	<p style="text-align: center;">Standards Committee 12 March 2013</p> <p style="text-align: center;">Report from the Director of Legal and Procurement</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>Members' Code of Conduct - practical issues.</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 22nd 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 22nd 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 9th 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.
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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

APPENDIX 1

	<p style="text-align: center;">Standards Committee 22nd January 2013</p> <p style="text-align: center;">Report from Director of Legal and Procurement</p>
<p>For Action Wards Affected: ALL</p>	
<p>Report on Code of Conduct: Procedures for dealing with allegations of breach of the Code of Conduct</p>	

1. Summary

- 1.1 The Council adopted a new Code of Conduct under the Localism Act 2011 on 19th 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 –
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- (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 19th 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
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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

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.
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- 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**
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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
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- 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.
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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.
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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
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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

<p style="text-align: center;">requirements of the council; or</p> <p>(b) prevent another person from gaining access to information to which that person is entitled by law.</p>
<p>7. You –</p> <p>(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</p> <p>(b) must, when using or authorising the use by others of the resources of the council –</p> <p style="padding-left: 40px;">(i) act in accordance with the council's reasonable requirements; and</p> <p style="padding-left: 40px;">(ii) ensure that such resources are not used improperly for political purposes (including party political purposes).</p>
<p>8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –</p> <p style="padding-left: 40px;">(a) The council's chief finance officer; or</p> <p style="padding-left: 40px;">(b) The council's Monitoring Officer ,</p> <p style="padding-left: 40px;">where that officer is acting pursuant to his or her statutory duties.</p> <p>(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.</p>
<p>PART 3</p> <p>Interests</p> <p>Pecuniary interests and registration</p> <p>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 –</p> <p style="padding-left: 40px;">(a) It is an interest of M's, or</p> <p style="padding-left: 40px;">(b) It is an interest of –</p> <p style="padding-left: 80px;">(i) M's spouse or civil partner,</p> <p style="padding-left: 80px;">(ii) A person with whom M is living as husband and wife, or</p> <p style="padding-left: 80px;">(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.</p> <p>(2) Subject to section 11, you must, within 28 days of your election or appointment to office, notify the Monitoring Officer of any</p>

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
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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/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.
