



HILLINGDON
LONDON



Standards Committee

Date: MONDAY, 5 SEPTEMBER
2011

Time: 7.00 PM

Venue: COMMITTEE ROOM 3 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Councillors on the Committee

Allan Edwards, (Chairman)
Malcolm Ellis, (Vice-Chairman)
James Keys, (Independent Member)

Councillors Barrett, Corthorne,
Harmsworth, Hensley, Khursheed, Lewis,
Markham and Riley

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Agenda

- 1 Apologies for Absence
- 2 Minutes
To approve the minutes of the meeting of the Committee held on 1 June 2011 (*attached*)
- 3 Declarations of Interest
To note any declarations of interest in any matter before the Committee
- 4 Confirmation that all items marked Part I will be considered in public and those marked Part II, in private

PART I

- 5 Review of Work Programme
To consider and update the Committee's Work Programme
- 6 Update on Revised Code of Conduct and Localism Bill
To note the progress made to date by the Code of Conduct Working Group (*to follow*)

PART II

- 7 Complaints Monitoring

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Minutes

Standards Committee
Wednesday, 1 June 2011
Meeting held at Committee Room 3 - Civic Centre,
High Street, Uxbridge UB8 1UW



Published on: 3 June
Come into effect on: Immediately

Present: Allan Edwards (Chairman), Malcolm Ellis (Vice-Chairman), James Keys (Independent member), Councillors Gilham, Harmsworth, Hensley, Kemp, Lewis and Markham

Officers Present: Messrs Alagh and White

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Barrett and Corthorne (for whom Councillors Gilham and Kemp were substituting) and Riley.

2. MINUTES

The minutes of the meetings of the Committee held on 1 March and 12 May were taken as read and confirmed.

3. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

4. CONFIRMATION THAT ALL ITEMS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND THOSE MARKED PART II, IN PRIVATE

5. REVIEW OF WORK PROGRAMME

The Committee's work programme for 2011/12 was noted.

6. FUTURE OF THE STANDARDS BOARD REGIME

At the last meeting, Members had discussed in detail the implications of the proposals contained in the Localism Bill to abolish the current Standards Board regime and the potential risks they presented to the future ethical standards of the authority. Members felt strongly that there should be a voluntary, local Code of Conduct so that the electorate could have confidence in the way Members conducted themselves and made decisions.

Accordingly Members considered a report setting out the various options available when considering the future of Standards within Hillingdon. It was noted that proposals arising from these options would form the basis of a recommendation to Council for a new system to be in place when the current Standards regime ceased to exist.

In addition Members noted that the Localism Bill contained a provision for the removal of the restriction on Members to express views or 'pre-determination' about an issue prior to considering it at a formal meeting of the Council. This, it was recognised, would have significant implications for the way Members conducted the business of the authority.

RESOLVED: That

- a) a working party comprising the Vice Chairman, Councillors Harmsworth and Hensley be established to consider the proposed content of a voluntary Code of Conduct for Members, based on the existing Code, local requirements, views of Members, experiences of other authorities etc. the Working Party to report back to the main Standards Committee.
- b) The Working Party be asked to consider the format of a complaints and disciplinary procedure to accompany the voluntary Code based on
 - o the adoption of a 'Whips Protocol' whereby initial referral of complaints by Members to the appropriate Whips' Office becomes the normal procedure. Should complaints remain unresolved then a formal procedure would be instigated in which the Whips' Office should not participate to assure complainants of the impartiality of the process.
 - o an independent peer review process - similar to the current set up whereby a sub-committee(s) of the main Standards Committee would assess and determine complaints to a format as approved by Council based on the existing system with consideration to be given to the 'Review' stage being discontinued.
- c) the Monitoring Officer draw up a list of sanctions in relation to proven breaches of the Code of Conduct for approval by Council once the exact and final contents of the Localism Act are known.
- d) The report to Council recommend the continuation of the Standards Committee with the inclusion of 3 independent members (including Chairman & Vice-Chairman) but on a fixed term of four years, to run concurrently with the municipal cycle (i.e. new appointments to be made in 2014).

7. COMPLAINTS MONITORING

This item was considered in Part II without the press or public present as it contained confidential information as defined in the Local Government (Access to Information) Act 1985.

The Committee noted details of all complaints made against Members or determined in the last six months.

WORK PROGRAMME 2011/ 2012

Reporting Officer: Head of Democratic Services

REASON FOR REPORT

To enable the Committee to track the progress of its work in accordance with good project management practice.

RECOMMENDATION: That Members note the Work Programme and make any amendments as appropriate.

BACKGROUND DOCUMENTS: None.

STANDARDS COMMITTEE WORK PROGRAMME (*Shading indicates completed meetings*)

MEETING DATE	AGENDA ITEM
1 June 2011	<ul style="list-style-type: none">• Review work programme• Future of the Standards Regime• Complaint Monitoring (Part II)
5 September 2011	<ul style="list-style-type: none">• Review work programme• Update on Revised Code of Conduct / Localism Bill• Complaint Monitoring (Part II)
30 November 2011	<ul style="list-style-type: none">• Review work programme• Complaint Monitoring (Part II)• Revised Code of Conduct for recommendation to Council
29 February 2012	<ul style="list-style-type: none">• Review work programme• Complaint Monitoring (Part II)• Future of the Standards Regime

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FUTURE OF THE STANDARDS FOR ENGLAND REGIME

*Reporting Officers: Raj Alagh, Borough Solicitor and Monitoring Officer;
Lloyd White, Head of Democratic Services and Deputy Monitoring Officer.*

PURPOSE OF THE REPORT

1. To provide Members with an update of the work of the Code of Conduct Review Working Group established at the last meeting to consider a range of options for the future of a locally based Standards regime for adoption in Hillingdon once the current regime is abolished as part of the Localism Act.

SUMMARY

- 2.1 Members will recall that the Government set out its intention to abolish the Standards for England regime in the coalition agreement published in May 2010. It is intended to effect the abolition through the Localism Bill which was introduced in Parliament on 13 December 2010. Details of the Bill are available on the Department for Communities and Local Government website.
- 2.2 It was originally intended that Standards For England would cease to investigate complaints in late 2011 and be formally abolished in early 2012. Currently, however, the Bill is still proceeding through Parliament and the timetable is less certain. It is also not known at this stage what the final contents of the Act will be.
- 2.3 At the last meeting Members considered a report setting out the various options available when considering the future ethical framework for Members in Hillingdon. It was noted that proposals arising from these options would form the basis of a recommendation to Council for a new system to be in place when the current Standards regime is abolished by law.
- 2.4 It was resolved to set up a working group comprising the Vice Chairman, Councillors Harmsworth and Hensley and supported by the Borough Solicitor and Head of Democratic Services, to consider the proposed content of a voluntary Code of Conduct for Members, based on the existing Code, local requirements, views of Members, experiences of other authorities etc.
- 2.5 The Working Group was also asked to consider the format of a complaints and disciplinary procedure to accompany the voluntary Code based on:
 - the adoption of a 'Whips Protocol' whereby initial referral of complaints against Members to the appropriate Whips' Office should become the first stage of the complaints process.
 - an independent peer review process - similar to the current set up whereby a sub-committee of the Standards Committee would assess and determine complaints in accordance with defined procedures similar to the existing ones. The Working Party would also consider whether the 'Review' stage should be discontinued.

RECOMMENDATION: That Members give their views and comments in relation to the work of the Code of Conduct Review Working Group to date as set out in the attached appendices

INFORMATION

3.1 Since being set up the Working Group has met on 3 occasions – 14 & 29 July and 30 August and has reviewed the following:

- **The current mandatory Code of Conduct for Members.** The Working Group is recommending adopting a new Code (*attached*) based largely on the existing Code but amended as follows:
 - The ten general principles of public life have been brought forward to be an actual part of the Code itself (rather than an appendix) (para' 1(2))
 - The Code will apply to Members when acting in their personal capacity where the conduct results not only in criminal conviction but also where it result in a police caution being administered (para' 2 (2) (ii))
 - In the General Obligations, para' 3(2) (b) the Code is more specific about Members not to bully or intimidate any persons "*including any officer of the Council*".
 - In the General Obligations, para' 4(a) the Code is more specific about Members not to disclose information given to them in confidence "*(including Part II information as defined in the Local Government (Access to Information) Act 1985)*"
 - Parts 2 and 3 of the Code concerning the declaration of Personal and Prejudicial Interests and the Registration of Members' Interests, remain unchanged.
 - The inclusion of a new appendix – **The Whips' Protocol** (*attached*) – to formalise the process whereby initial referral of complaints against Members to the appropriate Whips' Office becomes the normal procedure.

- **The Planning Code of Conduct for Members and the ICT Code.** The Working Group has considered these documents in conjunction with reviewing the Code of Conduct. It is recognised that there are areas of both Codes that will need reviewing (such as those sections relating to pre-determination in the Planning Code and the use of ICT equipment for party political purposes in the ICT Code) but that this should be undertaken when there is greater certainty as to the final content of the Act.

- **The Complaints Process.** This has been reviewed in line with the mandate from the Standards Committee:
 - **The Complaint Form** (*attached*) has been re-designed to include reference to the **Whips' Protocol** and the removal of the Review Sub Committee from the process.
 - **The Complaints Procedure** contained in Part 4J of the Constitution has also been reviewed and re-written along the same lines. This is not yet complete, however, as the Working Group has requested further time to review this once the Act receives Royal Assent and the exact wording in relation to the Council's powers to deal with complaints and impose sanctions is known. Currently the Bill does not specify what that

action may or may not be although any sanction would need to be reasonable and proportionate.

- In relation to a failure to register or disclose a financial or other interest, the Bill states that the sanctions that an authority may impose on a Member do not include provision for the suspension or partial suspension of a person from being a Member of the authority, or for the disqualification of a person for being or becoming (by election or otherwise) a Member or co-opted member of that or any other relevant authority. These sanctions are reserved for any criminal prosecution that may arise.

NEXT STEPS

- 4.1 Subject to the Standards Committee approval of the work carried out to date by the Working Group, the next step will be to review the outstanding areas as outlined above, once the detailed wording of the Act is known.
- 4.2 The Working Group will aim to produce a final set of documents as soon as it is able to do so for approval by this Committee and ultimately for adoption by Council in 2012.
- 4.3 It is recognised that the new, localised Standards regime will need to be in place by the time the existing Standards regime is abolished, but there is little point in rushing through proposals until the exact implications of the Act are known.
- 4.4 A further update report will be submitted to the Standards Committee at the meeting on November 30.

CONSULTATION CARRIED OUT OR REQUIRED

These proposals have not been the subject of any formal consultation. The Localism Act does not require any formal consultation before the adoption of a local Code. Members are invited to consider whether the proposals should be subject to consultation before they are submitted for approval by full Council.

Financial Implications

There are no further Corporate Financial implications arising from this report. The adoption of a 'Whips protocol' may result in the resolution of complaints without having to resort to expensive, independent investigations.

Legal Implications

The legal implications are contained in the body of the report.

Background Papers: Localism Bill; Code of Conduct for Members.

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MEMBERS' CODE OF CONDUCT

ADOPTED PURSUANT TO A RESOLUTION OF THE COUNCIL AT A MEETING ON

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Part 1

General Provisions Introduction and Interpretation

1. (1) This Code applies to you as a Member of the London Borough of Hillingdon ("the authority").
- (2) The Ten General Principles of Public Life are an integral part of the Code and should be read in conjunction with the general obligations set out in Paragraphs 3-7 below. The Principles can be summarised as follows:

Selflessness

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

Honesty and Integrity

2. 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

3. Members should make decisions on merit including when making appointment, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. 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

5. 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

6. 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

7. 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

8. 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

9. 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

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.
- (3) It is your responsibility to comply with the provisions of the Code.
 - (4) In this Code –
“meeting” means any meeting of –
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) 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) You must have regard to the Protocol for handling complaints made by Hillingdon Members against fellow Members which is attached as Appendix A.

Scope

2. (1) You must comply with this Code whenever you –
 - (a) conduct the business of your authority which includes the business of the office to which you are elected or appointed;
 - (b) act, claim to act or give the impression that you are acting as a representative of your authority.
- (2) The Code will also apply in your personal life in circumstances where paragraphs 3(2)(c), 5 and 6(a) have effect provided that the conduct either:
 - (i) constitutes a criminal offence for which you have been convicted which includes an offence you committed before the date you took office, but for which you are convicted after that date; or
 - (ii) has resulted in a police caution being administered to you. This means that if you have broken the law, you have been officially warned that you will be punished if you do it again.
- (3) Where you act as a representative of your authority 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 provisions of the Equality Act 2010;
 - (b) bully or intimidate any person, including any officer of the Council;
 - (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.
- 4. You must not –
 - (a) disclose information given to you in confidence (including Part II information as defined in the Local Government (Access to Information) Act 1985) 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 tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in all other cases) other council tax payers, 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 overview and scrutiny committees

- 11.** You also have a prejudicial interest in any business before an overview 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 overview 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.

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**PROTOCOL FOR HANDLING COMPLAINTS MADE
AGAINST MEMBERS OF THE LONDON BOROUGH OF HILLINGDON**

1. INTRODUCTION

- 1.1 As part of the provisions of the Localism Act 2011, local authorities may consider the adoption of a local Code of Conduct for Members (the Code). The London Borough of Hillingdon ('the Council') formally adopted a local Code at a meeting of full Council held on of which this Protocol forms a part.
- 1.2 All Council Members have undertaken in writing to observe the Code and have also attended training provided by the Borough Solicitor and Monitoring Officer and the Head of Democratic Services and Deputy Monitoring Officer in relation to the Code.
- 1.3 As part of the adoption of the Code the Council has approved this Protocol ('the Whips' Protocol') for the initial handling of complaints:
a) by Members against fellow Members and
b) by members of the public (including officers) against Members
- 1.4 It should be emphasised that the purpose of this Protocol is not to take away the right of a Member or a member of the public to complain to the Monitoring Officer; instead, its purpose is to set out for those individuals who are thinking of making a complaint against a Member, a number of informal steps which they should follow before escalating their complaint to the Monitoring Officer.
- 1.5 The standard form used to make a complaint to the Monitoring Officer includes a section so which those persons who wish to make a complaint will be required to complete in order to demonstrate that they have exhausted the informal process first.

2. THE TERMS OF THE PROTOCOL

The First Stage - Informal referral to the Chief Whip

- 2.1 **Complaints from Members:** Any complaint from a Member about the conduct of a Member (the 'Subject Member'), from another Party Group should be taken up in the first instance with the Chief Whip of that Group. The relevant Chief Whip will be responsible for asking for details about the complaint and will carry out a preliminary investigation. The Chief Whip will explore every possibility, which can include liaison with the Chief Whip of the Subject Member' Group, of finding a mutually acceptable resolution of the complaint.
- 2.2 **Complaints from the public (including officers):** A member of the public wishing to make a complaint about an elected Member will be advised that, in the first instance, their complaint should be taken up with the Chief Whip of the Subject Member's Group. The relevant Chief Whip will be responsible for asking for details about the complaint and will carry out a preliminary investigation with the agreement of the complainant. The

Chief Whip will explore every possibility of finding a mutually acceptable resolution of the complaint.

The Second Stage - Written Apology

- 2.3 **Complaints from Members:** In the event that an acceptable resolution of the complaint cannot be found, the aggrieved Member should seek appropriate advice from the Monitoring Officer or Deputy Monitoring Officer as to whether the conduct in question is capable of amounting to a breach of the Code. They should be prepared to provide any necessary evidence in support of their complaint. At this stage, the Monitoring Officer or Deputy Monitoring Officer can ask the Chief Whip who carried out the preliminary investigation for copies of any relevant information which he/she has obtained in order to assist them.
- 2.4 **It is not the role of either the Monitoring Officer or Deputy Monitoring Officer to advise at this stage whether the Code has actually been breached** as this is ultimately a function which falls within the sole remit of the Hearings Sub-Committee.
- 2.5 However, if having reviewed the evidence, the Monitoring Officer or Deputy Monitoring Officer take the view that there is a prima facie breach of the Code, they should advise the respective Chief Whips, the aggrieved Member and the Subject Member accordingly. In these circumstances, the aggrieved Member should either directly, or through his/her Chief Whip, contact the Subject Member and request that a written apology is made immediately.
- 2.6 In order to maintain the integrity of this Protocol at all times, it is imperative that all Members observe the principle that they should not approach the Monitoring Officer or the Deputy Monitoring Officer in relation to matters which have no substance and which could be construed as being vexatious, tit for tat, politically motivated or frivolous.
- 2.7 **Complaints from the public (including officers):** In the event that an acceptable resolution of the complaint cannot be found, the complainant will be informed that he or she can seek appropriate advice from the Monitoring Officer or Deputy Monitoring Officer as to whether the conduct in question is capable of amounting to a breach of the Code. They should be prepared to provide any necessary evidence in support of their complaint. At this stage, the Monitoring Officer or Deputy Monitoring Officer can ask the Chief Whip who carried out the preliminary investigation for copies of any relevant information which he/she has obtained in order to assist them.
- 2.8 As in 2.4 above, **it is not the role of either the Monitoring Officer or Deputy Monitoring Officer to advise at this stage whether the Code has actually been breached** as this is ultimately a function which falls within the sole remit of the Hearings Sub-Committee.
- 2.9 However, if having reviewed the evidence, the Monitoring Officer or Deputy Monitoring Officer take the view that there is a prima facie breach of the Code, they should advise the relevant Chief Whip, the complainant and the Subject Member accordingly. In these

circumstances, the complainant should, through the relevant Chief Whip, contact the Subject Member and request that a written apology is made immediately.

The Third Stage - Mediation/Conciliation

- 2.10 **Complaints from Members:** If the Subject Member refuses to agree to submit a written apology, the Monitoring Officer or Deputy Monitoring Officer will approach the respective Chief Whips, the aggrieved Member and the Subject Member to explore whether the Members are prepared to take part in a mediation/conciliation process which will be facilitated by a suitably qualified independent person. The purpose of this process will be to try to agree a mutually acceptable resolution of the complaint.
- 2.11 **Complaints from the public (including staff):** If the Subject Member refuses to agree to submit a written apology, the same process as that identified above in 2.10, will be followed.

3. SANCTIONS AND FURTHER ACTION

- 3.1 The process of referring complaints to the Group Whips cannot result in the imposition of any formal sanctions on a Subject Member. Any such sanctions can only be imposed as a result of a meeting of the Hearings Sub-Committee of the Standards Committee at the conclusion of a formal investigation by the Monitoring Officer into a complaint.
- 3.2 Should the submission of a written apology not be accepted by the aggrieved Member / complainant, or the process of mediation / conciliation does not result in the resolution of the complaint, then the complaint may be referred to the Monitoring Officer for consideration as part of the Council's formal Members' Code of Conduct complaints process.
- 3.3 In such cases the aggrieved Member / complainant will be required to include a statement to the Assessment Sub-Committee as to why they have chosen to escalate the complaint to the formal stage and why the outcome of the process described above did not resolve it.
- 3.4 Should a complaint be resolved as a result of this Protocol process it shall not be open to the aggrieved Member / complainant submitting the original complaint to further submit the same complaint against the same Member to the Monitoring Officer at a later date.

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By virtue of paragraph(s) 2, 7c of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

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