

Public Document Pack



Councillor Conduct Committee

Tuesday, 3 December 2013 at 7.30 pm
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Councillors: Yasemin Brett (Chair), Tom Waterhouse (Vice-Chair), Tahsin Ibrahim, Michael Rye OBE and Chamberlain

Independent Person: 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. PROTOCOL FOR COMPLAINTS HEARINGS (To Follow)

To consider and agree a revised protocol for complaints hearings.

4. INDEPENDENT PERSON PROTOCOL (Pages 1 - 4)

To consider and agree a protocol relating to the Independent Person.

5. OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS - A GUIDE FOR COUNCILLORS (Pages 5 - 20)

To note the revised Plain English guide "Openness and Transparency on Personal Interests", produced by the Department for Communities and Local Government.

6. MINUTES OF THE MEETING HELD ON 22 OCTOBER 2013 (Pages 21 - 26)

To receive and agree the minutes of the meeting held on 22 October 2013.

7. WORK PROGRAMME 2013/14 (Pages 27 - 28)

To agree any changes to the Committee Work Programme 2013/14.

8. DATES OF FUTURE MEETINGS

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

- Tuesday 25 March 2014

9. 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).

London Borough of Enfield**DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON****1. Introduction**

This protocol is to make clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling councillor conduct complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.

2. Considering allegations

- 2.1 The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before reaching a decision on whether any further action should be taken on a complaint.
- 2.2 When issuing the decision letter, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a particular course. The letter will make clear that it is the MO and not the IP who is the decision-maker.

3. Matters under investigation

- 3.1 A member of the authority who is the subject of a complaint may seek the views of the IP. A member wishing to contact the IP should do so via the MO who will arrange for a meeting to take place. These arrangements will be communicated to the subject member by the MO.
- 3.2 Where the IP has given views to the subject member, those views shall be put in writing and made available to all relevant parties in the case.
- 3.3 The IP will need to agree in advance with the subject member rules of confidentiality but it will be up to the IP to decide whether matters should remain confidential and, even where there is confidential information disclosed to the IP, there should be a public statement that confidential matters were discussed.
- 3.4 The complainant may also seek the views of the IP. As with the subject member, contact should be arranged through the MO and any views expressed should be made public.
- 3.5 The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.

- 3.6 Where a matter has been referred to the Councillor Conduct Committee for determination, the committee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Councillor Conduct Committee and not the IP who is the decision-maker.
- 3.7 The IP shall not make any comments to the media on any matter without prior agreement of the MO or council communications team. Any requests for comments from media shall be referred in the first instance to the MO who may refer these to the Chair of the Councillor Conduct Committee as appropriate.
- 3.8 The IP may be requested by the MO or Councillor Conduct Committee to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
- 3.9 The IP may be requested by the MO or Councillor Conduct Committee to assist in any training on conduct issues as appropriate.
- 3.10 Where one of the IPs is unable to act because they have already been consulted on a complaint, because of a conflict of interest or because they are otherwise unavailable, their role will be carried out by the other IP. *(This is based upon the assumption that we will eventually have two IPs.)*

4. Relationship with the Councillor Conduct Committee

- 4.1 The IPs shall be invited to attend meetings of the Councillor Conduct Committee and receive agendas and minutes of all meetings of the Councillor Conduct Committee and shall be entitled to request for items to be added to the agenda with the agreement of the chair and to speak at the committee.
- 4.2 IPs are not members of the Councillor Conduct Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the chair.

5. Other matters

- 5.1 The IP has the right to raise any concerns about councillor conduct/standards issues or implementation of the process with the authority's chief executive and has the right to address a meeting of the full council about any concerns.

- 5.2 The council, through its Councillor Conduct Committee and MO, is responsible for ensuring that the council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.
- 5.3 The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.
- 5.4 The IP has the right of access to council buildings in order to carry out their role. Access should be agreed in advance with the MO.
- 5.5 The MO will meet at least quarterly with the IP to review relevant matters.
- 5.6 The IP will agree to sign a code of conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to cases to the MO who will decide whether the interest conflicts them out of involvement in the matter.
- 5.7 The IP is to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.

This protocol has been based on a draft protocol produced by Hoey Ainscough Associates Ltd.

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Department for
Communities and
Local Government

Chief Executives
Principal Local Authorities in England
Greater London Authority
Fire and Rescue Authorities in England
The London Fire and Emergency Planning Authority
The Broads Authority
National Park Authorities in England
Council of the Isles of Scilly

20 September 2013

Dear Chief Executive,

**OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS:
A GUIDE FOR COUNCILLORS**

I enclose a copy of the revised plain English guide for councillors on openness and transparency on personal interests, and a copy of a revised illustrative text for a code of conduct for members and co-opted members of local authorities, both of which the Department has today published on its website.

The guide gives straightforward information about how councillors should be open and transparent about their personal interests. It has been revised with new guidance making it clear that councillors should treat Trade Union membership as a personal, non-pecuniary interest. The illustrative code has been revised to reflect the same guidance.

Where a councillor is sponsored by a Trade Union, this constitutes a disclosable pecuniary interest and as such must be registered and declared. The guide now makes it clear that membership of a Trade Union constitutes a personal interest which should be registered and declared. The Government believes that this new guidance will give local people the confidence that their councillors are putting residents' interests before their own and before those of any particular group. I should be grateful if you would please draw the guide and this correspondence to the attention of your monitoring officer.

Yours sincerely

Paul Rowsell

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Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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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
- the Broads 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).

- 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.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

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 integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**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 – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. 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 associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

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.

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 or 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 of 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.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

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 A

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

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

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

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

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

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

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

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

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

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

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

Registering and declaring pecuniary and non-pecuniary interests

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

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. These non-pecuniary interests will necessarily include your membership of any Trade Union.

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

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

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

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

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON TUESDAY, 22 OCTOBER 2013****COUNCILLORS**

PRESENT Yasemin Brett, Tom Waterhouse, Tahsin Ibrahim, Michael Rye OBE and Christine Chamberlain (Independent Member)

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

432**WELCOME AND APOLOGIES**

The Chair welcomed everyone to the meeting.

There were no apologies for absence.

433**DECLARATION OF INTERESTS**

There were no declarations of interest.

434**PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST
COUNCILLORS AND CO-OPTED MEMBERS**

The Committee received a revised copy of the Procedure for Handling Complaints against Councillors and Co-Opted Members, including a complaint form, appeal form template and a flowchart explaining the process.

3.1 Revised Procedure

John Austin presented the revised procedure to members of the Committee, highlighting the following.

- The changes discussed at the last meeting have been included in the revised copy of the procedure.
- Guidance is needed from the Committee as to whether or not Council should allow an appeal against a decision of the Councillor Conduct Committee. Two options have been presented in the report: the current option where there is a right of appeal to a specially formed committee; and a second option which gives no right of appeal against a decision of the Councillor Conduct Committee.

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013

- The Committee also needs to consider whether the Councillor complained against should also have a right of appeal against any decision taken.
- At the next meeting the Committee will be asked to consider a protocol for the relationship between the Independent Person and the Monitoring Officer and a revised procedure for hearing complaints.

3.2 Questions/Comments

3.2.1 Asmat Hussain explained that one of the main purposes of the legislation around standards in Localism Act 2011 had been to stream line processes. Other authorities had decided that there would be no right of appeal against any decision on a complaint against a councillor. If a complainant feels that a complaint has not been properly dealt with, they do have the option of going to the Local Government Ombudsman.

3.2.2 Members considered the issue of the right to appeal. After discussion, it was agreed that they felt that there should be a right of appeal against a decision taken by the Monitoring Officer, as this was a decision taken by one person in consultation with the Independent Person, but not against the decision of the Committee, which was a democratically elected group of people who also had the benefit of formal legal advice. They did not feel that there was a benefit in setting up another panel to replicate what had already been considered by the Councillor Conduct Committee. Once the Council appoints a second Independent Person, the Committee may consult the Independent Person who had not been part of the previous decision.

3.2.3 Asmat Hussain set out the procedure for Councillor Conduct Committee hearings, as in the current scheme.

- The Monitoring Officer will present his report and the evidence to members. The report and evidence having been circulated previously.
- The Independent Person, who had been consulted on the Monitoring Officer decision, may add her comments.
- The Committee Members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.
- The Committee will make a decision, whether or not to uphold the Monitoring Officer decision.
- Depending on the outcome, further advice would be provided.

3.3 The current procedure for dealing with complaints, as agreed by Council, was to be used for the hearing to be considered on the evening of the meeting.

3.4 In the current procedure the Committee had an option of inviting the complainant to attend the hearing, which they had agreed not to do.

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- 3.5 The wording in paragraphs 6.4 and 7.3 in the revised report should read to be “reviewed” not “drafted”.

AGREED that

1. The revised procedure for dealing with complaints against councillors would be recommended to full Council for approval as amended above and including Option B, allowing no right of appeal against a Councillor Conduct Committee decision.
2. A paragraph would also be inserted to allow a similar right of appeal to a councillor about whom a complaint had been made, as there was to a complainant, against a Monitoring Officer decision.

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MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2013

The minutes of the meeting held on 16 September 2013 were agreed as a correct record.

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DATES OF FUTURE MEETINGS

Noted the dates agreed for future meetings of the Committee:

- Tuesday 3 December 2013
- Tuesday 25 March 2014

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EXCLUSION OF PRESS AND PUBLIC

AGREED to pass a resolution under Section 100A (4) of the Local Government Act 1972 to exclude the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that it involves 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).

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COUNCILLOR COMPLAINTS

Councillor Brett reported that she had been recently contacted by the complainant, by telephone, before the meeting to talk about his lighting issues. Once she realised that the complainant was trying to talk to her in her capacity as the Chair of the Councillor Conduct Committee, she had informed him that she could not discuss the matter. However she felt that to avoid any perceptions of bias she should withdraw from the meeting.

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During the telephone conversation, before she knew who the caller was, Councillor Brett had promised to obtain some information from officers about the Bentley Mews Lighting Issue. Having promised, she did so. It was agreed that officers would respond to the complainant on behalf of Councillor Brett.

Councillor Brett left the meeting at this point and did not take part in the hearing.

Councillor Tom Waterhouse, as Vice Chair, took on the role of Chair at this point.

Consideration was given as to whether the hearing should take place in public. Asmat Hussain advised that some Council's did hold complaint hearings in public, in the interests of openness and transparency.

Members however felt that it was preferable to restrict public access, when hearing a complaint, as it involved allegations relating to an individual. If a breach of the code was found it could be made public.

1. Complaint Appeal Hearing

- 1.1 The Committee received the Monitoring Officer's report including the additional email evidence which had been circulated in advance of the meeting, regarding the appeal against a Monitoring Officer decision not to uphold a complaint against a councillor. The email bundles were agreed with both the complainant and the councillor concerned in advance of the meeting.
- 1.2 The Monitoring Officer went through his report and findings and stated that he had found no evidence to support the allegations that the member concerned had breached the code. The complainant had appealed against the Monitoring Officer's decision.
- 1.3 Christine Chamberlain, Independent Person, advised the Committee that on considering the information from the complainant, that she agreed with the Monitoring Officer decision not to uphold the complaint, as the complainant had provided no independent evidence or witnesses to prove or disprove the allegations.
- 1.4 The Committee considered the report and the additional detailed email evidence, asked various questions of the Monitoring Officer and the Independent Person but could find no evidence that the code of conduct had been breached. The complainant had provided no additional other evidence to substantiate the allegations.

AGREED to uphold the original decision of the Monitoring Officer not to uphold the complaint. This was unanimously agreed by all members present.

The councillor and the complainant would be advised of the outcome of the appeal. The complainant would also be notified that there was no further right

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of appeal against the Council, but if he felt that the Council had failed to deal with the complaint properly, he could make a complaint to the Local Government Ombudsman.

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Councillor Conduct Committee: Work Programme 2013/14

ITEM	Lead/ Support Officer	25 June 2013	5 September 2013	22 October 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 Guidance on Hearings	
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	Update
Pre and Post Election Arrangements	John Austin					Report
Independent Person Protocol					Report	

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