

MUNICIPAL YEAR 2012/2013 REPORT NO. 223

MEETING TITLE AND DATE:
**Councillor Conduct
Committee – 2 May 2013**

REPORT OF:
Director of Finance,
Resources & Customer
Services

Agenda – Part: 1

Item: 3

Subject: Review of dispensation, disclosable pecuniary interests, complaints procedure and the Councillor Conduct Committee Terms of Reference

Cabinet Member consulted: N/A

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1. EXECUTIVE SUMMARY

This report sets 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 the following matters:

- (a) Dispensations
- (b) Disclosable Pecuniary Interests
- (c) Other Interests
- (d) Complaints Procedure
- (e) Councillor Conduct Committee terms of reference

Item 3 on the Committee's agenda for this meeting refers.

2. RECOMMENDATIONS

2.1 To agree the following recommendations in relation to dispensations as set out in paragraph 3.3 (a) and (b)

- (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.

2.2 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

2.3 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.

2.4 the Committee be invited to review the complaints procedure

2.5 the Committee consider adding to its terms of reference as set out in paragraph 3.7

3. BACKGROUND

3.1 At the last meeting, the Monitoring Officer was asked to review current arrangements in relation to the Code of Conduct and related matters with the Independent Persons. This meeting took place on 23 April 2013. The Assistant Director, Legal Services also attended. The following matters were discussed:

- (a) Dispensations
- (b) Disclosable Pecuniary Interests
- (c) Other Interests
- (d) Complaints Procedure
- (e) Committee Terms of Reference

3.2 The outcome of the discussions is set out below:

3.3 Dispensations

- (a) It is recommended that the requirement to submit requests in writing to the Monitoring Officer (MO) should be retained. The Independent Persons (IPs) did not see the justification for members being able to request dispensations at meetings without due notice being given. They asked that further briefings be issued to members on the need to 'think ahead' and contact the MO in advance. The MO should consult one of the IPs when a request is received in relation to quorums and political balance before making a decision. These

requests may also be referred to the Councillor Conduct Committee if deemed appropriate.

- (b) The following standard exemptions were approved by the Councillor Conduct Committee on 14 February.
- (i) an allowance, payment or indemnity given to members or any ceremonial honour given to members;
 - (ii) setting Council Tax or a precept under the Local Government Finance Act 1992, as amended from time to time or any superseding legislation.
 - (iii) 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.
 - (iv) Housing matters and rents (provided that those functions do not relate particularly to the members tenancy or lease).

The MO discussed with the IPs the option of including the above in the Councillors' Code of Conduct.

Since the above decision, guidance has been issued by the Department of Communities and Local Government which states that councillors do 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 affect the generality of the public in the area rather than as an individual. The guidance remained silent in relation to business rates.

Therefore it is suggested that only (i), (iii) and (iv) above are included within the code of conduct.

3.4 Disclosable Pecuniary Interests (DPIs)

The meeting discussed the current definition of DPIs within the Council's Code of Conduct. Enfield has gone beyond the statutory minimum by including the following categories:

"family members or persons with whom you have a close association or personal relationship".

It was emphasised that DPIs need only be declared when the member knows about the interest and where the person who is the subject of that interest can be named. In other words,

members do not have to declare a DPI on the 'off chance' that they might have an interest. This should be reinforced to members regularly.

When considering whether a member has a DPI, he/she should always have in mind the following set out in paragraph 22 of the current code of conduct:

“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 declare that interest”

After much discussion, it was agreed that the current definition should remain. The MO was asked to give examples of the above categories and these could include the following:

Family Members

- Sons, daughters, step children
- Aunts and uncles
- Cousins
- Grandparents
- Nieces and nephews

Close association or personal relationship

- Close friend
- Business partner or associate
- Ex spouse

Other Interests

The IPs asked the MO to give some examples of what might constitute 'other pecuniary' and "other non-pecuniary" interests. Some suggestions are listed below:

Other Pecuniary Interests

To be discussed at meeting

Other Non Pecuniary Interests

- School Governors
- Memberships of another body – particularly in relation to paragraph 28 of the current code

3.5 Complaints Procedure

It is suggested that the procedure for dealing with complaints against councillors is specifically referred to in paragraphs 19 and 20 of the current code of conduct and that it is appended to the code.

The procedure is attached for review and discussion.

3.6 Committee Terms of Reference

At the last meeting, the Committee agreed to review its terms of reference. This was discussed with the IPs on 23 April. Currently, the terms of reference are as follows:

“To deal with policy, complaints against councillors and issues concerning the members’ Code of Conduct”

3.7 Having reviewed the previous Standards Committee terms of reference, the IPs recommend that the following be considered for inclusion in the remit of the Councillor Conduct Committee.

- (a) To promote and maintain high standards of conduct by councillors and all co-opted members.
- (b) To assist councillors and co-opted members to observe their Code of Conduct and all other Codes within the Constitution
- (c) 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.
- (d) To consider requests for dispensations by councillors, and co-opted members relating to interests set out in the Code of Conduct.
- (e) To discharge such other functions either general or specific as the Council may from time to time allocate to the Committee.

4. ALTERNATIVE OPTIONS CONSIDERED

The Committee can decide not to make any changes to the current code, procedure or its terms of reference.

5. REASONS FOR RECOMMENDATIONS

To adhere to good practice and review practices and procedures in the light of experience.

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

6.1 Financial Implications

None

6.2 Legal Implications

The report and its recommendation are in accordance with the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which introduced Disclosable Pecuniary Interests (DPIs) and the new rules on dispensations as part of the new conduct arrangements. It is a criminal offence for members to fail to register a DPI or to speak and/or vote where they have a DPI unless they have obtained a dispensation. Council has delegated to the Monitoring Officer (MO) powers to grant dispensations to councillors or co-opted members in accordance with section 33 of the Localism Act 2011 allowing councillors or co-opted members to take part in debates and vote on any item in which they have a DPI. This reports seeks to include the MO consulting the Independent Person(s) to strengthen the decision making process for dispensations.

7. KEY RISKS

The absence of clear guidance around the Code of Conduct for members could lead to increased instances of breaches and complaints.

8. IMPACT ON COUNCIL PRIORITIES

Fairness for all

The strengthening of the representative role of ward councillors will have benefits for all members of the community.

Strong Communities

A clear and accountable code of conduct for councillors strengthens the role of the ward councillor and their representative role within their communities.

9. EQUALITIES IMPACT IMPLICATIONS

It is not relevant or proportionate to carry out an equality impact assessment/analysis in respect of the recommendations in the report.

Background Papers

- Enfield Councillors' Code of Conduct
- Enfield's procedure for handling complaints against councillors and co-opted members
- Department for Communities & Local Government guidance "Openness and transparency on personal interests" – March 2013