

	<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>Monitoring Officer Report on Members' Disclosable Pecuniary Interests</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.
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- 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 9th 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.
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- 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 14th 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 31st August 2012 and 21st 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 20th 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.
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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
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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

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/voted upon
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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">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.
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">(a) the landlord is the London Borough of Brent; and(b) the tenant is a body in which you have a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where –</p> <ul style="list-style-type: none">(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and(b) either -<ul style="list-style-type: none">(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or(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.

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.
