



<b>Date:</b>	<b>6 July 2016</b>
<b>Classification:</b>	<b>For General Release</b>
<b>Title:</b>	<b>Members Code of Conduct</b>
<b>Report of:</b>	<b>Director of Law</b>
<b>Wards Involved:</b>	<b>Not Applicable</b>
<b>Financial Summary:</b>	<b>There are no financial implications</b>
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## **1. Executive Summary**

- 1.1 The Standards Committee have, following a review of the Members Code of Conduct, approved the new amended Code for adoption by the full Council. The General Purposes Committee, who have responsibility for recommending to full Council changes to the Constitution, are asked to recommend to Council to adopt the new Code and amend the Constitution accordingly.

## **2. Recommendations**

- 2.1 That the Council be recommended to approve the adoption of the Members Code of Conduct with effect from 1 September 2016 and amend the Constitution accordingly.
- 2.2 That the training and other arrangements approved by the Standards Committee, outlined in paragraph 3.3 be noted.

## **3. Background**

- 3.1 The Standards Committee have reviewed the Members Code of Conduct having asked that it be made simpler to follow. Officers have therefore reviewed the Codes of other authorities and also received input from the Independent Persons.
- 3.2 To simplify the Code, officers have proposed that the references to "Prejudicial and Pecuniary interests" are deleted as their continued use in addition to the required "Disclosable Pecuniary Interests", "Non-Disclosable Pecuniary Interests" and "Non-Pecuniary Interests" is confusing. Additionally many of the complaints about Member's conduct are complaints as to whether the

Member has complied with the Nolan Principles rather than the substance of the Code. Officers believe that this is because the first page of the current Code explains the Nolan Principles. It is therefore proposed that the new Code appends the Nolan principles making it clear that they do not form part of the code but are included so as to remind members of the ethical standards expected of public office holders.

- 3.3 The revised Code was submitted to the Standards Committee who, following further minor revisions, have approved this for adoption.
- 3.4 The Standards Committee have agreed that following the formal adoption of the new Code of Conduct by full Council all Members be required to attend a refresher training session on the new Code of Conduct and sign a declaration to the effect that they will carry out their duties in accordance with the Code of Conduct. Sessions will be arranged from September as well as if necessary one to one sessions in order to obtain 100% coverage.
- 3.5 The Standards Committee also asked that a pocket size version of the Code be produced. Following formal adoption Officers will undertake the production of this so it can be issued to Members in the Autumn.

#### **4. Legal Implications**

- 4.1 The Council is required, under Section 27 of the Localism Act 2011, to adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the authority when they are acting in that capacity. The Code must be consistent with the following principles: (a) selflessness; (b) Integrity; (c) Objectivity; (d) Accountability; (e) Openness; (f) Honesty; (g) Leadership. The Council must also ensure that its Code includes provision for the registration in its register and disclosure of (a) Pecuniary Interests and (b) interests other than Pecuniary Interests.
- 4.2 Officers confirm that in their view the proposed revised Code conforms with the requirements of the Localism Act as outlined in paragraph 4.1 above.

#### **5. Financial Implications**

- 5.1 There are no financial implications.

#### **6. Other Implications: None**

**If you have any questions about this report, or wish to inspect one of the background papers, please contact Mick Steward: 7641 3134;  
Email: [msteward@westminster.gov.uk](mailto:msteward@westminster.gov.uk)**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1972  
BACKGROUND PAPERS - None**

## **Appendix A - Westminster City Council - Members' Code of Conduct**

### **1. Application**

This Code of Conduct applies to Members and Co-opted Members whenever they are acting in a capacity as a Member or Co-opted Member of the City Council. The definitions in Appendices 1 and 2 apply to this Code. This Code is consistent with the Nolan Principles as explained in Appendix 3.

### **2. General Conduct**

Members must comply with the following standards of conduct/behaviour.

- 2.1 To act solely in the public interest and never to improperly confer or seek to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates.
- 2.2 Not to place themselves under a financial or other obligation to any individual or organisation that might seek to influence them in the performance of their official duties.
- 2.3 To make all decisions on merit when carrying out public duties, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits.
- 2.4 To be accountable for their decisions to the public and to co-operate fully with whatever scrutiny is required.
- 2.5 To be open and as transparent as possible about decisions and actions and the decisions and actions of the City Council and to give reasons for those decisions and actions
- 2.6 To register and declare any disclosable pecuniary interests and to declare non-disclosable pecuniary interests and non-pecuniary interests, as set out in this Code.
- 2.7 When using or authorising the use by others of the resources of the City Council, to ensure that such resources are not used improperly for political purposes (including party political purposes) and to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 2.8 To behave in accordance with all legal obligations, alongside any requirements contained within the City Council's policies, protocols and procedures, including on the use of the Council's resources and dealing with confidential information appropriately.
- 2.9 To value and respect colleagues, staff, partners and the public, engaging with them in an appropriate manner that underpins the mutual respect between them that is essential to good local government, and not to act in a manner that could be deemed to be bullying, harassment or intimidation.

2.10 To promote and support high standards of conduct through leadership and by example.

### **3. Disclosable Pecuniary Interests**

3.1 Members must

- a) comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which they have a disclosable pecuniary interest, as defined in Appendix 2.
- b) ensure their register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of their disclosable pecuniary interests.
- c) make an oral declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which they are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

3.2 “Meeting” means any meeting, either formal or informal, organised by or on behalf of the City Council.

3.3 It is a criminal offence for a Member to:

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that they have disclosed to a meeting
- Participate in any discussion or vote on a matter in which they have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, to fail to notify the Monitoring Officer within 28 days of the interest.
- To knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

3.4 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

#### **4. ther Interests**

- 4.1 In addition to the requirements of Section 3, if Members attend a meeting at which any item of business is to be considered and they are aware that they have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in that item, they must make an oral declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 4.2 Members have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in an item of business of the City Council where –
- 4.2.1 a decision in relation to an item of that business might reasonably be regarded as affecting their well-being or financial standing or that of a member of their family, or a person with whom they have a close association, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which they have been elected, or
- 4.2.2 it relates to or is likely to affect any of the interests listed in the Table in Appendix 1 of this Code but in respect of a member of the Member’s family (other than a “relevant person”) or a person with whom they have a close association.

#### **5. Gifts and Hospitality**

- 5.1 Members must, within 28 days of receipt, notify or arrange for the Monitoring Officer to be notified in writing of any gift, benefit or hospitality with a value in excess of £25 which they have accepted as a Member from any person or body other than the City Council.
- 5.2 The Monitoring Officer will place the contents of the notification on the register of interests of the relevant Member.
- 5.3 Where the Monitoring Officer is of the view that such gift or hospitality is clearly below £25 in value they may decline to include this on the register.

#### **6. Sensitive Interests**

- 6.1 In cases where they have an interest and the nature of the interest is such that the Member and Monitoring Officer both consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation:
- the register of interests will not include details of the interest but may state that the Member has an interest about which details have been withheld and

- where required by this Code to declare the interest at a meeting, the Member may only be required to declare the fact that s/he has an interest in the matter.

## **7. Dispensations from the Restriction from Participating and Voting in Meetings**

- 7.1 This provision applies to a situation where a Member or Members have an interest, which prevents them from taking part in a decision but they feel they ought to be able to participate or that it is necessary to allow them to participate in the interests of proper decision making, as explained below.
- 7.2 One or more Members may apply for a dispensation from the requirement not to participate in or vote in respect of a matter at a meeting by written request to the Monitoring Officer, so that they are able to participate in respect of that matter at the meeting.
- 7.3 The Monitoring Officer (or in his/her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the City Council, where s/he considers, after having had regard to all relevant circumstances such as follows:
- 7.3.1 that without the dispensation the number of persons prohibited by section 31(4) of the Act from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- 7.3.2 that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- 7.3.3 that granting the dispensation would be in the interests of persons living in the Council's area,
- 7.3.4 that without the dispensation each member of the Cabinet would be prohibited by section 31(4) of the Act from participating in any particular business to be transacted by the Cabinet , or
- 7.3.5 that it is otherwise appropriate to grant a dispensation.
- 7.4 If granted the dispensation will be granted by the Monitoring Officer in writing and citing the ground or grounds on which it is agreed and it will be published on the Council's website within 7 days of the decision.
- 7.5 The dispensation must be for a fixed time not exceeding a period beyond the next City Council elections and will normally cover only a specific matter or meeting.

7.6 A Member may seek a review of the Monitoring Officer's decision not to grant a dispensation to the Standards Committee. The Monitoring Officer may choose to refer any application for dispensation to the Standards Committee and may, in doing so, consult one of the Council's Independent Persons. The Monitoring Officer may also, if s/he chooses, consult one of the Council's Independent Persons prior to granting a dispensation referred to in 7.3 above.

## APPENDIX 1

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 **as** either the interest of the Member or the interest of a relevant person **and** the Member is aware that the other person has an interest as follows-

<b><i>Interest</i></b>	<b><i>Prescribed Description</i></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 M in carrying out duties as a member, or towards the election expenses of M. 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 license (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) (a) The landlord is the relevant authority; and (b) The tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority (b) Either – (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



## APPENDIX 2

### Definitions

*“the Act” means the Localism Act 2011;*

*“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;*

*“director” includes a member of the committee of management of an industrial and provident society;*

*“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;*

*“M” means a member of a relevant authority;*

*“member” includes a co-opted member;*

*“Non-Pecuniary interest” is an interest which is not pecuniary (as defined above) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon the Member’s judgement of the public interest;*

*“relevant authority” means the authority of which M is a member;*

*“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;*

*“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;*

*“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

## APPENDIX 3

The following principles, commonly known as the “Nolan Principles”, do not form part of the Code of Conduct but are included as an Appendix simply to remind Members of the ethical standards expected of public office holders.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.


## APPENDIX 4 - Declaring Interests Flowchart, Questions to ask yourself

Breaching those parts identified as a disclosable pecuniary interest is potentially a criminal offence

### Helpful Reminders for Members

- Is your register of interests up to date?
- In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?
- Have you checked the register to ensure that they have been recorded correctly?

### When should you declare an interest at a meeting?

<ul style="list-style-type: none"> <li>• <b>What matters are being discussed at the meeting ; or</b></li> <li>• <b>If you are a Cabinet Member making decisions other than in Cabinet what matter is before you for single member decision?</b></li> </ul>

<p><b>Does the business to be transacted at the meeting</b></p> <ul style="list-style-type: none"> <li>• <b>Relate to; or</b></li> <li>• <b>Is likely to affect</b></li> </ul> <p><b>any of your registered interests</b> Disclosable Pecuniary Interests include your interests and those of:</p> <ul style="list-style-type: none"> <li>• Your spouse or civil partner</li> <li>• A person you are living with as husband/wife or as a civil partner</li> </ul> <p>where you are aware that this other person has the interest.  <b>Please seek advice from the Monitoring Officer about disclosable pecuniary interests.</b></p>

What is a non- disclosable pecuniary interest or a Non-Pecuniary Interest? – this is an interest which is not a disclosable pecuniary interest (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

#### DPI

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting.



If the interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register



**Unless you have received dispensation upon previous application from the Monitoring Officer, you must:**

- **Not participate, or participate further, in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **Leave the room while the item is being considered/ voted upon**

**If they are a Cabinet Member they may make arrangements for the matter to be dealt with by a third person but take no further steps**

#### Non-DPI

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature. You should declare the interest and decide whether you can properly speak and remain in the meeting or should not participate further..

If you consider the interest would not be regarded as materially impacting upon your judgement you may participate and vote in the usual way.