigating officer’s report including evidence and representations from both parties associated with the complaint and decide whether or not there has been a breach of the code of conduct.

- 5.9 The parties involved in the complaint will have a right of appeal, but only where the decision taken was considered unreasonable or procedurally flawed or where new evidence was produced which, if available at the time of the original decision, may have changed the outcome.
- 5.10 Changes were made to how dispensations could be dealt with. The Monitoring Officer was delegated the power to grant dispensations in cases where so many members have disclosable pecuniary interests in a matter that it would “impede the transaction of the business” and where without the dispensation, the representation of different political groups would be upset so as to alter the outcome of any vote. All other dispensations have to be considered by the Councillor Conduct Committee.

6. INDEPENDENT PERSONS

- 6.1 The Localism Act provided that all local authorities had to appoint an Independent Person or Persons to assist the Council in promoting and maintaining high standards of conduct amongst its members. At Enfield we decided to appoint two Independent Persons to work closely with the Council’s Monitoring Officer.
- 6.2 The main role of an Independent Person is to be available to be consulted on decisions to investigate complaints, and before a decision is made, on an investigated complaint. On top of this they can be consulted on other standards’ matters, including by the member who is subject to an allegation.
- 6.3 They are also expected to develop a sound understanding of the ethical framework, as it operates within the Council and to act as advocate and ambassador for the Council in promoting ethical behaviour.
- 6.4 Our Independent persons were recruited through advertisements on the Council website and in local papers; information on the positions was also sent to local voluntary groups.
- 6.5 In October, Lawrence Greenberg, the former chair of the Standards Committee, was appointed, but in accordance with the requirements of the Localism Act, his term of office comes to an end on 30 June 2013.
- 6.6 He was joined in January by Christine Chamberlain, a local magistrate who is very experienced in arbitration matters and Chair of the Independent School Appeals Panel. We are currently recruiting for a replacement to Lawrence Greenberg.
- 6.7 Since appointment, the Independent Persons have worked with the monitoring officer to resolve complaints received about councillors and attended meetings to discuss changes to dispensations, disclosable pecuniary interests, other interests, the complaints procedure and the committee terms of reference.

7. THE COMMITTEE'S WORK PROGRAMME - 2012/13

We adopted a work programme for the year, which this year has been focused on bringing in, establishing and reviewing the changes which have been made to the standards regime. The main items discussed this year are listed below.

7.1 Councillor Code of Conduct and Complaints Procedure

At its first meeting the Councillor Conduct Committee agreed the new code of conduct and complaints process which were adopted by Council in July 2012.

7.2 Registration and Declaration of Interests, Gifts and Hospitality

Under the new regime members are obliged to declare disclosable pecuniary, other pecuniary and non pecuniary interests. These replaced the old categories of personal and prejudicial interests. A new form was developed and considered by the Committee. This was issued to all members in May 2013. Details are available on the Council website.

At the Committee's suggestion a section on for declaring gifts and hospitality was included on the form. There was a new obligation to ensure that gifts and hospitality were declared regularly. It was suggested that regular reminders be included in the Members Newsletter.

At another meeting members went through some scenarios to clarify when the different types of interests applied.

In March the Committee reviewed the circle of influence as regards disclosable pecuniary interests, which had been drawn quite widely to include anyone with whom the member had a close personal association. Research was undertaken to find out how other councils were dealing with these issues. Some Councils had adopted a narrower definition. After detailed consideration it was agreed that Enfield would retain the wider definition.

7.3 Dispensations

In January the Committee met to consider granting a general dispensation to all members on the Council Tax Local Support Scheme which was to be discussed at Council in January 2013. This was to enable as many members as possible to vote on the scheme.

However, following detailed discussion, the Committee decided that it would be more appropriate for the granting of dispensations to be considered on an individual rather than general basis, to avoid the possible public perception that members with a direct pecuniary interest in how the scheme would apply to them be given a general dispensation

to vote on the item. Subsequently guidance was received from the Department for Communities and Local Government that dispensations were not necessary when approving the Council Tax and Council Tax Benefit schemes.

At a further meeting the issues of dispensations for Council Tax, Housing Rents and Members Allowance Scheme were also discussed. The Committee agreed to grant the requests for dispensations in the following areas, effective until the next Council election in 2014:

- An allowance, payment or indemnity given to members or any ceremonial honour given to members.
- Setting Council Tax or a precept under the Local Government Finance Act 1992, as amended from time to time or any superseding legislation.
- 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.
- Housing matters and rents (provided that those functions do not relate particularly to the members tenancy or lease).

The dispensations were 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.

7.4 Review of Committee's Terms of Reference

In March the Committee reviewed the terms of reference and made the changes highlighted above.

8. MEMBER CODE OF CONDUCT - COMPLAINTS

In 2012/13 the monitoring officer in consultation with one of the Independent Persons, resolved that two cases of alleged breaches of the Code be referred for further investigation. These were brought forward in the latter part of the year and are still under investigation:

During the year, the Monitoring Officer has also received a number of informal complaints, but wherever possible these have been resolved without the need for a formal investigation. These will be reported to the Councillor Conduct Committee on a quarterly basis.

9. TRAINING ON THE NEW CODE OF CONDUCT AND COMPLAINTS PROCESS

All members received training on the new code of conduct and complaint process. The Monitoring Officer briefed both political groups at the start of the year. Refresher training was carried out in May/June 2013.

All members of the new Enfield Health and Wellbeing Board, established in April 2013, also received a briefing on the new code. Regulations stated that they also needed to sign up to the Council Code of Conduct.

10. WEBPAGES

Our webpages are being reviewed and will provide information about the Committee, its role and purpose and on making a complaint against councillors and co-opted members. The pages are within the 'Councillors, Elections and Decisions' section of the Council's website.

11. FUTURE WORK PROGRAMME 2013/14

We will agree a work programme for 2013/14, at the first meeting of the new Municipal Year. Areas of work for next year will include a review of the complaints process and terms of reference, a review of the member conduct training programme and an update on the arrangements for councillors, pre and post the 2014 local government elections.

12. CONCLUSION

As Chair, I would like to take this opportunity to thank my fellow committee members for their sound and thoughtful contributions towards the encouragement and maintenance of a robust local standards regime during the year.

On behalf of the Councillor Conduct Committee, I would like to thank the officers of the Council who have supported the work of the Committee.

Councillor Yasemin Brett – June 2013

Councillor Conduct Committee: Work Programme 2013/14

ITEM	Lead/ Support Officer	25 June 2013	5 September 2013	3 December 2013	25 March 2014
Annual Report	John Austin	To approve the 2012/13 Annual Report			Outline Annual Report 2013/14
Work Programme 2013/14	John Austin	To Agree the Outline Work Programme for 2013/14	Updated Work Programme Monitoring	Updated Work Programme Monitoring	Updated Work Programme Monitoring
Review of Complaints Process	John Austin/ Legal			Review	
Review of Terms of Reference	John Austin				Review
Training Programme – Identifying areas for training	John Austin Asmat Hussain				
Update on Complaints	John Austin/ Asmat Hussain	Update	Update	Update	Update
Pre and Post Election Arrangements	John Austin				Report

The appointment of Independent Persons will take place at separate meetings which will be arranged as required.

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COUNCILLOR CONDUCT COMMITTEE - 2.5.2013**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON THURSDAY, 2 MAY 2013****COUNCILLORS**

- PRESENT** Yasemin Brett, Tom Waterhouse and Chris Murphy
- Lawrence Greenberg and Christine Chamberlain
(Independent Persons)
- ABSENT** Michael Rye OBE
- OFFICERS:** John Austin (Assistant Director - Corporate Governance) and
Asmat Hussain (Assistant Director Legal) Penelope Williams
(Secretary)

942**WELCOME AND APOLOGIES**

The Chair welcomed everyone to the meeting.

Apologies for absence were received from Councillor Rye.

943**DECLARATION OF INTERESTS**

There were no declarations of interest.

944**REVIEW OF DISPENSATIONS, DISCLOSABLE PECUNIARY INTERESTS
AND COMPLAINTS PROCEDURE**

The Committee received a report from John Austin, Assistant Director of Corporate Governance and Monitoring Officer setting out the outcome of recent discussions between the Monitoring Officer, the Assistant Director Legal Services and the Council's two independent persons in relation to dispensations, disclosable pecuniary interests, other interests, complaints procedure and terms of reference.

NOTED

1. John Austin reported that following a detailed discussion they had felt that it was appropriate that members should make written requests for dispensations in advance of a meeting to enable the Monitoring Officer to consider the request properly.
2. Members discussed the possibility of an urgent item coming up for which members would need to request a dispensation at a meeting. This was thought to be very unlikely to occur.

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3. The Monitoring Officer was only able to make a decision on dispensations concerning the quorum and political balance. Other requests would have to be referred to the Councillor Conduct Committee. It was proposed that the Monitoring Officer would also have to consult one of the independent persons on these matters.
4. In February the Committee had agreed blanket dispensations for decisions on the Council Tax and the Council Tax Benefit Scheme, members' allowances, business rates and housing matters and rents. Since then guidance had been received from Government that it was not necessary to grant dispensations for Council Tax and the Council Tax Benefit Scheme.
5. It was proposed that blanket exemptions be agreed for members' allowances, business rates, housing matters and rents and that these should be incorporated into the Code of Conduct.
6. Requests for dispensations had occurred very rarely in the past. It was agreed that these should continue to be the exception rather than the norm.
7. It was proposed that more guidance should be included about what is meant by family members and close associates. Mother, father and close inlaws should be added to the list in the report.
8. Further guidance would also be included on what is meant by "beneficial interest in land".
9. No further information was available in relation to other pecuniary interests. John Austin had contacted the Department for Communities and Local Government for examples but had had no response.
10. Examples of non pecuniary interests include school governor or membership of another body.
11. Members were given the opportunity to comment on the Complaints Procedure but this had not yet been used in full. John Austin had received complaints, consulted both the independent persons, notified the members and initiated an investigation in one case. The process has so far been much quicker than the previous one.
12. Changes had been proposed to the terms of reference to provide fuller information on the committee's remit.
13. It was felt that regular training on the code of conduct was essential and that members who miss code sessions ought to be contacted separately.

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14. New declaration of interest forms were being issued at present. It was felt that this would be an ideal time for a refresher briefing on the code of conduct. John Austin agreed to brief both groups at their first meetings of the municipal year.

AGREED

1. The following recommendations in relation to dispensations as set out in paragraph 3.3 (a) and (b) of the report
- (i) The requirement for members to submit requests in writing to the Monitoring Officer remains, with further guidance being given on the need to 'think ahead' and contact the Monitoring Officer in advance.
 - (ii) The Monitoring Officer should consult an Independent Person before making a decision in relation to quorums and political balance.
 - (iii) The standard exemptions in relation to members' allowances, business rates, plus housing matters and rents be incorporated into the Code of Conduct.
 - (iv) The advice from the Department of Communities and Local Government in relation to the setting of Council Tax or precept or local arrangements for council tax support be noted.
- 2.1 The current definition in relation to disclosable pecuniary interests should remain, with further guidance being given to members as set out in paragraph 3.4 of the report with the inclusion of parents and close inlaws in the description of family members.
- 2.2 The procedure for handling complaints against councillors and co-opted members be specifically referred to within paragraphs 19 and 20 of the Code of Conduct and attached as an appendix to that document.
- 2.3 The Committee be invited to review the complaints procedure at a future date when it had been used in full.
- 2.4 To add to the Committee's terms of reference as set out in paragraph 3.7 of the report.

945

MINUTES OF MEETING HELD ON 19 MARCH 2013

The minutes of the meeting held on 19 March 2013 were agreed as a correct record.

946

COUNCILLOR CONDUCT COMMITTEE - 2.5.2013

DATES OF FUTURE MEETINGS

NOTED the dates put forward for future meetings of the Committee:

- Tuesday 25 June 2013
- Thursday 5 September 2013
- Thursday 3 December 2013
- Tuesday 25 March 2013

947

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).

948

COMPLAINTS AGAINST COUNCILLORS

John Austin, Assistant Director Corporate Governance updated the Committee on the complaints received.

NOTED

1. Members expressed concern about the welfare of councillors under investigation. Councillors who have been complained against are able to seek advice from the Independent Persons.
2. It was agreed that a letter advising an individual councillor of a complaint will also include, as standard practice, a paragraph advising them of the opportunity to discuss the matter with an Independent Person if they wish.

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