



## City of Westminster Standards Committee

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| <b>Date:</b>              | <b>12<sup>th</sup> March 2012</b>   |
| <b>Classification:</b>    | <b>General Release</b>  |
| <b>Title:</b>             | <b>Localism Act 2011: Implementation of the Standards Arrangements</b>  |
| <b>Report of:</b>         | <b>Head of Legal and Democratic Services</b>  |
| <b>Wards Involved:</b>    | <b>All</b>  |
| <b>Policy Context:</b>    | <b>High Ethical Standards</b>   |
| <b>Financial Summary:</b> | <b>There are no financial implications arising</b>  |
| <b>Report Author:</b>     | <b>Naomi Stauber</b>  |
| <b>Contact Details:</b>   | <b>Tel: 020 7641 2341</b><br><b>Email: <a href="mailto:nstauber@westminster.gov.uk">nstauber@westminster.gov.uk</a></b> |

### **1. Executive Summary**

- 1.1 This report presents the latest information relating to the standards aspects of the Localism Act which received Royal Assent on 15 November 2011. Changes to the City Council's Constitution, Code of Governance and standards arrangements will be required to meet the standards provisions of the Act which are currently expected to take effect on 1<sup>st</sup> July 2012. Regulations will be issued by the Department for Communities and Local Government (DCLG) in relation to some of the key issues discussed in this report and, as a consequence, a complete picture of all the detailed requirements cannot be given at this stage.
- 1.2 This report provides the Committee with an opportunity to determine its preliminary views on the key issues relating to the Council's standards arrangements, as provided for by the Act, to allow Officers to move forward with a set of proposals for further consideration. For this purpose Members' attention is drawn to the schedule of considerations, attached as **Appendix 1**.
- 1.3 Certain aspects of the Council's standards arrangements (primarily the adoption of a new Code of Conduct and the appointment of independent person(s)) must be formally adopted at the Annual Council meeting on 16<sup>th</sup> May 2012, if the relevant provisions are brought into force on 1<sup>st</sup> July 2012. For this reason the Committee is asked to agree to hold a special meeting in

April to consider formal proposals which will be drafted in light of Members' views, for recommendation to Council on 16<sup>th</sup> May. The suggested date for the special meeting is Tuesday 24 April at 6.30pm.

## 2. Recommendations

- (1) That the Committee note the content of the report and offer their views on the issues listed in **Appendix 1**;
- (2) That the Committee resolve to hold a special meeting in April 2012, to enable further proposals to be drafted and agreed as explained in 1.3 above.

## 3. Code of Conduct

3.1 Section 27 of the Act requires local authorities in England to ensure that its Members and co-opted members maintain high standards of conduct and requires them to adopt a Members Code of Conduct, as the City Council has currently. This Code of Conduct must, when reviewed as a whole, be consistent with the seven "Nolan Principles" (Selflessness, honesty, integrity, objectivity, accountability, openness and leadership) and must set out the rules that the authority decides to adopt in relation to requiring Members to register and disclose pecuniary and non-pecuniary interests (as explained in more detail in Section 5 below). Subject to these requirements, the authority may:

- (a) Revise its existing code of conduct; or
- (b) adopt a code of conduct to replace its existing code of conduct.

As such, the Act provides the Council with an opportunity to change any aspects of its existing code it wishes or start from scratch entirely and create its own code.

3.2 The Council's existing Members Code of Conduct is attached as **Appendix 2** and the Committee is requested to review this and put forward its views regarding any desirable changes to be made.

3.3 The Local Government Association (LGA), in consultation with the Association of Council Secretaries and Solicitors (ACSeS), are in the process of drafting a template Code of Conduct which, at the time of writing, was in progress but awaiting detailed information on forthcoming regulations from DCLG to inform its completion. We understand that the LGA are mindful of the 1<sup>st</sup> July implementation deadline and we expect the template code to be released to authorities in the near future.

3.4 This presents the Council with an additional option to adopt the model Code produced by the LGA, or to use it as a starting point and revise it to suit our own requirements. Clearly, without having sight of the model code we cannot decide absolutely upon whether it should be adopted in whole, or part. But the option can be considered on its merits and the Committee's views are sought

on this issue. At the time of writing it is understood that the LGA may issue two drafts codes for possible use and adaptation.

#### **4. Code of Conduct Training**

- 4.1 The introduction of a new Code of Conduct will require a degree of Member and Co-opted Member training. Previously, these sessions have been conducted by the Head of Legal and Democratic Services and held over 3 evenings.
- 4.2 No training for all Members has been held since 2007. Those Members who were elected for the first time in 2010 all attended the training. The introduction of a new Code requires all Members to be given the opportunity to be trained with particular reference to the changes. Accordingly, it is proposed to offer 3/4 training dates over a period in July/August. The actual dates will be agreed in consultation with the Party Whips. These sessions, led by the Head of Legal and Democratic Services, are expected to last about 1½ hours.
- 4.3 It is suggested that the responsibility for the training, as outlined above, be delegated to the Head of Legal and Democratic Services, but further details will be reported to the proposed special meeting.

#### **5. Register of Interests**

- 5.1 The Localism Act includes a requirement for the Monitoring Officer to establish and maintain a Register of Members' and Co-opted Members' Interests and to make the register available for inspection and to publish it on the authority's website. There is a requirement to include Pecuniary Interests in the register, as defined by the Secretary of State by Regulation. Such Disclosable Pecuniary Interests are also required to be disclosed if they relate to a spouse or civil partner with whom the Member lives. The relevant Regulations are awaited.
- 5.2 Disclosable Pecuniary Interests are required to be disclosed at a meeting, if the Member has not already registered the interest, and the Member is prohibited from participating in discussion or voting on any matter relating to his or her interest. If the interest is not already registered, it must be within 28 days. The Member is prohibited from participating in discussion or voting on any matter subject to any dispensation (see paragraph 5.4 below). Section 31 (10) of the Localism Act also allows the authority, by way of Standing Orders, to determine whether the Member must also leave the room during a debate and vote. The views of the Committee are sought. Under the current regime, in the case of Prejudicial Interests, the Member must leave the room.
- 5.3 There are two exceptions. Firstly, sensitive interests under Section 32. The definition of a sensitive interest refers to "violence or intimidation" and is similar to that in the existing code but the threshold is lowered in that there is no reference to an objectively present "serious risk" thereof, it is sufficient that the Member and Monitoring Officer "consider" that disclosure of the interest "could lead" to the Member or a "connected with" him or her being subjected to

violence or intimidation. It will be seen that the duty to determine if this section can be applied sits with the Member and the Monitoring Officer.

- 5.4 Dispensations can be granted, in accordance with Section 33. These can be granted for up to four years for a Member to be able to participate in or vote at meetings, where the authority, or if delegated, the Standards Committee, considers that if it is not granted, the business in question is likely to be impeded; or that to grant the dispensation is in the interests of persons living in the authority's area, or that all Members of the executive would otherwise be unable to participate in business of the executive; or that they consider it appropriate to grant a dispensation for other reasons. The Committee's views are sought but it is thought likely that a protocol, similar to that currently in place, should be prepared.
- 5.5 Section 34 creates a criminal offence where a Member or Co-opted Member fails, without reasonable excuse, to comply with the requirement to register or declare Disclosable Pecuniary Interests, or if the interest is not in the Authority's register to disclose it at the meeting or when acting alone when prevented from doing so. The Magistrates Court can fine up to level 5 (currently £5,000) and disqualify for up to five years. Any prosecution must be brought by or on behalf of the DPP, and must be brought within 12 months of the DPP having the evidence to warrant prosecution and within three years of the offence being committed.
- 5.6 The Committee are referred to **Appendix 3** which sets out those matters which a Member or Co-opted Member should currently disclose in the Register. The Committee's views are sought on those matters which it thinks should, in addition to the Pecuniary Interests, be included as a matter of local choice.

## **6. Appointment of Independent Person(s)**

- 6.1 As drafted the Localism Act prohibits any person who within the last five years has been a member, co-opted member or officer of the City Council, from being appointed as the independent person who has the statutory role of giving views on any complaint about the conduct of a Member of the authority. This bar therefore rules out any existing members of the Council's current Standards Committee from appointment as the independent person.
- 6.2 DCLG have advised that this measure was put in place because the Government considers that it is important that there is a clear break with the old Standards Board regime and that no person who is an independent member or chair of a council's statutory standards committee can be appointed as the Localism Act's independent person while they continue to be a member of the standards committee.
- 6.3 DCLG have since indicated that they received a number of representations from councils that want to appoint a current independent member of the standards committee as their independent person, citing experience and continuity as important factors in making such an appointment and also

arguing that it may be difficult to fill the post of independent person if standards committee members cannot be considered.

- 6.4 As a consequence of these representations Ministers, it is understood, are minded that transitional provision should be made allowing a council to appoint a person as an independent person who, although not a member or chairman of a standards committee at the time of appointment (or thereafter), has held such a post within the last five years.
- 6.5 This transitional provision would apply for the first year of the new arrangements (i.e. until 30 June 2013), and any person appointed under the transitional provisions would be able to continue to hold office after the transitional period, for whatever term the council saw fit.
- 6.6 The new independent person must be consulted by the authority before the authority makes a finding that a Member has failed to comply with its Code of Conduct or imposes any sanction, and can usefully be consulted by that authority at other times, such as on the decision whether to resolve or to investigate a complaint. This has been taken into account in the “simplified process” below. The independent person may also be consulted by a Member against whom a complaint has been made.
- 6.7 As the City Council must therefore appoint at least one independent person to fulfil this role Members are invited to express their views as to whether they consider one independent person to be sufficient. A report on the recruitment process will be submitted to the General Purposes Urgency Sub-Committee in the near future.
- 6.8 It has been suggested that the Council, in effect, share an independent person with its tri-borough partners - Hammersmith and Fulham and Kensington and Chelsea. This would assist if at any time the independent person is unable to act the relevant Monitoring Officer could consult one of the other independent members provided they had been appointed. It is also suggested that consideration be given to placing a joint advertisement with the tri-borough partners to recruit the new independent person. The Committee’s views are sought.

## **7. Arrangements for Dealing with Allegations of Breach**

- 7.1 The Localism Act abolished both Standards for England and the prescribed process for dealing with complaints about Members. Although the Act has retained the requirement to have a Standards Committee, each authority must adopt their own ‘arrangements’ to deal with misconduct complaints. The opportunity to simplify the process is welcomed since Members of this Committee have previously voiced concern that the process of investigating complaints is bureaucratic and too lengthy. The two investigations which have occurred within the current regime both took between 5 and 6 months from the decision to investigate to the hearing.
- 7.2 As the new regime is to take effect from 1<sup>st</sup> July 2012 early views as to how the process can work in practice are welcomed from the Committee. In order

to aid such a discussion Officers have drafted a simplified process which reduces the length of time taken and number of meetings necessary in order to consider such complaints.

*1 – Monitoring Officer receives a complaint about a Member. MO consults with the independent person as to whether the complaint merits further investigation. MO (under delegated power) responds to the complainant advising that the matter will / will not be investigated further.*

*2 – If matter requires further investigation the MO will conduct an investigation as he/she sees fit. Prior to concluding the investigation the MO will discuss the matter with the independent person.*

*3 – Once the investigation is concluded the MO will forward the report to the Standards Committee. The relevant Member will be invited to the committee and given an opportunity to respond to the report. The Standards Committee will decide whether the Member has breached the Code and, if the Code has been breached, whether a sanction is necessary.*

- 7.3 This would mean that Members of the Standards Committee would only need to consider the complaint once all of the relevant information had been gathered by the Monitoring Officer. Members' views are therefore sought on this simplified process, and whether an appeals process is necessary, following which officers will draft a final recommended process for submission at the Committee at a further meeting in April.

## **8. Committee Structure**

- 8.1 Section 28 of the Localism Act retains the requirement of Section 53 of the Local Government Act 2000 to have a Standards Committee. The requirement to have this chaired or contain Independent Members is removed.
- 8.2 The Committee would be subject to the requirements of Section 15 of the Local Government and Housing Act 1989 (proportionality). It would be a matter for the Council to determine the membership of the Standards Committee. The Committee's views are sought.
- 8.3 Standards Committees are required to help Members comply with the Code and to promote and maintain high standards. The existing terms of reference of the Standards Committee are set out below with a note, shown in bold, of the suggested new location for the function. The Committee's views are sought on the most suitable location for the terms of reference. Particular consideration is asked to be given to the duty to promote and maintain high standards. Previously the Committee received, on an annual basis, a report giving an overview of the arrangements in place for maintaining High Ethical Standards throughout the authority (not just in relation to Members conduct). The Committee's views are sought in particular on this.

## Terms of Reference

- (1) To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council **(Standards Committee)**.
- (2) To advise the City Council on the adoption or revision of a Code of Conduct for Members **(Standards Committee)**.
- (3) Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members **(Standards Committee)**.
- (4) To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members **(Standards Committee)**.
- (5) To monitor the operation of Code of Conduct for Members **(Standards Committee)**.
- (6) Consider reports referred to the Committee by ethical standards officers or the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members **(Standards Committee)**.
- (7) Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required **(Standards Committee)**.
- (8) Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall only have power to impose any sanction authorised by law) **(Standards Committee)**.
- (9) Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken, if any **(Standards Committee)**.
- (10) To the extent allowed by the Law, granting dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct **(Standards Committee)**.
- (11) To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference **(Standards Committee)**.
- (12) To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority (i.e. not just in relation to Member conduct) and in this context to receive a report annually from the

Head of Legal Services, the Director of Finance, the Director of Procurement and the Director of Policy and Communications **(TBC)**

- (13) To appoint such Sub-Committees (including Membership thereto) to undertake the functions imposed by sections 184 and 185 of the Local Government and Public Involvement in Health Act 2007 and such other functions as the Committee may from time to time assign **(N/A)**.
- (14) To be responsible for the functions and procedures relating to the functions for Standards Committee contained in sections 184 and 185 of the Local Government and Public Involvement in Health Act 2007 **(N/A)**.
- (15) To be responsible for the granting and supervision of exemptions of posts from the political restrictions as set out in the Local Government and Housing Act 1989 **(Audit & Performance Committee)**.

## **10. Conclusion and Next Steps**

- 10.1 The Council has a duty to maintain and promote good governance. To this end the Committee is requested to review the changes to the standards aspects of the Council's operation, contained in this report, and feedback to Officers so that firm proposals can be reported back to Committee for review at the next meeting.
- 10.2 A further report will be produced setting out proposals for the Standards Committee to recommend the Council in respect of the new Code of Conduct and Register of Interests. In respect of the appointment of the Independent Person(s) and the allocation of the terms of reference, including the establishment of a new Standards Committee, this will be the subject of a separate report to the General Purposes Committee Urgency Sub-Committee. The views of the Standards Committee will also be included in that report.

If you have any queries about this report or wish to inspect any of the Background Papers, Please Contact Naomi Stauber  
Tel: 020 7641 2341; Email: [nstauber@westminster.gov.uk](mailto:nstauber@westminster.gov.uk)

## **Background Papers: Localism Act 2011**



## APPENDIX 1

|    | <b>Subject</b>  | <b>Issues for Members' Consideration and Feedback</b>   |
|----|---|---|
| 1. | Code of Conduct<br>(report para 3.2)  | Are there any specific aspects of the existing Members' Code of Conduct which, in the Committees view, should be changed?   |
| 2. | LGA model Code of Conduct<br>(report para 3.3)  | What are the Committee's views on the subject of adopting the LGA's model code of conduct, in principle?  |
| 3. | Conduct after disclosure of pecuniary interest at a meeting<br>(report para 5.2)<br>Register of Interests | Should a Member, upon disclosure of a pecuniary interest at a meeting of the authority, be required to leave the room during the debate and the vote on that subject?<br><br>What matters should be disclosed in the Register of Members Interests (report para 5.6).   |
| 4. | Dispensations<br>(report para 5.4)  | The Committee's views are sought on what should be included in any dispensations protocol, in light of the provisions in the Act?<br><br><i>Note: The Committee agreed a dispensations protocol on the subject of Majority Party membership in March 2011, as a result of which a special dispensation is no longer necessary providing the Members in question can make the required declaration. This has worked effectively to date and it is therefore proposed that this aspect be retained in any wider protocol.</i> |
| 5. | Allegations of Breach<br>(Report Section 6)   | The Committee's views are sought on the suggested simplified process for dealing with allegations of breach.<br><br>Is it necessary/desirable to incorporate an appeal process?   |
| 6. | Appointment of Independent Person<br>(Report Section 7)   | Is one independent person sufficient to fulfill the duties required of a simplified allegations process?<br><br>Would it be advantageous for the City Council to share an independent person with its tri-borough partners and place a joint advertisement with the tri-borough partners to recruit the new independent person accordingly?   |

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| 7. | Constitution and membership of the Standards Committee (report para 8.2) | The Committee's views are sought on the number of Members required to sit on the new Standards Committee.   |
| 8. | Standards Committee Terms of Reference                                   | <p>The Committee's views are sought on the suggested location for the current Standards Committee functions, as specified in paragraph 8.3 of the report.</p> <p>Other options available for the delegation of functions, should the Committee deem appropriate, are:</p> <ul style="list-style-type: none"> <li>• The Monitoring Officer</li> <li>• The Governance Working Group</li> <li>• The Audit &amp; Performance Committee</li> </ul> |
| 9. | Maintaining High Ethical Standards Report                                | Should this report continue to be submitted to the Standards Committee on an annual basis?  |

## Members' Code of Conduct

### Standards of Conduct for Members

#### The General Principles

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

**Honesty and integrity** – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

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

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

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

**Personal Judgement** – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

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

**THE CITY COUNCIL CODE OF CONDUCT FOR MEMBERS**

**PART 1**

**General Provisions**

*Introduction and Interpretation*

- 1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles described by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:

“meeting” means any meeting of:

- (a) the authority.
- (b) the executive of the authority;

any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

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

- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the Standards Committee of the District Council or Unitary County Council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

*Scope*

- 2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of your authority (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 your authority;

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (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, paragraphs 3 (2) (c), 5 and 6 (a) also have 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-paragraph (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 your authority.
  - (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 your authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### *General Obligations*

- 3. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
  - (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 his or her authority's Code of Conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- (3) In relation to Police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2) (d) those who work for, or on behalf of, an authority are deemed to include a Police Officer.
4. 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 and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. 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 your authority:
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) your authority's Chief Finance Officer; or
  - (b) your authority'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 your authority.

## **PART 2**

### **Interests**

#### *Personal Interests*

8. (1) You have a personal interest in any business of your authority where either:
- (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
  
of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
- (i) (in the case of authorities with electoral divisions or wards) other council taxpayers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council taxpayers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council taxpayers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1) (b), a relevant person is:
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are Directors;



(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1) (a) (i) or (ii).

#### *Disclosure of Personal Interests*

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8 (1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

#### *Prejudicial interest generally*

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

- (2) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of:
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to Members;
    - (v) any ceremonial honour given to Members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

*Prejudicial interests arising in relation to Policy and Scrutiny Committees*

11. You also have a prejudicial interest in any business before a Policy and Scrutiny committee of your authority (or of a sub-committee of such a committee) where:
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

*Effect of prejudicial interests on participation*

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's Standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the Policy and Scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **PART 3**

### **Registration of Members' Interests**

#### *Registration of Members' Interests*

13. (1) Subject to paragraph 14, you must, within 28 days of:
- (a) this Code, being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's Register of Members' Interests (maintained under Section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

### *Sensitive Information*

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's Register of Members' Interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

### APPENDIX 3

1. Any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by your authority.
2. Any body:
  - (a) exercising functions of a public nature;
  - (b) directed to charitable purposes, or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of general control or management.
3. Any employment or business carried on by you.
4. Any person or body who employs or has appointed you.
5. Any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties.
6. Any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower).
7. Any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph 6.
8. The name of any person or body from whom you have received a gift or hospitality with an estimated value of £25 or over, including the nature of the gift or hospitality.
9. Any land in your authority's area in which you have a beneficial interest.
10. Any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph 6, is the tenant.
11. Any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer.