



## Standards Committee

**Tuesday 12 March 2013 at 7.00 pm**

Committee Room 4, Brent Town Hall, Forty Lane,  
Wembley, HA9 9HD

### Membership:

#### Members

Independents:  
Sheila Darr

Councillors:  
Beck (Chair)  
Gladbaum  
HB Patel  
Harrison  
Ketan Sheth

#### first alternates

#### second alternates

**For further information contact:** Gayle Fentiman, Democratic Services Officer  
020 8937 4617, [gayle.fentiman@brent.gov.uk](mailto:gayle.fentiman@brent.gov.uk)

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**The press and public are welcome to attend this meeting**

# Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

**Item** **Page**

**1 Declarations of personal and prejudicial interests**

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

**2 Minutes of the previous meeting** 1 - 4

**3 Matters arising**

**4 Monitoring Officer report on Members' Disclosable Pecuniary Interests** 5 - 20

**Ward Affected:** All Wards      **Contact Officer:** Kathy Robinson,  
Legal and Procurement  
Tel: 020 8937 1368  
kathy.robinson@brent.gov.uk

**5 Members' Code of Conduct - practical issues** 21 - 46

**Ward Affected:** All Wards      **Contact Officer:** Kathy Robinson,  
Legal and Procurement  
Tel: 020 8937 1368  
kathy.robinson@brent.gov.uk

**6 Date of Next Meeting**

The date of the next meeting of the Committee will be confirmed after the annual Council meeting scheduled for 15 May 2013.

**7 Any other urgent business**

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor.
- Catering facilities can be found on the first floor near The Paul Daisley Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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## LONDON BOROUGH OF BRENT

### MINUTES OF THE STANDARDS COMMITTEE Tuesday 22 January 2013 at 7.00 pm

PRESENT: Councillors Beck (Chair), Gladbaum, HB Patel, Harrison and Ketan Sheth

Also present: Sheila Darr (Independent Member) and John Darr (Independent Person)

1. **Declarations of personal and prejudicial interests**

None declared.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 25 June 2012 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Sub-Committee membership changes (if any)**

Not applicable.

5. **Report on Code of Conduct: Procedures for dealing with allegations of breach of the Code of Conduct**

Fiona Ledden (Director of Legal and Procurement) introduced the report, stating that when drafting the new procedures for dealing with allegations of breach of the Code of Conduct, she had retained what was deemed to be good practice under the previous procedures and excluded elements that were unnecessarily complicated. New aspects had also been incorporated to ensure that the procedures were more effective and beneficial for all those involved.

In regards to the role of the Independent Person(s) within the new proposed procedure, Fiona Ledden explained that she wanted to ensure that the Independent Person(s) were used appropriately. All matters discussed with the Independent Person(s) would be open and transparent; to ensure this the Monitoring Officer would submit an annual report to the Standards Committee providing information on those matters. It was clarified that the Monitoring Officer would always err on the side of caution when deciding which complaints to filter.

It was reiterated that the Standards Committee would have limited powers under the new procedures to sanction Members if they were found to be in breach of the code, as prescribed by the Localism Act 2011. However it was hoped that with the help of the Whips and the party leaders that the Standards Committee would be able to ensure that good standards of behaviour, by Members, were upheld.

Councillor Sheth queried what was meant by 'significant delay between the incident complained of and the complaint'. He added that in his opinion significant delay should be quantified. Sheila Darr expressed concern about placing a deadline on when complaints could be brought as it may deter people from raising a complaint after the specified time frame. After an in-depth discussion, it was agreed by the Committee, that a time frame of 12 months should replace 'significant delay'. However if a complaint was made regarding a matter that was older than 12 months and the complaint satisfied the Public Interest consideration then it would still be investigated and there may be other exceptional circumstances where the time frame would not apply. It was also clarified that if a member was no longer in office it would have to be carefully assessed as to whether to investigate the complaint; mainly due to the lack of sanctions the Standard Committee could issue. In response to Councillor HB Patel's question as to whether a complaint would be investigated in the immediate run up to an election, Fiona Ledden stated that once again it would have to be considered carefully, however if the Councillor was in office at the time then it would probably be investigated.

In response to a number of other issues raised, Fiona Ledden first explained to the Committee that all Councils were required to appoint at least one Independent Person under the Localism Act 2011. The role of the Independent Person was purely advisory. The legislation stated that previous members of the Standards Committee could be appointed as an Independent Person. Therefore Brent had appointed both John Mann and Sola Afuape as they were both very experienced. In the future Independent Members would be recruited in the usual way. It was added that the Council were not required to have an Independent Member under legislation. However Brent, like a number of other authorities, has appointed an Independent Member to add an objective element to the Committee. Fiona Ledden then stated that in regards to working with the political groups, this would only happen when a member had acted inappropriately as a member or representative of the Council.

It was then clarified that when the procedure stated 'remedial action' at paragraph 4.7 , what this meant was that if a resolution could be found that would appease both parties then that would be the desired outcome. For example if an item was broken, the offending party could pay to replace the item.

Following a discussion regarding the bullet point in paragraph 4.7 of the procedure, it was agreed that the reasons for meeting with the Monitoring Officer or other Chief Officers be clarified to include the purpose of such a meeting.

Addressing the final point in relation to 4.5 of the procedure Fiona Ledden explained that she was confident that she would be able to reach a decision on what course of action to take within 14 days. She added that she wanted the process to be more proactive and responsive and felt that the 14 day limit would help promote this.

The Chair concluded the discussion on the report stating that it had been a positive discussion and that the Committee were pleased to be able to contribute to the process. It was agreed that the party whips would be invited to the next Standard's Committee.

RESOLVED:

- (i) The Members recommended the procedures set out in Appendix 1 subject to the following amendments:
  - That paragraph 4.6 be amended to provide that complaints made over a year after the alleged behaviour would not be investigated save for exceptional circumstances, for example where there was a significant public interest in doing so That paragraph 4.7 be amended to read 'The member being required to meet with the Monitoring Officer and/ or other chief officers to discuss the member's conduct.'

## 6. **Work programme**

Fiona Ledden explained that the work plan had been circulated so that the Committee could agree terms of reference for the Committee and agree a set work plan.

In response to some queries that were raised, Fiona Ledden explained that if a member of staff breached the staff code of conduct then it was generally dealt with by managers. However Members may become involved if there was an appeal to the Staff Appeals Committee. It was also clarified that in relation to point 2 of the Terms of Reference, the Standards Committee could achieve this through training or by issuing Monitoring Officer Advice Notes. Fiona Ledden also stated that Full Council would continue to be responsible for Members' allowances and that the Standards Committee would continue to monitor Members' expenses. After discussion it was agreed that the Standards Committee would retrospectively study expenses but only for the purposes of developing good practice and formulating a consistent approach with clear guidance. It was also clarified that the Standard's Committee looked at the Mayor's Charity for the purpose of due diligence.

The Committee were informed that not all members had signed their Declarations of Interest forms. This concerned Fiona Ledden as it was a legal requirement to complete the forms. Both Fiona Ledden and Kathy Robinson stated that they would offer assistance to any Councillors who were having difficulties completing the form. The Chair added that group offices staff should also help Councillors if they needed it and they should also ensure that Councillors had completed the form.

RESOLVED:

- (i) Standards Committee to meet three times a year instead of four and that the meetings should be flexible.
- (ii) That items four and five on page two of the report be combined and item seven be deleted.

7. **Date of next meeting**

The next meeting of the committee is scheduled to take place on 12/03/2013.


8. **Any other urgent business**

None.

The meeting closed at 8.01 pm

COUNCILLOR BECK  
Chair



	<p style="text-align: center;"><b>Standards Committee</b> <b>12 March 2013</b></p> <p style="text-align: center;"><b>Report from the Director of Legal and Procurement</b></p>
<p>Wards Affected: ALL</p>	
<p><b>Monitoring Officer Report on Members' Disclosable Pecuniary Interests</b></p>	

## 1.0 Summary

- 1.1 This Monitoring Officer's report provides information on the Register of Disclosable Pecuniary Interests and an update on members' compliance with the requirement to provide information.

## 2.0 Recommendations

- 2.1 That the Committee notes this report.

## 3.0 Detail

- 3.1 At the meeting of Full Council on 9th July 2012 the Council adopted a new Code of Conduct which included the new arrangements for the disclosure of pecuniary interests brought in by the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, SI 2012/1464.
- 3.2 The rules require that members declare various financial and other interests (and those of their spouse, civil partner, or person they co habit with as such, where the Member is aware that the other person has the interest). The Code of Conduct and detail of those interests which must be disclosed is attached as **Appendix 1**. The Council's Monitoring Officer must establish and maintain a register of interests. That register must be available for public inspection and published on the Council's website.

- 3.3 Although the Act only requires that interests be registered at the time of election and updated in the event that the member is required to make a declaration during the course of a meeting, the recommendation to Full Council on 9<sup>th</sup> July 2012 was that members be required to notify and keep up to date their interests on the Register.
- 3.4 The Council must ensure that its Code of Conduct includes provisions it considers appropriate for the registration in a register, and disclosure of:-
- pecuniary interests, and
  - non pecuniary interests.
- 3.5 The Disclosable Pecuniary Interests which are required to be registered under the Code are those set out in the Act and Regulations.
- 3.6 The Council does not require non pecuniary interests to be registered. However, detailed guidance has been given to members regarding declaring any personal (non pecuniary) interest which a member may have which would lead to allegations of bias or the appearance of bias. In such circumstances the member ought not to participate in the item nor vote at the meeting and should leave the room during that item. The declaration of personal interest's item remains on the committee agenda as a reminder of such matters and members are also invited to declare any personal interest, even if it does not amount to bias, for the purposes of transparency. There is no specific prohibition in the Code itself regarding voting on matters where the member has a personal interest. However, voting on an item in which the member is biased is not permitted and, depending on the circumstances, voting in situations where the member has a personal interest may breach other aspects of the Code.
- 3.7 In addition to the completion of the register on disclosable pecuniary interests, members present at a meeting who have a disclosable pecuniary interest in a matter under consideration must disclose it at the meeting if the interest has not been registered. In addition a Member with a disclosable pecuniary interest may not participate in the discussions or vote on the matter. Under the Act the Council's constitution may make provisions for the exclusion of such a Member from a meeting while discussion and voting takes place and the Council's Code has been drafted to include this provision. There is provision for sensitive disclosable pecuniary interests to be exempt from this requirement and this is a matter to be decided upon by the Monitoring Officer. There are also powers of dispensation given to the Monitoring Officer.

- 3.8 A form was sent to members for completion with detailed advice by way of a Monitoring Officer Advice Note dated August 2012 which set out the new requirements on Disclosable Pecuniary Interests. The majority of forms were returned by the given date of 14<sup>th</sup> September 2012. However, a number of forms were not returned, or were sent back to members for clarification or full completion. Two further letters dated 31<sup>st</sup> August 2012 and 21<sup>st</sup> December 2012 were sent direct to members reminding them of the new provisions and the need to declare their disclosable pecuniary interests, and an e-mail was sent to the party group offices on 20<sup>th</sup> February 2013. Once full details are received they are entered on the Register which is published on the Council's website. At the time of preparing this report two forms remain outstanding (not received) and six have outstanding queries on which clarification is awaited from members. The points of clarification are more often than not associated with interests held in land: the form requires that a beneficial interest in land, or a licence, in the borough must be disclosed. This would include most legal holdings in land – ownership of a freehold, a lease, or a licence (for example a flat share). It is assumed that in the majority of circumstances Councillors will live in the borough and accordingly any ambiguity in completing this section has been followed up. In circumstances where the detail is missing or unclear, members have been advised of the information required. The remaining outstanding matters will be followed up with members, but it is the responsibility of individual councillors to ensure that the forms are completed and returned.
- 3.9 The rules regarding the completion of the register of disclosable pecuniary interests and the effect such an interest has in relation to voting on matters also apply to co opted voting members. Of the four members to whom this applies one co opted member has not responded and this is being followed up.

### *Gifts and Hospitality*

3.10 There is no longer a legal requirement upon members to disclose gifts and hospitality as there was under the previous law. However, members are encouraged to do so and set out below is a table showing the gifts disclosed since the new arrangements have been in place.

Councillor	Date	description	Value	Who from
Crane	7 Sept 2012	Dinner (Local Govt Pension conference)	£80-100	Henderson Pension Fund Managers
Ketan Sheth	12 Oct 2012	2 tickets (Eng v San Marino)	£110	Football Association/Wembley National Stadium Ltd
Ketan Sheth	18 Oct 2012	2 tickets & a book, Red Velvet	£49.99	Tricycle Theatre
Long	23 Oct 2012	Meal, Osteria Dell Angold, 47 Marsham Street	£40 approx	Notting Hill Housing Trust
Ketan Sheth	3 Nov 2012	4 tickets, Raas Garba competition	£25	Hindu Council (Brent)
Denselow	4 Nov 2012	Tickets and hospitality at QPR to announce the launch of the KICKZ programme with the police, Queens Park Community school and QPR	£225	Queens Park Rangers football club
Butt	15 Nov 2012	London 2012 Olympic and Paralympic – The Official Commemorative book	£29	Lord Sebastian Coe, Chairman and Paul Deighton CEO
Butt	10 Dec 2012	Ticket for The Damilola Trust and SOLA Foundation – Spirit of London Awards	£40	Spirit of London Awards Foundation
Van Kalwala	Dec 2012	Ticket to SOLA awards	£45	Spirit of London Awards
Jones	20 Dec 2012	Gift set, bottle champagne and 2 champagne glasses	£40	Obinegbo
Jones	23 Dec 2012	M & S gift voucher (donated to Mayor's charity)	£20	Clare family
Jones	5 Jan 2013	Bottle Cava and chocolates	£10	Primiceri family

#### **4.0 Financial Implications**

4.1 This report contains no specific financial implications.

#### **5.0 Legal Implications**

5.1 These are addressed in the body of the report.

#### **6.0 Diversity Implications**

6.1 This report contains no specific diversity implications.

#### **7.0 Staffing Implications**

7.1 This report contains no specific staffing implications.

#### ***Background papers***

*Members Register of Disclosable Pecuniary Interests*  
*Brent Members' Code of Conduct*  
*Localism Act 2011*

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson Senior Local Government Lawyer on telephone number 020 89371368.

**Fiona Ledden**  
**Director of Legal and Procurement**

## APPENDIX 1

### BRENT COUNCIL CODE OF CONDUCT FOR MEMBERS

#### PART 1

##### Introduction and interpretation

1. (1) This code applies to **you** as a member of Brent Council.
- (2) It is your responsibility to comply with the provisions of this Code
- (3) In this Code –

“meeting” means any meeting of –

- (a) Full council;
- (b) The Executive;
- (c) Any of the council’s or its Executive’s committees, sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

##### Scope

2. (1) Subject to sub-sections (2) and (5), you must comply with this Code whenever you-
  - (a) conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of the council,and references to your official capacity are construed accordingly.
- (2) Subject to sub-sections (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, section 5 also has effect at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-section (3)) includes a

criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of the council –

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct, or
- (b) on any other body, you must, when acting for that other body, comply with Brent Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **PART 2**

### **High standards of conduct**

3. You must maintain a high standard of conduct, and comply with the following general conduct principles:

#### **The General Principles**

**Selflessness** – you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Integrity** – you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

**Openness** – you should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.

**Honesty** – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.

**Leadership** – you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

### **General Obligations**

4. (1) You must treat others with respect.

(2) You must not –

(a) do anything which may cause the council to breach any of the duties under the Equality Act 2010;

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be –

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with the council's Code of Conduct; or

(d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.

6. You must not –

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is –

(aa) reasonable in all the circumstances, and

(bb) in the public interest, and

(cc) made in good faith and in compliance with the reasonable



requirements of the council; or

- (b) prevent another person from gaining access to information to which that person is entitled by law.

7. You –

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, and
- (b) must, when using or authorising the use by others of the resources of the council –
  - (i) act in accordance with the council's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –

- (a) The council's chief finance officer; or
- (b) The council's Monitoring Officer ,

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

### **PART 3**

#### **Interests**

#### **Pecuniary interests and registration**

- 9. (1) For the purposes of this Code, a pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either –
  - (a) It is an interest of M's, or
  - (b) It is an interest of –
    - (i) M's spouse or civil partner,
    - (ii) A person with whom M is living as husband and wife, or
    - (iii) A person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.
- (2) Subject to section 11, you must, within 28 days of your election or appointment to office, notify the Monitoring Officer of any

disclosable pecuniary interests which you have at the date when the notification is given.

- (3) Subject to section 11, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any pecuniary interest registered under sub section (2), notify the Monitoring Officer of that change or new interest.
- (4) The Monitoring Officer will maintain the council's register of interests, and enter onto that register all interests notified to him/her

#### **Disclosure of pecuniary interests**

10. (1) Sub sections (2) to (4) apply to you if you –
  - (a) are present at a meeting of the council or of any committee, sub-committee, joint committee or joint sub-committee, Executive or Executive sub-committee meeting,
  - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the council's register, you must disclose the interest to the meeting, but this is subject to section 11.
- (3) If the interest is not entered in the council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) If you have a disclosable pecuniary interest you 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,
  - (c) remain in the meeting during the duration of any discussion of the matter but this is subject to section 12.
- (5) Sub sections (6) and (7) apply if –
  - (a) a function of the Council may be discharged by a member acting alone,
  - (b) you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by you in the course of discharging that function, and
  - (c) you are aware that the condition in sub section (b) is met.
- (6) If the interest is not entered in the Council's register and is not the subject of a pending notification, you must notify the Monitoring

Officer of the interest before the end of 28 days beginning with the date when you become aware that the condition in sub section (5) (b) is met in relation to the matter.

(7) You must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you).

(8) Where you give a notification for the purposes of sub sections (3) and (6), the Monitoring Officer will enter the interest notified in the Council's register (whether or not it is a disclosable pecuniary interest).

(9) You will be excluded from a meeting while any discussion or vote takes place in which, as a result of the operation of sub section (4), you may not participate.

(10) for the purpose of this section, an interest is "subject to a pending notification" if –

(a) under this section or section 11, the interest has been notified to the Monitoring Officer, but

(b) that interest has not yet been entered in the council's register in consequence of that notification.

### **Sensitive interests**

11. (1) Sub sections (2) and (3) apply where –

(a) you have an interest (whether or not a disclosable pecuniary interest), and

(b) the nature of the interest is such that both you, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

(2) If the interest is entered in the council's register, copies of the registers that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that you have an interest the details of which are withheld under this subsection).

(3) If section 10(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **Dispensations**

12. (1) The Monitoring Officer may, on written request made by you, grant a dispensation relieving you from either or all of the restrictions in section 10(4) in cases described in the dispensation.

- (2) The Monitoring Officer may grant you a dispensation under this section only if, after having had regard to all relevant circumstances, s/he –
- (a) considers that without the dispensation the number of persons prohibited by section 10(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interest of persons living in the authority's area,
  - (d) considers that granting the dispensation each member of the Executive would be prohibited by section 10(4) from participating in any particular business to be transacted by the Executive, or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 10(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

## **PART 4**

### **Miscellaneous**

#### **Related documents**

13. The council has adopted other codes and protocols which do not form part of this Code but which deal with specific activities you may be required or wish to carry out in the course of your duties as a councillor. You are required to comply with these and any breach may be regarded as a breach of this Code. The following codes and protocols are currently in effect:
- (1) Planning Code of Practice
  - (2) Licensing Code of Practice
  - (3) Local Authority Code of Publicity
  - (4) Use of Information Technology: Guidance on the Brent's Local Code of Conduct for members
  - (5) Convention on Working Relations

**Guidance**

14. If you need further advice or guidance on interpretation of this Code, please contact:

Fiona Ledden, Director of Legal and Procurement (Monitoring Officer); Ext: 1292 or  
Kathy Robinson, Senior Lawyer, Ext: 1368

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**

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**Helpful Reminders for Members**

- *Is your register of interests up to date?*
- *Have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been transcribed correctly?*

**When should you declare an interest at a meeting?**

- **What matters are being discussed at the meeting?** (including Council, Executive, Committees, Subs, Joint Committees and Joint Subs);



**Is the business to be transacted at the meeting**

- **related to; or**
- **or likely to affect your Disclosable Pecuniary Interests?**

Disclosable Pecuniary Interests shall include your interest or interests of :

- your spouse or civil partner
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners and you are aware that this other person has the interest

What is a disclosable pecuniary interest? – see overleaf

*Disclosable  
Pecuniary Interest*

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer , you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/voted upon


## **Pecuniary Interests**

Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from London Borough of Brent) 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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992</p>
Contracts	<p>Any contract which you have made between you (or a body in which you have a beneficial interest) and the London Borough of Brent -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the London Borough of Brent.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the London Borough of Brent for a month or longer.
Corporate tenancies	<p>Any tenancy where (to your knowledge) -</p> <p>(a) the landlord is the London Borough of Brent; and</p> <p>(b) the tenant is a body in which you have a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where –</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Please note where there is any reference to the word “you/your” this also includes those interests of your spouse or civil partner, a person you are living with as husband/wife, and a person you are living with as if you were civil partners, and you are aware that this other person has the interest.

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 The logo of Brent Council, featuring a central coat of arms with a shield, a crown, and two lions, surrounded by the words "BRENT COUNCIL" in a circular arrangement.	<p style="text-align: center;"><b>Standards Committee</b> <b>12 March 2013</b></p> <p style="text-align: center;"><b>Report from the Director of Legal and Procurement</b></p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p><b>Members' Code of Conduct - practical issues.</b></p>	

## 1.0 Summary

- 1.1 The procedures for dealing with allegations of breach of the Members' Code of Conduct were presented to the Standards Committee on 22<sup>nd</sup> January 2013. As a result of discussions at that meeting Members of the Standards Committee agreed that it would be useful to discuss the processes, including the available sanctions, with the Group Whips and invitations to this meeting have been issued accordingly.

## 2.0 Recommendations

- 2.1 That the Committee note this report.

## 3.0 Detail

- 3.1 The Report on Code of Conduct: Procedures for Dealing with Allegations of breach of the Code of Conduct attached as **Appendix 1** was presented to the Standards Committee on 22<sup>nd</sup> January 2013. The appendix to that report is not attached since the procedures were amended following input by the Standards Committee members. The final version of the procedures is attached as **Appendix 2**.
- 3.2 The new standards regime under the Localism Act 2011 provides for local arrangements to be made based on certain principles and requirements which are set out in the legislation. Each council must have a Code of Conduct consistent with the prescribed principles of behaviour in public office and the Council's Code of Conduct is

attached as **Appendix 3** together with guidance on Disclosable Pecuniary Interests which was produced for Members in the Report to Full Council on 9<sup>th</sup> July 2013. High standards of conduct must be promoted and maintained by Councils, and there must be a process for dealing with and investigating allegations of breaches of the Code of Conduct. Promoting and upholding high standards of conduct within the Council is likely to be assisted by the input and support of the Group Whips. Discussion with the Group Whips about the content of the Code and the expectations of member behaviour is one means of ensuring that the Council fulfils the requirements of the Localism Act 2011.

- 3.3 The new provisions enable Councils to take a more practical and pragmatic approach to complaints about members since it allows Councils to decide how to deal with complaints depending on the nature of the allegation made. Previously all complaints of whatever kind had to be referred to the Standards Committee. This inability to deal with less serious complaints in a different fashion meant that the system was costly, the procedures lengthy, and the steps required to be taken to investigate were often disproportionate to the nature of the allegation.
- 3.4 Under the new arrangements made by this Council the Monitoring Officer, together with the Independent Person, has a degree of discretion as to how to deal with these matters, in accordance with the attached procedure. The involvement of Group Whips in early discussions about some of the more minor complaints is likely to lead to a quicker resolution of such matters to the advantage and satisfaction of the complainant and the member concerned. For this reason it is considered that discussions with Group Whips regarding the new process would be helpful.
- 3.5 The previous standards arrangements provided specific powers to Councils and the First Tier Case Tribunal in relation to sanctions where it was found a breach had occurred, including disqualification of a member for up to 5 years. However, no such powers are included in the new arrangements. Accordingly, sanctions or other action recommended by the Standards Committee or Monitoring Officer is likely to require the co operation and assistance of the political parties and for that reason a discussion with the Group Whips is seen as advantageous.

#### **4.0 Financial Implications**

- 4.1 This report contains no specific financial implications.

#### **5.0 Legal Implications**

- 5.1 These are addressed in the body of the report.

## **6.0 Diversity Implications**

6.1 This report contains no specific diversity implications.

## **7.0 Staffing Implications**

7.1 This report contains no specific staffing implications.

### ***Background papers***

*Brent Members' Code of Conduct*  
*Localism Act 2011*

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson, Senior Solicitor, Director of Legal and Procurement Office, on telephone number 020 8937 1368.

**Fiona Ledden**  
**Director of Legal and Procurement**



**Standards Committee  
22nd January 2013**

**Report from Director of Legal and  
Procurement**

For Action

Wards Affected:  
ALL

**Report on Code of Conduct: Procedures for dealing with allegations of breach of the Code of Conduct**

**1. Summary**

- 1.1 The Council adopted a new Code of Conduct under the Localism Act 2011 on 19<sup>th</sup> July 2012. It also appointed a Standards Committee to deal with breaches of the Code. This report sets out the procedures for dealing with complaints against members under the Council's Code of Conduct.

**2. Recommendations**

- 2.1 Members are recommended to
- (i) Agree the procedures set out in Appendix 1.

**3. Background:**

- 3.1 The Localism Act 2011 revoked the previous requirements regarding the Standards regime, the procedural arrangements for dealing with allegations of breaches of the Code of Conduct and sanctions for members when breaches were found to have occurred. The Localism Act 2011 imposes new, but less prescriptive, requirements regarding members' conduct. These new requirements include that each Council must adopt a Code of Conduct based on specific principles of behaviour and conduct, and members adopted a new Code in July 2012.
- 3.2 The legislation also requires that the Council must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made (Section 28(6)). Those arrangements must include "provision for the appointment by the authority of at least one independent person –

- (a) Whose views are to be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and (b) whose views may be sought –
  - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
  - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation (Section 28(7)).

3.3 Other than stated in paragraph 3.2 above the procedures and processes for dealing with complaints against Member's conduct is a matter for the Council to decide. There is no requirement for such matters to be decided by a committee of members. However, at Full Council 19<sup>th</sup> July 2012 members agreed to appoint the Standards Committee which includes a non-voting co-opted member. Members also agreed the Terms of Reference for the Standards Committee which includes receiving allegations of breach of the Code referred to it by the Monitoring Officer, deciding whether to ask that matters referred to it be investigated or whether no further action be taken, and holding hearings into allegations of misconduct and deciding on sanctions, if any. Members also agreed that the Monitoring Officer be delegated the decision as to whether to refer a matter to Standards Committee, or take other action, including no action.

#### **4. Detail**

4.1 Full Council resolved that the Monitoring Officer should draw up detailed procedures to support the new standards regime following consultation with the Constitutional Working Group. The Constitutional Working Group has not met this autumn, but the procedures have been circulated to the Leaders of each of the three political groups, and the Chair of Standards Committee and in so far as comments have been made or questions raised, these have been addressed.

4.3 It was recognised that a short coming of the previous arrangements was the inability of the Monitoring Officer to exercise any discretion over which complaints would be referred to the Standards Committee. In some instances, not necessarily in Brent, this led to trivial, vexatious and other complaints being referred to Standards Committees and investigations being carried out where it was neither appropriate nor necessary to do so. Full independent investigations and hearings are costly and time consuming, and the desired outcome can in some cases be achieved by alternative means. The inability of a Council to deal with complaints in different ways according to the seriousness and nature of the allegations was one of the reasons for the change in the law.

4.5 The Localism Act 2011 recognises the importance of the input of an independent person in the complaints process. Whereas previously an independent person was required on the Committee, such input is now required when the Council is deciding on how to proceed post – investigation. The Act also provides that the Independent Person can be involved at other stages.

4.6 The procedure attached as Appendix 1 seeks to balance the need to deal with some complaints swiftly and other more serious matters to be given full investigation and a hearing. This is a proportionate, efficient and cost effective means of dealing with such matters. The procedures proposed enable the Monitoring Officer, in

consultation with the Independent Person, to reject those complaints which ought not to proceed because they are trivial, vexatious, or repeated. It also enables the Monitoring Officer to take action where there has been a breach but the complaint can be adequately addressed by alternative means, other than by formal investigation and full hearing, such as inadvertent breaches and circumstances where a member apology is readily forthcoming. Where efforts by the Monitoring Officer and Independent Person are rejected the matter will be referred to the Standards Committee, so too will cases where there is an allegation of a serious breach which ought to be formally investigated.

4.7 It is proposed that Standards Committee will consider any report of an investigating officer following an investigation and decide whether the matter should proceed to hearing. The arrangements for hearings ensures a fair process is followed. The sanctions listed are those which are permissible within the current legislative and common law framework.

4.8 It is proposed that there will be an annual report to the committee of matters that have been discussed between the Monitoring Officer and Independent Person to ensure full transparency on matters relating to the integrity of Council members

Members are advised to adopt the procedures as set out in **Appendix 1**.

## **5.0 Financial Implications**

5.1 There are no direct financial implications to this report. However, the cost of independent investigations and full hearings has been taken into account in recommending the procedures and processes.

## **6. Staffing implications**

6.1 There are no staffing implications.

## **7.0 Diversity implications**

7.1 There are no diversity implications.

## **8.0 Legal Implications**

8.1 These are set out in the body of the report

## ***Background Papers***

Council Constitution and Code of Conduct

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson on 0208 937 1368

**Fiona Ledden**  
**Director of Legal and Procurement**

**PROCEDURE FOR DEALING WITH COMPLAINTS UNDER THE  
MEMBERS' CODE OF CONDUCT**

**1. Background**

This procedure sets out how a complaint that an elected or co-opted member of this authority has failed to comply with the authority's Code of Conduct can be made and how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

**2. The Code of Conduct**

The Council has adopted a Code of Conduct for members and this is available on the Council's website.

**3. Making a Complaint**

**3.1 A complaint must be made in writing and emailed or sent to:**

The Monitoring Officer  
London Borough of Brent  
Legal and Procurement  
Forty Lane  
Wembley  
Middlesex  
HA9 9HD

Or emailed to: [fiona.ledden@brent.gov.uk](mailto:fiona.ledden@brent.gov.uk)

**3.2 The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for applying the processes in respect of complaints of member misconduct.**

**3.3 The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.**

**3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and will keep the complainant informed about the progress of the complaint.**

**3.5 The Monitoring Officer will inform the member against whom a complaint has been made that a complaint has been made and will give details of the complaint to them. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the detail of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details. Once the matter is concluded the member will be informed of the outcome of the matter whether or not they were informed at this early stage.**

**4. Will the complaint be investigated?**

- 4.1 The Monitoring Officer will review every complaint received.
- 4.2 The complaint must be:
- Against one or more named members of the authority; and
  - In relation to a named member who was in office within the authority at the time of the alleged conduct and the code of conduct was in force at the time; and
  - In relation to an alleged breach of the Code of Conduct.
- 4.3 If the complaint does not fall within 4.2 above the matter will not be considered and the complainant will be informed that there will be no further action.
- 4.4 Where the complaint passes the above test, and in order to establish a preliminary view of the circumstances of the complaint and whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action, the Monitoring Officer may consult or meet with any relevant persons, which may include the Leader of the Council or Group Leaders, the Chief Executive or any other officers, the complainant and the member against whom the complaint has been made.
- 4.5 The Monitoring Officer will consult with the Independent Person to determine the course of action to be taken. This decision will normally be taken within 14 days of receipt of the complaint. The complainant and the member against whom the complaint is made will be informed of the Monitoring Officer's decision and the reasons for that decision. Three outcomes are available:
- (i) No formal investigation and no further action paragraph (4.6) below
  - (ii) No formal investigation and local resolution paragraph (4.8) below
  - (iii) Referral to the Standards Committee for a decision to be taken on investigation – paragraph 5.
- 4.6 In assessing whether a complaint should be investigated the following factors will be taken into consideration:
- Public Interest – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes and will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters.
  - Alternative course of action – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case.
  - Previous action – if the complaint has already been subject to a previous investigation or some other action relating to the code of conduct or other related process, the matter will ordinarily not be referred for further investigation of the same matters.
  - Vexatious/repeated complaints – the Monitoring Officer will not refer for investigation a complaint that is the same or substantially the same as one previously made by the complainant.



- Timing of the alleged conduct – complaints made over a year after the date of the alleged behaviour will not be investigated unless there are exceptional circumstances, for example a significant public interest in the matter being investigated
- Ulterior motive – no further action is likely to be taken if the complaint is considered to be only motivated by malice, political motivation or retaliation.

4.7 In cases which do not fall within 4.6 above the Monitoring Officer in consultation with the Independent Person may consider resolution of the complaint by one of the following means;

- The member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the authority.
- Referring the matter to group leaders or officers
- The member being required to attend training
- The member being required to meet with the Monitoring Officer and/or other chief officers to formally discuss the member's conduct
- Such other action as is considered appropriate by the Monitoring Officer and Independent Person

4.8 Matters which might appropriately be dealt with as described in 4.7 above may include:

- Misunderstanding of procedures or protocols
- Misleading, unclear or misunderstood advice from officers
- Lack of experience or training
- A general deterioration of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect.

4.9 If the action recommended in paragraph 4.7 above is not taken, the Monitoring Officer shall refer the matter to Standards Committee to determine if formal investigation is the appropriate course of action.

## **5 How is the investigation conducted?**

5.1 Where a complaint does not fall within paragraph 4.6 or 4.8 the case shall be referred to the Standards Committee for a decision as to whether the complaint merits formal investigation. Where the Standards Committee agrees a formal investigation be undertaken it will instruct the Monitoring Officer to appoint an investigating officer. The timescale for investigation will normally take no more than 12 weeks to complete.

5.2 The investigating officer will contact the complainant and the member against whom a complaint has been made and undertake such investigation as is appropriate in all the circumstances within the parameters of the complaint that has been made. Where during the course of an investigation new matters arise, the Investigating Officer

shall refer those matters back to the Monitoring Officer for a decision on how those matters should be dealt with under these procedures.

- 5.3 At the end of the investigation, the investigating officer will produce a draft report and will seek comments and views on the draft report from the complainant and the member against whom the complaint has been made.
- 5.4 Having received and taken account of any comments which have been made, the Investigating Officer will send a copy of the final report to the Monitoring Officer.
- 5.5 If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Standards Committee in consultation with the Independent Person can decide what action to take, including terminating the investigation. Such cases will be reported to the Standards Committee for a decision.

**6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- 6.1 The Standards Committee will review the Investigating Officer's report and if, in consultation with the Independent Person, it accepts the Investigating Officer's conclusion, the Standards Committee will inform the complainant and the member concerned that it is satisfied that no further action is required. A copy of the Investigating Officer's final report will be given to the complainant and the member concerned. Members of the Standards Committee will be advised that the report relates to an individual and will reveal their identity.
- 6.2 If the Standards Committee in consultation with the Independent Person is not satisfied that the investigation has been conducted properly, it may ask the investigating officer to reconsider his/her report.
- 6.3 If the Standards Committee in consultation with the Independent Person wishes, notwithstanding the views of the investigating officer, it may refer the matter for hearing.

**7. What happens if the investigating officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- 7.1 The Standards Committee will review the investigating officer's report and in consultation with the Independent Person, will either (a) direct local resolution or (b) refer the matter to Standards Committee for a hearing

**7.2 Local Resolution**

The Standards Committee, in consultation with the Independent Person may consider that the matter can reasonably be resolved without the need for a hearing. In such a case the Standard Committee may direct such fair resolution as it considers helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action. If the local resolution recommended by Standards Committee is not complied with, the Monitoring Officer will refer the matter to the Standards Committee to determine whether there should be a hearing.

### **7.3 Standards Committee hearing**

Meetings of the Standards Committee including those in 4.9, 5.1 and 6.1 above will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The committee will go into private session if it resolves to do so.

If the Standards Committee decides that the matter will proceed to a hearing, paragraphs 8 to 11 will apply:

## **8. Pre Hearing Process**

8.1 Prior to a hearing, an officer from the Council's Democratic Services team will write to the member subject to the complaint proposing a date for the hearing before the Standards Committee.

8.2 The Legal and Procurement Department would provide a copy of this procedure note to the member subject to the complaint and request a written response from the member within a set time in relation to whether the member

- Wants to be represented at the hearing by a solicitor, barrister or any other person and the identity of that person
- Disagrees with any of the findings of fact in investigation report and the reasons for it
- Considers he or she has breached the Code of Conduct and, if not, why
- Whether if there is found to be a breach there is anything he or she would like to be taken into account by the committee when it considers whether a sanction should be imposed and what that sanction might be
- Wants to give evidence to the Standards Committee either verbally or in writing
- Wants to call relevant witnesses to give evidence to the hearing and to provide details of the witnesses
- Wants any part of the hearing to be held in private and reasons for the request
- Wants any part of the investigation report or other relevant documents to be withheld from the public and reasons for the request

- Has any special access requirements e.g. interpreter, special print (or the Member's witness(es)) or representative requires such)
  - Can attend the hearing
- 8.3 The members response will be referred to the Monitoring Officer to comment in order to ensure that all parties are clear about the remaining factual disputes and can deal with these issues at the hearing. The Monitoring Officer will also ascertain from the investigating officer whether the complainant will be giving evidence at the hearing and whether the investigating officer will be calling any witnesses to give evidence.
- 8.4 The Monitoring Officer will prepare a report for the hearing which will:
- Summarise the allegation
  - Outline the main facts of the case which are agreed
  - Outline the main facts which are not agreed
  - Indicate whether the member and the investigating officer will be present at the hearing
  - Indicate the witnesses, if any, who will be asked to give evidence
  - Include the proposed procedure for the hearing
  - Include the Investigating Officer's report
  - Include the views of the Independent Person

## **9 The Hearing**

- 9.1 The hearing is before the Standards Committee and the Independent Person will be in attendance to provide his/her views before a decision is made.
- 9.2 The procedure for local hearings is attached at **Appendix 1**.
- 9.3 The meeting of the Standards Committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The Committee will go into private session if it resolves to do so.
- 9.4 The Standards Committee will decide on the balance of probabilities whether the member is in breach of the Code of Conduct. The Standards Committee must seek the views of the independent person before making a decision on the allegation.
- 9.5 The Standards Committee can determine the number of witnesses and the way in which witnesses can be questioned.
- 9.6 If the member fails to attend the hearing, the Standards Committee can decide whether to proceed in the member's absence and make a determination or whether to adjourn the hearing to a later date.

9.7. If the Standards Committee conclude that the member did fail to comply with the Code of Conduct, the Committee will then consider what action, if any, the Committee should take. In doing this, the Committee will give the member the opportunity to make representations to the Committee and will consult the Independent Person.

## **10. What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?**

10.1 The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct.

Accordingly the Standards Committee may:

- Censure or reprimand the member
- Publish in a local newspaper its findings in respect of the member's conduct
- Report its findings to Council for information
- Recommend to the member's Group Leader (or in the case of ungrouped members recommend to Council or to committees) that the member be removed from any or all committees of the council
- Recommend to the administration that the member be removed from the Cabinet or removed from particular portfolio responsibilities
- Recommend to Council that the member be replaced in any Council appointed roles
- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings.

## **11. What happens at the end of hearing?**

11.1 At the end of the hearing the Chair of the Standards Committee will state the decision of the Committee and any actions which the Committee resolves to take.

11.2 The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.

## **12. Appeals**

There is no right of appeal for the complainant or the member against a decision of the Monitoring Officer or the Standards Committee.

If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government Ombudsman.

## **Appendix 1**

### **Procedure for Hearings before the Standards Committee**

#### **1. Introduction**

#### **2. Chair of the Standards Committee outlines the hearing procedure**

The Chair can depart from the procedure outlined below where he/she considers it expedient to do so in order to secure the fair consideration of the matter.

#### **Findings of Fact**

3. The Committee should consider where there are any significant disagreements about the facts contained in the investigating officer's report.

If there is no disagreement about the facts the committee can move on to the next stage of the hearing (go to paragraph 9)

4. Where there is a disagreement the investigating officer will be invited to make representations to support the findings of fact and with the committee's permission, call witnesses to give evidence.

The member, against whom the complaint has been made, will be given the opportunity to challenge the evidence put forward by any witness called by the investigating officer by asking the witness questions.

5. The member will then be given the opportunity to make representations and with the committee's permission, call any witnesses to give evidence.

The investigating officer will be given the opportunity to challenge the evidence put forward by any witness called by the member to give evidence.

6. At any time, the committee and independent person may question any of the people involved or any witnesses.

7. The Committee will usually consider the representations and evidence in private.

The committee will be advised by the Monitoring Officer, in private if necessary, at any time during the hearing or while they are considering the outcome.

8. Once the committee has made its decision, the Chair will announce the committee's finding of fact to the meeting.

#### **Did the member fail to comply with the Code of Conduct?**

9. The committee should then consider whether based on the facts it has found, the member has failed to comply with the Code.
10. The member will be invited to make representations on the matter.
11. The investigating officer will be invited to make representations
12. The independent person will be invited to make representations
13. The committee may, at any time, question the member, investigating officer or independent person on any point raised in the representations.
14. The member will be invited to make any final relevant points
15. The committee will usually consider the representations in private, with the attendance of and advice from the Monitoring Officer
16. Once the committee has made its decision, the Chair will announce the committee's decision to the meeting as to whether the member has failed to comply with the Code.

**If there is a finding that the member has not failed to comply with the Code of Conduct**

17. Where the committee decides that the member has not failed to comply with the Code, the committee can consider whether it wishes to make any recommendations to the authority

**If there is a finding that the member has failed to comply with the Code of Conduct**

18. If the committee decided that the member has failed to comply with the Code, it will consider representations from the member, investigating officer and independent person as to:
  - Whether the committee should apply a sanction
  - What form any sanction should take
19. The committee may question the investigating officer, member and independent person and take legal advice, to make sure they have the information they need in order to make an informed decision.
20. The committee will consider in private with the attendance of and advice from the Monitoring Officer whether to impose a sanction and if, so what sanction it should be
21. The Chair will announce the decision to the meeting.

22. The committee will also consider whether it should make any recommendations to the authority with a view to promoting high standards of conduct

**Committee decision**

23. The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.



**BRENT COUNCIL CODE OF CONDUCT FOR MEMBERS**

**PART 1**

**Introduction and interpretation**

1. (1) This code applies to **you** as a member of Brent Council.
- (2) It is your responsibility to comply with the provisions of this Code
- (3) In this Code –

“meeting” means any meeting of –

- (a) Full council;
- (b) The Executive;
- (c) Any of the council’s or its Executive’s committees, sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

**Scope**

2. (1) Subject to sub-sections (2) and (5), you must comply with this Code whenever you-
  - (a) conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of the council,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-sections (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, section 5 also has effect at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-section (3)) includes a

criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of the council –

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct, or
- (b) on any other body, you must, when acting for that other body, comply with Brent Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **PART 2**

### **High standards of conduct**

3. You must maintain a high standard of conduct, and comply with the following general conduct principles:

#### **The General Principles**

**Selflessness** – you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Integrity** – you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

**Openness** – you should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.

**Honesty** – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.

**Leadership** – you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

### **General Obligations**

4. (1) You must treat others with respect.

(2) You must not –

(a) do anything which may cause the council to breach any of the duties under the Equality Act 2010;

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be –

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with the council's Code of Conduct; or

(d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.

6. You must not –

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is –

(aa) reasonable in all the circumstances, and

(bb) in the public interest, and

(cc) made in good faith and in compliance with the reasonable

requirements of the council; or

- (b) prevent another person from gaining access to information to which that person is entitled by law.

7. You –

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, and
- (b) must, when using or authorising the use by others of the resources of the council –
  - (i) act in accordance with the council's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –

- (a) The council's chief finance officer; or
- (b) The council's Monitoring Officer ,

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

**PART 3**

**Interests**

**Pecuniary interests and registration**

- 9. (1) For the purposes of this Code, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either –
  - (a) It is an interest of M's, or
  - (b) It is an interest of –
    - (i) M's spouse or civil partner,
    - (ii) A person with whom M is living as husband and wife, or
    - (iii) A person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.
- (2) Subject to section 11, you must, within 28 days of your election or appointment to office, notify the Monitoring Officer of any

disclosable pecuniary interests which you have at the date when the notification is given.

- (3) Subject to section 11, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any pecuniary interest registered under sub section (2), notify the Monitoring Officer of that change or new interest.
- (4) The Monitoring Officer will maintain the council's register of interests, and enter onto that register all interests notified to him/her

#### **Disclosure of pecuniary interests**

10. (1) Sub sections (2) to (4) apply to you if you –
  - (a) are present at a meeting of the council or of any committee, sub-committee, joint committee or joint sub-committee, Executive or Executive sub-committee meeting,
  - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the council's register, you must disclose the interest to the meeting, but this is subject to section 11.
- (3) If the interest is not entered in the council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) If you have a disclosable pecuniary interest you 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,
  - (c) remain in the meeting during the duration of any discussion of the matter but this is subject to section 12.
- (5) Sub sections (6) and (7) apply if –
  - (a) a function of the Council may be discharged by a member acting alone,
  - (b) you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by you in the course of discharging that function, and
  - (c) you are aware that the condition in sub section (b) is met.
- (6) If the interest is not entered in the Council's register and is not the subject of a pending notification, you must notify the Monitoring

Officer of the interest before the end of 28 days beginning with the date when you become aware that the condition in sub section (5) (b) is met in relation to the matter.

(7) You must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you).

(8) Where you give a notification for the purposes of sub sections (3) and (6), the Monitoring Officer will enter the interest notified in the Council's register (whether or not it is a disclosable pecuniary interest).

(9) You will be excluded from a meeting while any discussion or vote takes place in which, as a result of the operation of sub section (4), you may not participate.

(10) for the purpose of this section, an interest is "subject to a pending notification" if –

(a) under this section or section 11, the interest has been notified to the Monitoring Officer, but

(b) that interest has not yet been entered in the council's register in consequence of that notification.

### **Sensitive interests**

11. (1) Sub sections (2) and (3) apply where –

(a) you have an interest (whether or not a disclosable pecuniary interest), and

(b) the nature of the interest is such that both you, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

(2) If the interest is entered in the council's register, copies of the registers that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that you have an interest the details of which are withheld under this subsection).

(3) If section 10(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **Dispensations**

12. (1) The Monitoring Officer may, on written request made by you, grant a dispensation relieving you from either or all of the restrictions in section 10(4) in cases described in the dispensation.

- (2) The Monitoring Officer may grant you a dispensation under this section only if, after having had regard to all relevant circumstances, s/he –
- (a) considers that without the dispensation the number of persons prohibited by section 10(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interest of persons living in the authority's area,
  - (d) considers that granting the dispensation each member of the Executive would be prohibited by section 10(4) from participating in any particular business to be transacted by the Executive, or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 10(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

## **PART 4**

### **Miscellaneous**

#### **Related documents**

13. The council has adopted other codes and protocols which do not form part of this Code but which deal with specific activities you may be required or wish to carry out in the course of your duties as a councillor. You are required to comply with these and any breach may be regarded as a breach of this Code. The following codes and protocols are currently in effect:
- (1) Planning Code of Practice
  - (2) Licensing Code of Practice
  - (3) Local Authority Code of Publicity
  - (4) Use of Information Technology: Guidance on the Brent's Local Code of Conduct for members
  - (5) Convention on Working Relations

**Guidance**

14. If you need further advice or guidance on interpretation of this Code, please contact:

Fiona Ledden, Director of Legal and Procurement (Monitoring Officer); Ext: 1292 or  
Kathy Robinson, Senior Lawyer, Ext: 1368



**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**

**Helpful Reminders for Members**

- *Is your register of interests up to date?*
- *Have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been transcribed correctly?*

**When should you declare an interest at a meeting?**

- **What matters are being discussed at the meeting?** (including Council, Executive, Committees, Subs, Joint Committees and Joint Subs);



**Is the business to be transacted at the meeting**

- **related to; or**
- **or likely to affect your Disclosable Pecuniary Interests?**

Disclosable Pecuniary Interests shall include your interest or interests of :

- your spouse or civil partner
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners and you are aware that this other person has the interest

What is a disclosable pecuniary interest? – see overleaf

*Disclosable  
Pecuniary Interest*

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer , you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/

## **Pecuniary Interests**

Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from London Borough of Brent) 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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992</p>
Contracts	<p>Any contract which you have made between you (or a body in which you have a beneficial interest) and the London Borough of Brent -</p> <ul style="list-style-type: none"><li>(a) under which goods or services are to be provided or works are to be executed; and</li><li>(b) which has not been fully discharged.</li></ul>
Land	Any beneficial interest in land which is within the area of the London Borough of Brent.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the London Borough of Brent for a month or longer.
Corporate tenancies	<p>Any tenancy where (to your knowledge) -</p> <ul style="list-style-type: none"><li>(a) the landlord is the London Borough of Brent; and</li><li>(b) the tenant is a body in which you have a beneficial interest.</li></ul>
Securities	<p>Any beneficial interest in securities of a body where –</p> <ul style="list-style-type: none"><li>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</li><li>(b) either -<ul style="list-style-type: none"><li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li><li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li></ul></li></ul>

Please note where there is any reference to the word “you/your” this also includes those interests of your spouse or civil partner, a person you are living with as husband/wife, and a person you are living with as if you were civil partners, and you are aware that this other person has the interest.