

# CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

*Reporting Officers: Borough Solicitor and Head of Democratic Services*

## SUMMARY

1. Council is asked to give consideration to the recommendations of the Standards Committee regarding the new ethical framework adopted by Council on 5 July 2012 in accordance with the Localism Act 2011 [the Act]. The Act made a number of significant changes to the previous ethical framework for Members and Co-opted members of local authorities, which came into force on 1 July 2012.
2. Council in July 2012 agreed inter-alia:
  - a) the adoption of a new Code of Conduct for Hillingdon Members and co-opted members
  - b) the abolition of the previous Standards Committee and sub-committees and the appointment of a new Standards Committee with a reduced membership.
  - c) amendments to the following associated documents:
    - The Code of Conduct complaint procedure and form - including the introduction of a new Whips' Protocol.
    - The Planning Code of Conduct and ICT Usage Policy for Members
  - d) to make an appointment to the role of 'Independent Person' until 30 June 2013
  - e) to review the effectiveness of the new ethical framework in 12 months time.

In accordance with the last resolution above Members are asked to consider the following recommendations:

## RECOMMENDATIONS: That:

- a) **the successful operation of the new ethical regime for Members and Co-opted members adopted in July 2012 be noted and no changes be made to the current Code of Conduct for Members and Co-opted members, associated documents, complaints procedure and Whips' Protocol**
- b) **Mr David Smith be appointed to the position of Standards Committee Independent Person for a 3 year period to July 2016.**

## BACKGROUND INFORMATION

### The New Code of Conduct

3. Council in July 2012 considered various options for the adoption of a new Code which was to be 'minimalist' in nature and based on the Nolan principles. The Code adopted was based on a model issued by the DCLG and is attached as Appendix 1.
4. Part 2 of the new Code sets out the requirements for notification and disclosure of Members and Co-opted members' Disclosable Pecuniary and non-Pecuniary interests. It is now a criminal offence under the Act for a Member or co-opted

member, without reasonable excuse, to fail to give notification of a pecuniary interest or fail to disclose it.

5. All Members were required to indicate in writing within 28 days, that they would abide by the contents of the Code and to complete a Register of Disclosable Pecuniary and non-pecuniary interests form for the publicly available Register. The Head of Democratic Services confirms that all Members have met this requirement.
6. In addition, all Members and Co-opted members have been offered training on the new Code and their obligations under it and the majority have undertaken such training.

### **A New Complaints Procedure**

7. The Act requires the Council to have in place arrangements under which, firstly, complaints can be investigated and, secondly decisions on complaints can be made. Although the Act no longer makes it a requirement to have a Standards Committee in place, Council agreed to retain the Committee to deal with complaints against Members and co-opted members.
8. The Code of Conduct complaint form was revised to bring it up to date. To avoid as far as possible having to deal formally with a proliferation of complaints which are time-consuming, potentially expensive and distressing for the Members concerned, Council also adopted a Whips Protocol designed to deal with the majority of complaints made by both Hillingdon Members and members of the public. The Protocol is intended to be the precursor to the formal complaints process and is the first port of call when complaints are made against Members and co-opted members.
9. Council agreed the abolition of the previous three Sub-Committees set up by the Standards Committee to deal with complaints and determined that, under the new system, the Standards Committee itself will both assess and hear complaints against Members and co-opted members, although Council also noted the extremely limited range of sanctions available under the new regime which can be imposed against Members or co-opted members who have been found to have breached the Code.
10. It is interesting to note that, in the period since the adoption of the new Code only one complaint about a Member has been received (there were 30 such complaints since the previous Code was adopted in May 2008). The complaint was dealt with by using the Whips' Protocol and was satisfactorily resolved.
11. In the circumstances, the Standards Committee are not recommending that any changes be made to the Code of Conduct and associated complaints procedures as adopted by Council in July 2012.

### **Independent Person**

12. The Act envisaged a new role for an Independent Person and states that there must be provision for the appointment by an authority of at least one Independent Person whose views are to be sought and taken into account in relation to the conduct of a Member or co-opted member of the authority. The retained Independent Person would not be a member of the Standards Committee but provision would be made for

Standards Committee Members to consult with him/her in the event that a formal complaint is made against a Hillingdon Member or co-opted member.

13. The Act originally barred existing Standards Committee members who within the last five years had been a Member, co-opted member or officer of the authority in question from being appointed as the Independent Person. However, the Government made transitional provisions allowing an authority 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] had held such a post within the last five years.
14. The Act requires that the appointment of an Independent Person be made after the position has been advertised to the general public. The Standards Committee in February 2013 agreed to re-advertise the position and accordingly, the Monitoring Officer has invited, through advert, expressions of Interest for the role of Independent Person. Eleven such expressions were received and the Committee conducted a short listing and interview process of the candidates.
15. Following the interviews the Committee are recommending the appointment of Mr David Smith who has lived and worked in the Borough his whole life - first as a legal advisor at the Uxbridge Magistrates' Court where he trained and qualified as a solicitor and then with Turbervilles Solicitors whom he joined in 1984 and became a partner in 1986. Mr Smith is now a practicing consultant with Turbervilles having retired from the partnership in April 2013 and also regularly acts as prosecutor for a leading animal welfare charity.

Mr Smith is a member of the BII (MBII.tp), is married with two sons and his interests include most sports, fine wines and music.

As a result of representing or advising Councillors in other areas Mr Smith has a broad knowledge of the Standards regime and a familiarity with the processes. At interview Mr Smith demonstrated a good understanding of and a keen willingness to undertake the role of the Independent Person.

16. The position carries a Special Responsibility Allowance of £1,500 p.a.

### **The Planning Code of Conduct and ICT Usage Policy for Members**

17. Both these documents are linked to the Code of Conduct and minor changes were made to both to reflect the adoption of the new Code. Both are deemed to be currently fit for purpose and the Standards Committee are not recommending that any further changes are required at this time.

### **Financial Implications**

18. There are no specific financial implications arising from this report. The adoption of the Whips Protocol has assisted in resolving a complaint without having to resort to expensive, independent investigations.

## Legal Implications

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

Background Papers: None

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## Appendix 1

# **CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE LONDON BOROUGH OF HILLINGDON**

## **ADOPTED PURSUANT TO A RESOLUTION OF THE COUNCIL AT A MEETING ON 5 JULY 2012**

### **Part 1**

### **General Provisions**

#### **Introduction and interpretation**

1. (1) This Code applies to you as a Member or co-opted member of the London Borough of Hillingdon ["the authority"]
- (2) Co-opted member means a person who is not a Member of the authority but who:-
  - a) is a member of any committee or sub-committee of the authority; or
  - b) is a member of, and represents the authority, on any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (3) It is your responsibility to comply with the provisions of this Code.

#### **Scope**

2. (1) You must comply with this Code whenever you act in your official capacity as a Member or co-opted member.
- (2) For the avoidance of doubt, this Code does not apply to you in any other circumstances including your personal life.

#### **The Nolan principles**

3. This Code is consistent with the following seven principles of standards in public life:

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty;
- leadership.

### **General obligations**

4. (1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person. Conferring an advantage includes gaining financial or other material benefits for yourself, your family, a friend or close associate.
- (2) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (3) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- (4) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- (5) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- (6) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 2 below.
- (7) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for party political purposes (especially in the period between the publication of a Notice of Election and the election date, known as the 'purdah' period). However, this paragraph will not apply in circumstances where Members pay for the use of the resources at a rate agreed by the authority. You must have regard to any applicable Local authority Code of Publicity made under the Local Government Act 1986.
- (8) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

## Part 2

### Registering and declaring pecuniary and non-pecuniary interests

5. (1) In accordance with Section 30 of the Localism Act 2011, you must, within 28 days of taking office as a Member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

The pecuniary interests which are specified in the above regulations are as follows:

<b>Subject:</b>	<b>Prescribed Description:</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a Member, or co-opted member in carrying out their duties as a Member or co-opted member, or towards the election expenses of a Member or co-opted member.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (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 relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate	Any tenancy where (to the Member's or co-opted

tenancies	<p>member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's or co-opted member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

- (2) In addition, you must, within 28 days of taking office as a Member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which the authority has decided should be included in the register.
- (3) If an interest has not been entered onto the authority's register, then the Member or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'. A 'Sensitive Interest' is one where disclosure of the details of the interest could lead to the Member or co-opted member, or a person connected with the Member or co-opted member, being subject to violence or intimidation.
- (4) Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- (5) Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by the above Regulations. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary interest or non pecuniary interest as defined by your authority.