

Public Document Pack



Councillor Conduct Committee

Thursday, 14 February 2013 at 5.30 pm
Room 3, 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

PLEASE NOTE THAT THE START TIME OF THIS MEETING HAS BEEN CHANGED FROM 6.30PM TO 5.30PM

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. DISPENSATIONS (Pages 1 - 4)

To receive, a report recommending granting a general dispensation for all councillors to enable them to participate in and vote on decisions relating to setting the Council Tax, housing matters and rents, plus members allowances.

4. COMPLAINT AGAINST A COUNCILLOR

To note that the monitoring officer has received a complaint against a councillor. Further details to be reported at the meeting.

5. MINUTES OF THE MEETING HELD ON 17 OCTOBER 2012 (Pages 5 - 8)

To receive and agree the minutes of the meeting held on 17 October 2012.

6. DATES OF FUTURE MEETINGS

To note the dates agreed for future meetings:

- Thursday 14 March 2013
- 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.

MUNICIPAL YEAR 2012/2013 REPORT NO. 165**MEETING TITLE AND DATE:**

Councillor Conduct
Committee –14 February
2013

REPORT OF: Director of
Finance, Resources and
Customer Services

Agenda – Part: 1**Item: 3****Subject:** Dispensations**Wards:** All**Cabinet Member consulted:**

Contact officer and telephone number: John Austin (Assistant Director
Corporate Governance) - 020 8379 4094

email: john.austin@enfield.gov.uk

1. EXECUTIVE SUMMARY

The Councillor Conduct Committee is being asked to consider requests for dispensations under section 33 of the Localism Act 2011, for all councillors to participate and vote on matters relating to setting the Council Tax, housing matters and rents plus members allowances.

2. RECOMMENDATIONS

To grant the requests for dispensations in the following areas as set out in the report, with the dispensations being effective until the next Council elections in 2014 on the grounds that it is 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.

- (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 did not relate particularly to the members tenancy or lease).

3. BACKGROUND

Section 31(4) of the Localism Act 2011 states that where a member attends a meeting and has a DPI in a matter to be considered at that meeting that member may not:

- (a) participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting,

unless a dispensation has been granted.

The Council's Code of Conduct (paragraph 31(4)) allows dispensations to be given in the following circumstances:

- (a) Where the members of the decision making body have DPIs 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

The Monitoring Officer has the delegated authority to approve dispensations in respect of (a) and (b) above, with a right of appeal to the Councillor Conduct Committee. The Committee itself has the authority to approve dispensations under (c) and (d) after consultation with the Independent Person(s).

In addition to the requirement for a member with a DPI to not participate in any discussion, or vote on the matter, the Council's Code (paragraph 31 (1)) also requires any such member to leave the room until the matter under consideration has been concluded.

The Monitoring Officer previously consulted Lawrence Greenberg, one of our Independent Persons, on the report contents and the exemptions for the dispensations.

In the previous legislation specific exemptions were given to members, meaning that they would not have a (then) prejudicial interest (which would have prevented them from taking part in the decision making process) in any

business that related to the functions of the authority. Some of the more relevant ones are set out in the recommendations above for consideration by this Committee.

These exemptions, or similar, have not been carried over to the new legislation.

The Council meeting on 27 February 2013 will be considering the setting of the Council Tax and housing rents, plus deciding on whether to increase members' allowances for 2013/14. All members have been written to and some replies have been received. The Committee will receive an update on the responses from members at the meeting. A failure to disclose a DPI could result in a breach of the Council's Code of Conduct and/or a criminal offence, the Monitoring Officer strongly recommends that it would be prudent for the Committee to grant a dispensation for all members in relation to the recommendations, until the next Council elections in 2014.

4. ALTERNATIVE OPTIONS CONSIDERED

None. Given the requirements for members to declare their interests.

5. REASONS FOR RECOMMENDATIONS

The Council's Code of conduct requires that any dispensations of this nature have to be agreed by the Councillor Conduct Committee. Given that the failure to disclose a DPI could result in a breach of the Council's Code of Conduct and a criminal offence, the Monitoring Officer feels that it would be prudent for the Committee to grant a dispensation for all members in relation to these issues until the next Council elections in 2014.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None

6.2 Legal Implications

The localism Act 2011 and the relevant Authorities (Disclosable Pecuniary Interests) Regulation 2012 introduced Disclosable Pecuniary Interests and new rules relating to dispensations.

The Council has delegated powers to the Councillor Conduct Committee to grant dispensations.

7. KEY RISKS

Councillors are required to declare Disclosable Pecuniary Interests (DPIs). Failure to do so could result in a breach of the Code of Conduct and possible

criminal offence. In order to avoid the risk of members not being able to participate in these decisions a dispensation is being sought.

8. IMPACT ON COUNCIL PRIORITIES

The ability for all councillors to set the business rates, the Council Tax and housing rents, and to decide on whether to increase members' allowances for 2013/14 will ensure that the Council's priorities in relation to fairness for all, growth and sustainability and strong communities are met.

9. EQUALITIES IMPACT IMPLICATIONS

This decision has not required an equalities impact assessment.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

None

11. HEALTH AND SAFETY IMPLICATIONS

None

12. HR IMPLICATIONS

None

13. PUBLIC HEALTH IMPLICATIONS

None

Background Papers: None

COUNCILLOR CONDUCT COMMITTEE - 17.10.2012**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON WEDNESDAY, 17 OCTOBER 2012****COUNCILLORS**

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

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

352**WELCOME AND APOLOGIES**

The Chair welcomed everyone to the meeting. There were no apologies.

353**DECLARATION OF INTERESTS**

There were no declarations of interest.

354**OTHER PECUNIARY AND NON PECUNIARY INTERESTS**

The Committee received a list of different possible scenarios where interests will need to be declared.

John Austin, Monitoring Officer, highlighted the following and the list of scenarios was discussed:

- Under the new code of conduct there are now three types of interest; disclosable pecuniary, other pecuniary and non pecuniary.
- Members will be briefed on the new types of interest, at both group meetings.
- In scenario 1, a member of the Planning Committee receives the agenda of the next meeting and notices that there is a planning application for the redevelopment of 56 High Street into shops and flats. The member's spouse works for a retail company situated opposite the site at no: 43. This would be a disclosable pecuniary interest.
- The Council meeting is considering grant applications to voluntary bodies. The Council has nominated members to some of the bodies concerned and a number of those members are on the respective management committees. The member has a non pecuniary interest.

COUNCILLOR CONDUCT COMMITTEE - 17.10.2012

- A member has received a bottle of wine from a local resident as a thank you for helping them with a local issue. The member must declare all gifts worth more than £25. Even if they refuse the gift, it should still be declared.
- A member of the Licensing Committee has seen on an agenda an application from one of their neighbours. This depends on whether the neighbour is a close personal associate. If so, they would have a disclosable pecuniary interest and should not take part in making a decision on the application.
- A member has acquired a second property in the Borough and intends to lease it to the Council for a social tenancy. This would be a disclosable pecuniary interest. If the tenant were in receipt of housing benefit this would also be disclosable.
- A member's son has just been appointed to a post within the council. This should be declared as a disclosable pecuniary interest.

NOTED

1. A question had arisen, raised as part of a motion at the last Council meeting, about the declaring of interests when making applications to the Enfield Residents Priority Fund. Officers are working on revising the form and guidance to address the concerns. If members are putting forward an application where they have no prior connection they would not have to declare an interest, even if it was in their ward.
2. John Austin asked the committee to put forward any other examples that would be helpful to members when completing the forms.
3. Any disclosable pecuniary interest must be registered within 28 days of becoming aware of it and declaring it at a meeting.

355

DECLARATION OF INTERESTS FORM

Members received a copy of a draft declaration of interests' registration form which is based on the new Councillor Code of Conduct.

John Austin advised that the form will be sent to members shortly, replacing the existing forms; there will be briefings at each of the group meetings to explain the changes.

NOTED

1. The suggestion that worked examples be included with the forms to help members complete them.

COUNCILLOR CONDUCT COMMITTEE - 17.10.2012

2. The 28 days allowed for updating the form was a statutory requirement.
3. The suggestion that a reminder of the fact that disclosable pecuniary interests must be registered within 28 days, is published once a month in the Members Newsletter.
4. Sensitive information, which if published could be detrimental could be kept private, subject to the approval of the Monitoring Officer.
5. At the briefings it will need to be emphasised that the interests to be declared will also apply to spouses, other family members and close associates.
6. All memberships of public bodies and charitable organisations must be declared.
7. A representative selection of possible membership organisations should be included on the form.
8. Interests should be declared if there is any possibility of an impact upon any of Enfield Council's business interests.
9. As a minimum, members will have to declare their partner's employment interests.
10. The word "pecuniary" should be taken out of paragraph 3 in the disclosure sheet.
11. When issuing the new forms it would be helpful to attach the member's old form for information.
12. The guidance and form will be amended to take account of the comments made at this meeting. John Austin would circulate the amended documents for final comment, before they were issued to all members.

356

UPDATE ON RECRUITMENT OF INDEPENDENT PERSONS

John Austin updated members on the recruitment of independent persons.

NOTED that

1. At the meeting held on Monday 8 October 2012, the Committee agreed to recommend to the full Council meeting, due to take place on 7 November 2012, that Lawrence Greenberg be appointed to the position of Independent Person at Enfield Council.

COUNCILLOR CONDUCT COMMITTEE - 17.10.2012

2. Recruitment will begin shortly to fill the remaining vacancy. Advance notice will be circulated to the voluntary sector informing them when adverts will be placed in the press, giving a longer lead in time.
3. Details will be included on the Council Website.
4. Councillor Rye said that he would send John Austin details of a website including adverts for similar positions in public bodies. Including in publications for magistrates might generate some more interest.

357

MINUTES OF MEETING HELD ON 8 AUGUST 2012

The minutes of the meeting held on Wednesday 8 August were agreed as a correct record.

358

DATES OF FUTURE MEETINGS

NOTED the dates agreed for future meetings of the Committee:

- Wednesday 16 January 2013
- Thursday 14 March 2013
- Thursday 2 May 2013