

CHAPTER 7 – ETHICAL GOVERNANCE

1. STANDING ORDERS RELATING TO THE HOLDING OF OFFICE OF COUNCILLOR

1.1. QUALIFICATION OF COUNCILLORS

A person shall, unless disqualified by virtue of the Local Government Act 1972 or any other enactment, be qualified to be elected and to be a member of the Council if they are a British subject or a citizen of the Republic of Ireland and on the relevant day they have attained the age of 18 years and:

- i. They are and thereafter continues to be a local government elector for the City of Westminster; or
- ii. They have during the whole of the twelve months preceding that day occupied as owner or tenant any land or other premises in the City of Westminster; or
- iii. their principal or only place of work during the twelve months preceding that day has been in the City of Westminster; or
- iv. They have during the whole of the twelve months preceding that day resided in the City of Westminster.

For the purposes of the above, "relevant day" in relation to any candidate means the day on which they are nominated as a candidate and also, if there is a poll, the day of election.

1.2. ORDINARY DAY OF ELECTION OF COUNCILLORS

The ordinary day of election of councillors shall be the first Thursday in May or such day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding the first year in which the order is to take effect. (L.G.A. 1972 Sect. 43 and Sch.2).

1.3. TERM OF OFFICE OF COUNCILLORS

The term of office of councillors shall be four years and they shall retire together in every fourth year after election on the fourth day after the ordinary day of election of councillors. The newly elected councillors shall come into office on the day on which their predecessors retire. (L.G.A 1972, Sch.2 as amended by the London Councillors Order 1976).

1.4. RESIGNATION OF LORD MAYOR OR COUNCILLOR

A person elected to the office of Lord Mayor or Councillor may at any time resign their office by written notice signed by them and delivered to the Chief

Executive and their resignation shall take effect upon the receipt of the notice by the Chief Executive (L.G.A. 1972, Sect.84.)

1.5. FILLING OF CASUAL VACANCY IN OFFICE OF COUNCILLOR

A casual vacancy occurring in the office of councillor an election to fill the vacancy shall be held -

- i. In a case in which the High Court or the Council have declared the office to be vacant, within thirty-five days from the date of the declaration:
- ii. In any other case, within thirty-five days after notice in writing of the vacancy has been given to the Chief Executive by two local government electors for the City.

(The period of thirty-five days specified in paragraphs (i) & (ii) above excludes any Saturday and Sunday, Christmas Eve, Christmas Day, Good Friday and any bank holiday).

The day of election to fill a casual vacancy shall be fixed by the returning officer (the Chief Executive).

Where a casual vacancy in any such office occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election shall not be held to fill the vacancy unless on the occurrence of the vacancy the total number of unfilled vacancies in the membership of the Council exceeds one third of the whole number of members; and where an election is not held, the vacancy shall be filled at the next ordinary election. (L.G.A. 1972, Section 89).

1.6. ELECTION AND TERM OF OFFICE OF LORD MAYOR

The Lord Mayor shall be elected annually by the Council from among the councillors of the City. The Lord Mayor shall, unless they resign or becomes disqualified, continue in office until their successor becomes entitled to act as Lord Mayor. During their term of office the Lord Mayor shall continue to be a member of the Council notwithstanding the statutory provisions relating to the retirement of councillors. (L.G.A. 1972, Sch.2).

If, apart from paragraph (1) of this Standing Order, the Chair at the annual meeting would have ceased to be a member of the Council, they shall not be entitled to vote in the election of Lord Mayor; except that in the case of equality of votes they shall give a casting vote. (L.G.A. 1972, Sch.2.)

1.7. FILLING OF CASUAL VACANCY IN THE OFFICE OF LORD MAYOR

On a casual vacancy occurring in the office of Lord Mayor, an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary meeting of the Council, and shall be conducted in the same manner as an ordinary election. (L.G.A. 1972, Section 88).

1.8. MEMBERS OF COUNCIL NOT TO BE APPOINTED

A person shall, so long as they are, and for twelve months after they cease to be, a member of the Council, be disqualified for being appointed by the Council to any paid office, other than to the office of Lord Mayor or Deputy Lord Mayor. (L.G.A. 1972, Section 116).

1.9. ACCEPTANCE OF OFFICE

The person elected to any of the following offices, that is to say, the office of Lord Mayor, Deputy Lord Mayor or councillor shall not, unless they have made a declaration of acceptance of office in a form prescribed by rules made by the Secretary of State, and the declaration has within two months from the date of the election been delivered to the Chief Executive, act in the office except for the purpose of taking such a declaration.

If such a declaration is not made and delivered to the Chief Executive within the appointed time, the office of the person elected shall at the expiration of that time become vacant. (L.G.A, Section 83).

1.10. VACATION OF OFFICE

If a member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, or in the case of a Cabinet Member, any meeting of the Cabinet, they shall, unless the failure was due to some reason approved by the Council before the expiry of that period, cease to be a member of the Council.

Attendance as a member at a meeting of any Committee or Sub-Committee of the Council, or at a meeting of any joint Committee, joint board or other body by whom for the time being any of the functions of the Council are being discharged, or who were appointed to advise the Council on any matter relating to the discharge of its functions, and attendance as representative of the Council at a meeting of any body of persons, shall be deemed to be attendance at a meeting of the Council. In the case of a Cabinet Member, the discharge of an executive function by that Cabinet member acting alone, or attendance at a meeting of a Cabinet Committee shall be deemed to be attendance at a meeting of the Cabinet.

A member of any branch of His Majesty's naval, military or air forces when employed during war on any emergency on any naval, military or air force service, and a person whose employment in the service of His Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle them to relief from disqualification on account of absence, shall not cease to be a member of the Council by reason only of a failure to attend meetings of the Council, or of a failure to attend meetings of the Cabinet, if the failure is due to that employment.

1.11. CONTINUITY OF BUSINESS AFTER AN ELECTION

During the period between the retirement of Councillors following City Council Elections and the next Annual Meeting of the Council, the following provisions shall apply –

- i. A Temporary Planning Applications Committee shall meet as required with authority to deal with all matters within the Terms of Reference of the Planning Applications Committee. The Committee will consist of four Members of the Council appointed by the Chief Executive.
- ii. A Temporary Licensing Committee shall meet as required with authority to deal with all matters within the Terms of Reference of the Licensing Sub-Committee. The Committee will consist of three members of the Council appointed by the Chief Executive.
- iii. The Chief Executive shall be authorised, to determine the time, date and place of the meeting of a Temporary Committee and to convene the meeting and in appointing Members shall have regard to the proportion of Members of political groups on the Council.
- iv. Except where they are inconsistent with the temporary arrangements set down herein, all Standing Orders shall apply to Temporary Committees.
- v. Where the Chief Executive is of the opinion that a matter requires a decision between the date of the City Council elections and the next Annual Meeting of the Council (whether the matter relates to an executive function or a non-executive function) they may, having consulted such Members of the Council as they consider appropriate make the decision and authorise on an exceptional basis the relevant action.

1.12. DISCLOSURE OF INTERESTS

Members and Co-opted Members who have a Disclosable Pecuniary Interest, or any other interest required to be disclosed under the Council's Code of Conduct for Members, shall, having disclosed the interest and subject to the below provisions, withdraw from the meeting room for the duration of the consideration of the item of business including the debate and any related vote.

In cases where members of the public are allowed to attend a meeting Members and Co-opted Members may with the consent of the Chair of the meeting, attend the meeting for the purposes of making representations, answering questions or giving evidence relating to the matter. Once the Member has finished making their submission, or the Chair of that meeting decides that they have finished, the Member must leave the room and may not remain in the room during the discussion or vote on the matter.

Members must not when they have a Disclosable Pecuniary Interest seek to view or listen to the proceedings from the public gallery.

2. MEMBER CONDUCT

2.1. STANDARDS FUNCTIONS

The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty 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. By Section 28 of the Localism Act 2011 the Council is required to have arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made.

2.2. STANDARDS COMMITTEE

The Council has established a Standards Committee whose terms of reference are set out in Chapter 5 of this Constitution.

The Committee has 5 elected members appointed by Council.

The Chair is elected by the Committee and the rules of politically proportionality apply with substitutes being permitted.

Council shall appoint Independent Person(s) in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011 and the Independent Persons shall be invited to attend meetings of the Standards Committee.

The Council's Independent Persons will be invited to attend meetings, subject to the agreement of the Committee.

The Standards Committee will have the following roles and functions:

- i. To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.
- ii. To advise the City Council on the adoption or revision of a Code of Conduct for Members.
- iii. Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.
- iv. To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members.
- v. To monitor the operation of Code of Conduct for Members.
- vi. Consider reports referred to the Committee by the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.
- vii. Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required.

- viii. 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).
- ix. 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.
- x. To the extent allowed by the Law, grant dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct.
- xi. To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

2.3. 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.

- i. 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.
- ii. 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.
- iii. 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.
- iv. To be accountable for their decisions to the public and to co-operate fully with whatever scrutiny is required.
- v. 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
- vi. 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.

- vii. 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.
- viii. 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.
- ix. 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.
- x. To promote and support high standards of conduct through leadership and by example, including not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute.

(3) Interests

i. Notification of Interests

You must, within 28 days of your election or appointment to office (where that is later):

- (a) notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests; and
- (b) notify the Monitoring Officer in writing of the details of any other non-disclosable pecuniary interest or non-pecuniary interest, where they fall within the descriptions in 29.10.

ii. Disclosable Pecuniary Interests

Members must 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.

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

It is a criminal offence for a Member to:

- (a) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.

- (c) 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.
- (d) Participate in any discussion or vote on a matter in which they have a disclosable pecuniary interest.
- (e) 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.
- (f) 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.

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.

iii. Other Interests

In addition to the requirements of Section 29.8, 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.

Members have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in an item of business of the City Council where –

- (a) 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
- (b) 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.

Members must also include for inclusion in the register of interests:

- (a) any personal interest in any business of your authority where either 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 –
 - exercising functions of a public nature;
 - directed to charitable purposes; or

- 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 easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (b) all training undertaken to prepare for their role as Councillor or to develop their role, including dates where possible.

(4) Gifts and Hospitality

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.

The Monitoring Officer will place the contents of the notification on the register of interests of the relevant Member.

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.

In accepting any gift, benefit or hospitality Members should consider the following principles to guide them, as suggested by the Committee in Standards in Public Life:

- “Purpose” – acceptance should be in the interests of Council departments and should further Council objectives”
- “Proportionality” – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation/ individual may lead to an impression that the organization/ individual is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider
- “Avoidance of conflict of interest” Members should consider the provider’s relationship with the Council, whether it is bidding for work or grants or being investigated or criticized, and whether it is appropriate to accept an offer from a taxpayer-funded organization”

(5) Sensitive Interests

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 they have an interest in the matter.

(6) Dispensations from the Restriction from Participating and Voting in Meetings

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.

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.

The Monitoring Officer (or in his/her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the City Council, where they consider, after having had regard to all relevant circumstances such as follows:

- i. 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,
- ii. 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,
- iii. that granting the dispensation would be in the interests of persons living in the Council's area,
- iv. 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
- v. that it is otherwise appropriate to grant a dispensation.

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.

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.

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 they choose, consult one of the Council's Independent Persons prior to granting a dispensation referred above.

MEMBER CODE OF CONDUCT – 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-

| <i>Interest</i> | <i>Prescribed Description</i> |
|---|---|
| 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 | <p>Any beneficial interest in securities of a body where –</p> <p>(a) That body (to M’s knowledge) has a place of business or land in the area of the relevant authority</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> |

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;

“bullying” may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticize unfairly or injure someone;

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

“harassment” maybe characterised as unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;

“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.

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.

MEMBER CODE OF CONDUCT – 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?

- What matters are being discussed at the meeting : or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- Relate to; or
- Is likely to affect

any of your registered interests Disclosable Pecuniary Interests include your interests and those of:

- Your spouse or civil partner
- A person you are living with as husband/wife or as a civil partner

where you are aware that this other person has the interest.

Please seek advice from the Monitoring Officer about disclosable pecuniary interests.

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 you 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.

3. WESTMINSTER CITY COUNCIL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ALLEGING A BREACH OF THE MEMBERS' CODE OF CONDUCT

3.1. CONTEXT

Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee of the Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Westminster City Council (“the Council”) has failed to comply with the Members’ Code of Conduct (“the Code”) and sets out how the Council will deal with allegations of a failure to comply with the Code.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member or co-opted member against whom an allegation has been made.

3.2. THE CODE

The Code adopted by the Council is as set out in section 2 of this chapter of the Council’s Constitution.

3.3. MAKING A COMPLAINT

If you wish to make a complaint, please complete a copy of the complaint form, available on the Council’s website or on request from the Governance and Councillor Liaison Team, and send or email it to:

The Monitoring Officer Legal Services, 64 Victoria Street, London, SW1E 6QP.

Or

email the Governance and Councillor Liaison Team:

governanceandcouncillorliaison@westminster.gov.uk

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering these arrangements.

Please provide all the details requested on the complaint form. If you want to keep your name and address confidential, please indicate this in the space

provided on the complaint form. The Monitoring Officer will consider your request but in the interests of fairness the presumption is that the member concerned is entitled to know who has made the complaint. If, in exceptional circumstances, your request is granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

The Council will not investigate anonymous complaints unless the Monitoring Officer considers that there is a strong and clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

3.4. WILL YOUR COMPLAINT BE INVESTIGATED?

- (1) The Monitoring Officer will consider each complaint received and will decide, on the basis of the information set out in the complaint form or submitted with the complaint, whether it merits formal investigation. Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, investigating a complaint involves spending public money as well as the cost of officer and Member time. The Council, therefore, takes a proportionate approach to the issue of whether or not a complaint merits investigation bearing in mind the sanctions which can be imposed, if a Member is found to be in breach of the Code, and the costs to the Council and, therefore, to the public of undertaking an investigation. The performance of Members in terms of how they represent those in their wards, is ultimately a matter for the electorate if a Member seeks re-election.
- (2) A complaint will only be considered to merit formal investigation if it complies with:
 - i. All the criteria set out in sub-paragraph (3) below; or
 - ii. One or more of the criteria set out in sub-paragraph (4) below.
- (3) The Monitoring Officer will consult the Independent Person before coming to a final decision as to whether or not a complaint which meets the relevant criteria should be investigated. The relevant criteria referred to in 2(i) above are:
 - i. The complaint raises matters which would be a breach of the Code;
 - ii. The complaint is sufficiently serious to warrant investigation;
 - iii. The complaint is not “tit-for-tat”;
 - iv. The complaint appears not to be politically motivated;
 - v. It is about someone who is still a Member or co-opted member of the Council;

- vi. The complaint has been received within 3 months of the alleged failure to comply with the Code unless i) there are exceptional circumstances for the delay and the delay does not mean that it would be difficult for a fair investigation to be carried out or ii) the complaint concerns a pattern of bullying, harassment or intimidation, in such circumstances the time limit could be extended to 6 months;
- vii. The same, or similar, complaint has not already been investigated;
- viii. It is not an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code;
- ix. The Member complained about has not already apologised and/or admitted making an error; and
- x. If the complaint reveals a criminal offence and a complaint has been made to the police, the police investigation and any proceedings have concluded or the police have confirmed no proceedings will be issued.

(4) The relevant criteria referred to in paragraph 2(ii) are:

- i. The complaint reveals a continuing pattern of behaviour that is significantly and unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
- ii. The complaint is made by the Chief Executive or the Monitoring Officer

(5) This decision will normally be taken within 28 working days of receipt of your complaint. The Monitoring Officer will inform you of his/her decision and the reasons for that decision.

(6) In appropriate cases, where the Monitoring Officer has decided in accordance with the criteria set out above, that a complaint would merit investigation the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that their conduct was in breach of the code and offering an apology, or other remedial action such as correcting the Register of Interests. Where the Member makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint should be investigated.

(7) Where the Monitoring Officer considers that the complaint should not be investigated further, they shall advise the complainant that they are entitled to appeal the decision. The Chief Executive will consider any appeal in consultation with an independent person.

3.5. HOW IS THE INVESTIGATION CONDUCTED?

- (1) If the Monitoring Officer decides that a complaint merits investigation, they may conduct the investigation but will normally appoint an investigating officer, who may be another senior officer of the Council, an officer of another Council or an external investigator ("the Investigating Officer"). The Investigating Officer will decide whether they need to meet or speak to you to understand the detail of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- (2) The Investigating Officer will normally write to the Member against whom you have complained and provide them with a copy of your complaint, and ask the Member to provide their explanation of events, and to identify what documents he needs to see and who he needs to interview.
- (3) In exceptional cases, where the Monitoring Officer has decided to keep your identity confidential your name and address will be deleted from the papers given to the Member.
- (4) Prior to concluding the investigation the investigating Officer will discuss the matter with the Independent Person. At the end of their investigation, the Investigating Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to correct any factual inaccuracies.
- (5) Having received and taken account of any comments which you may make on the draft Investigation Report, the Investigating Officer will send their final report to the Monitoring Officer who will then arrange for the Standards Committee to consider the complaint.
- (6) The Standards Committee will consider the Investigation Report, the written opinion of the Independent Person and any written representations from the Member concerned before deciding whether the Member has failed to comply with the Code and, if so, whether to take any action in respect of the Member.

3.6. WHAT HAPPENS AT THE STANDARDS COMMITTEE HEARING WHERE THE INVESTIGATION REPORT WILL BE CONSIDERED?

- (1) The meeting will be held in public so you may attend the meeting as can other members of the public. There may be occasions where the Investigating Officer and/or the Member consider that there are reasons why the meeting should exclude the press and public. In such circumstances representations will be invited to enable the Committee to make a determination at the outset of the meeting. The Committee will usually consider the matters on the papers but, in exceptional cases, the Member may be permitted by the Committee to

make representations on their own behalf, although they will not be entitled to be represented by a solicitor or other legal representative.

- (2) The Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code, and dismiss the complaint. If the Committee concludes that the Member did fail to comply with the Code, the Chair will inform those present at the meeting of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Member's failure to comply with the Code. In doing this, the Committee may give the Member an opportunity to make representations but will consider any written representations from the Member and take into account the views of the Independent Person, before deciding what action, if any, to take in respect of the matter.

3.7. WHAT ACTION CAN THE STANDARDS COMMITTEE TAKE WHERE A MEMBER HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?

The Committee may choose to take one or more of the following actions:-

- i. Censure the Member;
- ii. Report its findings to a meeting of the Council for information;
- iii. Recommend to the Council that the Member be issued with a formal censure;
- iv. Recommend to the Member's Group Leader that ~~they~~he/she be removed from any or all Committees or Sub-Committees of the Council;
- v. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.

3.8. WHAT HAPPENS AT THE END OF THE HEARING?

At the end of the hearing, the Chair will announce the decision of the Committee as to whether the Member failed to comply with the Code and as to any sanctions imposed.

As soon as reasonably practicable thereafter, the Monitoring Officer will write to you and the Member concerned confirming the decisions taken.

3.9. APPEALS

- (1) There is no right of appeal against the decision of the Standards Committee for you as complainant. If you feel that the Council has failed to deal with your complaint properly and that this failure has caused you injustice, you may make a complaint to the Local Government Ombudsman.
- (2) However if it is resolved that the Member has breached the Code, the Member will have an opportunity to appeal against the decision by advising

the Monitoring Officer in writing within 14 days of the Committee meeting. The Member will be required to detail the grounds upon which an appeal is sought.

- (3) Upon receipt of notification of appeal the Monitoring Officer will consult an Independent Person for their views. The Monitoring Officer will forward a report detailing the allegations, views of the Independent Person and the findings of the investigation to a second Standards Committee who will determine the appeal case. This Committee will comprise of different membership to that of the first Committee.

3.10. WHAT ARE THE RESPONSIBILITIES OF THE STANDARDS COMMITTEE?

The Standards Committee is charged with considering those written complaints, that a Member or co-opted Member has failed to comply with the Code, referred to it following an investigation of the complaint. The Committee may decide to impose a sanction if it finds that the Member has failed to comply with the Code.

3.11. WHO IS THE INDEPENDENT PERSON?

- (1) The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and has been appointed by the Council. There a number of statutory restrictions on who may be appointed. For example, a person cannot be appointed as an independent person if [they are](#), or has been within the past 5 years, a Member, coopted Member or officer of the Council.
- (2) The Independent Person may be invited to attend meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code and as to any action to be taken following a finding of failure to comply with the Code.
- (3) The Council currently has 3 Independent Persons who are invited to meetings of the Standards Committee.

3.12. REVISION OF THESE ARRANGEMENTS

The Council may by resolution agree to amend these arrangements.

4. WESTMINSTER CITY COUNCIL EMPLOYEES' CODE OF CONDUCT

4.1. EMPLOYEES CODE OF CONDUCT

- (1) This Code meets the recommendations of the Nolan Committee's report on standards in public life that all public bodies should draw up codes of conduct which cover the seven principles of public life i.e. selflessness integrity, objectivity, accountability, openness, honesty, and leadership.
- (2) This Code sets out the standards of conduct that the Council expects of all its employees.
- (3) The Code should be read in conjunction with the Council's "Code of Conduct - Employees' Handbook" which provides practical advice on following the Code in day to day work situations.
- (4) Employees in education settings should read the code in conjunction with the "Guidance for safe working practice for the protection of children and staff in education settings" issued by the National Network of Investigation and Referral Support Co-ordinators (Department for Education and Skills) and "Guidance about Conduct for Staff, Volunteers, Governors, etc., whose work brings them into contact with young people" issued by the National Employers' Organisation for School Teachers.
- (5) Breaches of the Code may result in action under the Council's disciplinary code. Serious breaches of the Code may be considered to be gross misconduct.
- (6) The Code primarily addresses the Council's expectations for the conduct of its own employees. However, the Council expects that any consultant (and their employees), contractor (and their employees), partner (and their employees), secondee and agency staff, who are engaged to carry out work or provide services on the Council's behalf, will abide by the principles of the Code as appropriate. In the event that the Code is breached, consideration will be given to terminating the contract/arrangement between the consultant/contractor/outside organisation and the Council, and/or seeking compensation and, as appropriate, referral of the matter to the police or other relevant regulatory body.

4.2. GENERAL PRINCIPLES

- (1) The public is entitled to expect the highest standards of conduct from all Westminster City Council employees.
- (2) The role of employees is to serve the City Council in providing advice, implementing its policies, and delivering services to the local community. Employees must perform their duties to the best of their abilities with honesty,

integrity, impartiality and objectivity, and contribute to the maintenance of high standards in public service.

- (3) Employees must at all times act (inside and outside work) in accordance with the trust that the public is entitled to place in them.

4.3. ACCOUNTABILITY

- (1) Employees work for Westminster City Council and serve the whole of that authority. They are accountable to, and owe a duty to the City Council.
- (2) They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

4.4. POLITICAL NEUTRALITY

- (1) City Council employee, whether or not politically restricted, must follow every lawfully expressed policy of the City Council and must not allow their own personal or political opinions to interfere with their work.
- (2) Where employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

4.5. RELATIONS WITH MEMBERS, THE PUBLIC AND OTHER EMPLOYEES

- (1) Mutual respect between City Council employees and Members is essential to good local government, and working relationships should be kept on a professional basis.
- (2) City council employees must deal with the public, Members and other employees sympathetically, efficiently, with respect and without bias.
- (3) The protocol on Member/Officer Relations (section 5) provides more detail on this.

4.6. EQUALITY

- (1) City Council employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

4.7. STEWARDSHIP

- (1) City Council employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

4.8. PERSONAL INTERESTS

(1) City Council employees' private lives are their own concern but they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- i. any City Council rules on the registration and declaration by employees of financial and non - financial interests; and
- ii. any City Council rules on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the City Council. Employees must not accept benefits from a third party unless authorised to do so by the City Council.

4.9. WHISTLEBLOWING

(1) In the event that a City Council employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee must report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the City Council's confidential "Whistleblowing" reporting procedure designed for this purpose.

4.10. TREATMENT OF INFORMATION

- (1) Openness in the dissemination of information and decision making is the norm in the way the City Council functions. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience.
- (2) Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant City Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions.
- (3) Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

4.11. APPOINTMENT OF STAFF

(1) City Council employees involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to

whom they are related, or with whom they have a close personal relationship outside work.

- (2) City Council employees must not provide references on behalf of the Council for employees who are relatives or friends; nor must they provide references to the Council in respect of prospective employees who are relatives or friends

Note:-

- a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- b) “partner” in sub-paragraph (a) above means a member of a couple who live together.

4.12. PERSONAL FINANCIAL AFFAIRS

- (1) Employees must conduct their personal financial affairs so that neither the Council nor another public body, is defrauded or is otherwise denied, the income and/or other resources to which it is entitled by law.

4.13. HEALTH AND SAFETY

- (1) Employees must -
- i. be aware of health and safety law, which is displayed in all workplaces, and the Council’s health and safety statement
 - ii. carry out their work in a safe and proper manner having regard at all times for their own health and safety and that of colleagues and the public
 - iii. comply with the requirements of the Council’s sick pay scheme.

4.14. CHILDREN’S STANDARD

- (1) City Council employees engaged in education and other children’s services must comply with the “Westminster Standard” to ensure the best outcomes for Westminster’s children. This Standard will make sure that all staff working with children are: representative of the Westminster community, flexible, competent and confident, ready to listen to children and their carers, work in partnership with users and colleagues, and committed to safeguarding and providing the best possible service for children, as well as promoting their health and wellbeing.

4.15. BREACHES OF THE CODE

- (1) Breaches of the Code may result in action under the Council’s disciplinary code. Serious breaches of the Code may be considered to be gross misconduct.

5. PROTOCOL ON MEMBER/OFFICER RELATIONS

5.1. PRINCIPLES UNDERLYING MEMBER – OFFICER RELATIONS:

- (1) Good administration is dependent upon a successful relationship between Councillors and officers which can only be based upon mutual trust and an understanding of each other's roles and responsibilities.
- (2) This relationship, and, the trust which underpins it, should not be abused or compromised.
- (3) Accordingly, Councillors should not attempt in any way to influence the terms of officers' reports or recommendations on any matter.
- (4) Equally, officers should give clear, independent advice. It is not enough to avoid actual impropriety.
- (5) Members and Officers should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- (6) The fundamental principle which underlies Member/Officer relationships is that officers are required to be politically neutral.

5.2. THE NOLAN PRINCIPLES

- (1) The Council's ethical framework is underpinned by the Seven Principles of Public Life also called the Nolan Principles that apply to anyone who is a public office holder. This protocol implements the Principles into practice as follows:
 - Selflessness - By ensuring that officers and members work together for the public benefit.
 - Integrity - By avoiding inappropriate influence on officers' activities and the delivery of services.
 - Objectivity - By ensuring officers act impartially and fairly between political groups and they are not asked or pressured to act otherwise by members.
 - Openness - By ensuring members are aware of their rights to information where information is confidential and should not be shared. Ensuring Officers respect members' rights and understand their limits, especially where personal information is involved.
 - Honesty - Holders of public office should be truthful.
 - Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- Leadership - By treating others with respect and actively supporting the Nolan Principles in practice.

5.3. BULLYING

- (1) Councillors and officers must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at any person through means that undermine, humiliate, denigrate or injure the recipient. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.
- (2) Bad relations between Councillors and officers can be destructive to good governance and there has to be an understanding by Councillors that sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
- (3) Where a Councillor has a concern about an officer or the Council services then this should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/probity, corruption or malpractice of any sort is involved within the Council.

5.4. ROLES OF MEMBERS AND OFFICERS

- (1) For local government to be effective a strong working partnership between Members and officers must be established. This partnership can only be effective if it is based on mutual trust and respect. The contents of the Code of Governance and this protocol are intended to ensure that there is no doubt about the roles and procedures of the City Council, which will help this partnership to operate effectively.
- (2) Officers serve the City Council as a whole, serving all elected Members. Officers must carry out the Council's work under the direction and control of the Council and properly constituted Committees and Sub-Committees, the Cabinet and Cabinet Members. A Member in an individual capacity (except a Cabinet Member acting within their terms of reference) can exercise no lawful authority and Members in general must operate through the Council and its Committees and Sub-Committees. Cabinet Members must exercise their functions in accordance with the Constitution and their terms of reference. However, it is also important that officers recognise the right of Members, the elected representatives, to determine policy and do not act in any way to undermine that right.
- (3) The Councillors are responsible for:

- i. providing a focus for community leadership in local wards and acting as advocates on behalf of constituents;
- ii. giving the authority political leadership and deciding on overall Council policy;
- iii. making decisions within overall Council policy;
- iv. the scrutiny of Council policy and services; and
- v. representing the area and the Council externally.

(4) Council officers are responsible for:

- i. providing professional advice and relevant information (objectively and impartially) to elected members when they are formulating policy and taking decisions or scrutinising the decisions and actions of others;
- ii. implementing decisions made by Councillors/committees; and
- iii. taking managerial and operational decisions in accordance with the Council's schemes of delegation.

5.5. RELATIONSHIP BETWEEN MEMBERS AND OFFICERS

(1) Regular contact between Councillors and officers is necessary to ensure the efficient working of the Council. Councillors and officers should have regard to and respect for their different roles in such contacts. The level at which contact occurs will vary depending upon the nature of the service and the reason for the contact. Councillors and Officers involved should always bring concerns about issues affecting a department directly to the attention of the relevant Director.

5.6. RELATIONSHIP BETWEEN CHAIR OF COUNCIL AND OFFICERS

(1) The Lord Mayor acts as Chair of the Council. In this capacity the Lord Mayor is entitled to receive a briefing from officers on matters relating to the conduct of the Council Meeting.

5.7. RELATIONSHIP BETWEEN LEADER AND OTHER MEMBERS OF CABINET AND OFFICERS

(1) The Leader of the Council, as Chair and a member of the Cabinet, has the duty to appoint the other members of the Cabinet (not exceeding 10 Members including the Leader). As such the Leader has a special responsibility at the centre of the Council. Other members of the Cabinet will be required to recognise this when taking decisions within their respective portfolios and otherwise keeping the Leader informed.

(2) Officers will need to be conscious of the respective roles played by the Leader and individual Members of the Cabinet. These Members will require additional briefing on areas within their respective portfolios. It will be the responsibility of the relevant Chief Officer to ensure that this is carried out. Officers and

Members will be asked to remember that Cabinet members are unable to take individual decisions without having first considered an Officer report.

5.8. RELATIONSHIP BETWEEN CHAIRMEN AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES AND OFFICERS

- (1) The Chairs and Members' of Policy and Scrutiny Committees have powers to call in decisions taken, but not implemented, in accordance with the procedures set out in the constitution.
- (2) The Chairs and Members of Policy and Scrutiny Committees have a role in helping to ensure that Council services are provided in accordance with agreed policies. They can also require that reports relating to their areas of responsibility (as set out in the Terms of Reference) be submitted to assist them in their overview role. They can, however, only require this when acting collectively as a Committee.
- (3) Officers have a duty to ensure that Chairs of Policy and Scrutiny Committees receive sufficient information to enable them to conduct their roles in respect of both overview and scrutiny

5.9. ROLE OF CHAIRS GENERALLY, INCLUDING RELATIONSHIP WITH OFFICERS

- (1) Standing Orders give Committee Chairs certain responsibilities to control and conduct Meetings. Other than these powers the Chairs are in the same constitutional position as all other members. Standing Orders also require Chairs to be consulted by Chief Officers before certain delegated powers are exercised by the Chief Officer. However, as emphasised above, Chairs have no executive role or powers to make decisions relating to the discharge of Council functions. The power to make such decisions remains with the Council, the Cabinet, the relevant Cabinet Member, committee or Chief Officer in accordance with the agreed scheme of delegation.

5.10. OFFICER RELATIONSHIPS WITH PARTY GROUPS

- (1) Meetings of Party Groups are essentially political forums, and as such, not attended by Officers.
- (2) Officers may attend these meetings to provide briefings only with the express permission of the Chief Executive and in such instances a similar briefing should be offered to all the Political Groups on the Council.

5.11. MEMBERS IN THEIR WARD ROLE AND OFFICERS

- (1) Members of the Council will of course wish to take a special interest in matters in their ward. This is reflected in the Ward Member Consultation procedures, which are set out in the Code of Governance. Guidance in respect of Ward Member Consultation for officers is set out in detail in the

Report Writing Guide. Under this procedure Members are consulted on all reports which affect their wards and have the right to have their comments included in the Committee reports. Members have a special role in the local community covered by their Ward and they may from time to time seek advice from Officers in respect of any matters in their Ward as a result. Provided these relate to the functions of the City Council this advice should be given.

- (2) Members will, through their ward casework, often be required to make contact with officers in a number of departments to obtain information on behalf of their constituents. This is perfectly in order and from time to time it may be appropriate for officers to reply to constituents on behalf of, or at the request of, Ward Members.

5.12. COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION

- (1) The City Council has agreed the following policy: "Information and documents should be made available on request by Officers to Members unless
 - i. there is a clearly and properly justifiable reason for declining access; and
 - ii. the Member in question cannot establish a legal right to the information or documentation".
- (2) Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the City Council or by virtue of their Membership of a Committee or Sub-Committee.

However, if information is requested which is not readily available, or will require significant resources to produce, officers are advised to seek guidance from their respective Chief Officer, before providing the information.
- (3) In addition, all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.
- (4) Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law "to know" rights.
- (5) More details of Members' rights of access to information can be found in the Access to Information Procedure Rules set out in the Constitution and elsewhere in the Code of Governance.

5.13. OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES

- (1) Co-opted Members of the Policy and Scrutiny Committees and Independent Members of the Standards and Audit and Performance Committees are entitled to receive documents and information relating to their respective appointment in the same way as if they were an elected Member.

5.14. PRESS RELEASES

- (1) Full details of the framework for the issue of press releases, together with details of the role of the Council's Communications Section, are set out elsewhere in the Constitution.

5.15. CORRESPONDENCE AND COMMUNICATIONS

- (1) Members may telephone or email issues, which require responses to officers. Whatever method is used Members are entitled to receive a full response within 10 days. If for any reason this is not possible, a holding reply setting out the reasons for the delay should be sent as soon as possible (and before the expiry of the 10 days). If Members have not received any response after the expiry of 10 days the relevant Director should be informed.

5.16. CONFIDENTIALITY

- (1) Members and officers must be aware of and respect the limits on their access:
 - i. Receiving confidential information as a Councillor does not mean the information is public and can be shared with other members, constituents or the public. It remains confidential unless there is consent to disclosure or it is published. Consent can be given to disclosure either to specific persons or generally.
 - ii. Individual's data protection rights and privacy must still be respected;
 - iii. Confidential and personal information received as a Councillor cannot be used for party political purposes.
- (2) A breach of confidentiality is likely to be a breach of the Members' Code of Conduct and place the Council at legal, financial and reputational risk. It potentially leaves the Councillor and Council at risk of legal action for breach of confidentiality and, for personal data, at risk of enforcement action by the Information Commissioner's Office.

6. ANTI-FRAUD, BRIBERY & CORRUPTION STRATEGY

6.1. INTRODUCTION

(1) This Strategy sets out the Council's commitment to preventing, detecting and deterring fraud, corruption or other irregularity, and to taking action where this is suspected or detected. It aims to:

- i. enhance and maintain an anti-fraud culture;
- ii. actively encourage prevention;
- iii. act as a deterrent to fraudulent and corrupt acts, including bribery;
- iv. promote detection;
- v. provide clear guidance on roles and responsibilities; and
- vi. identify a clear pathway for investigation and remedial action; and
- vii. provide policy and advice in dealing with bribery and suspected bribery.

(2) This strategy is supplemented with more detailed documents:

- i. Appendix A: Offences under the Bribery Act 2010;
- ii. Appendix B: Response and Investigation Plan; and
- iii. Appendix C: Prosecution and Sanctions Policy.

6.2. POLICY STATEMENT – YOUR RESPONSIBILITIES

(1) The Council is committed to the highest ethical standards and requires Members, Senior Managers and all other staff, including contractors, to make themselves aware of, and comply with, the seven principles of public life as defined in the 'Nolan Report'. These principles are:

- i. selflessness
- ii. integrity
- iii. objectivity
- iv. accountability
- v. openness
- vi. honesty
- vii. leadership

(2) The Council expects everyone involved in providing Council services to act with integrity at all times, to be totally honest and trustworthy, and to comply with all laws and regulations applicable to the Council's business. Fraud, corruption and other irregularity will not be tolerated.

- (3) Further information on the required standards is set out in the Employees' Code of Conduct, Employees' Handbook, and Members' Code of Conduct.

6.3. WHAT IS FRAUD AND CORRUPTION?

- (1) The legislation in this area is very complex but the term "fraud and corruption" includes acts involving:
- i. theft;
 - ii. deception;
 - iii. bribery;
 - iv. forgery;
 - v. extortion;
 - vi. conspiracy;
 - vii. embezzlement;
 - viii. misappropriation;
 - ix. false representation;
 - x. concealment of material facts;
 - xi. collusion;
 - xii. giving or accepting of an advantage; and
 - xiii. abuse of position.
- (2) This can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.
- (3) It is a common law offence of corruption to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

6.4. WHAT IS BRIBERY?

- (1) The Bribery Act 2010 defines **bribery** as:
- "the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise".
- (2) The Bribery Act states that bribery and corruption are punishable for individuals by up to ten years' imprisonment and if an organisation is found to have taken part in corruption, the organisation could face an unlimited fine and damage to its reputation.

- (3) Under Section 7 of the Act, it is an offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It is a defence if the organisation has adequate procedures in place to prevent bribery. A public body would not be a commercial organisation for the purposes of the Act. However, the Council strives to meet the highest standards of behaviours and as such have reviewed its policy and procedures to ensure any such risks are minimised.
- (4) If a bribery offence is committed with the consent / connivance of a senior officer of the local authority, then that person is also personally guilty of an offence. This will potentially include all those working at manager level and upwards.
- (5) Appendix A is an extract of examples of cases of bribery as defined in the Bribery Act 2010.

6.5. WHO IS COVERED BY THE POLICY

- (1) This policy applies to all individuals working at all levels including:
- i. Directors;
 - ii. employees (permanent, fixed-term, temporary/agency staff, interns);
 - iii. consultants/agents;
 - iv. contractors;
 - v. seconded staff;
 - vi. volunteers;
 - vii. sponsors; or
 - viii. any other person associated with the Council or any of its subsidiaries.
- (2) Elected members are also covered by the policy.

6.6. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF MEMBERS

- (1) All Members agree to abide by the Members' Code of Conduct, which sets out a number of general principles and required standards of conduct.
- (2) The Code stipulates that Members should "promote and support those principles by leadership, and by example, and should act in a way that secures or preserves public confidence".
- (3) The remit of the City Council's Audit & Performance Committee includes:
- i. Overseeing the production of the Council's Annual Governance Statement which sets out the arrangements in place for maintaining sound internal control systems, responding to suspicions of fraud, and

promoting ethical behaviour and compliance with laws and regulations.

- ii. Monitoring the effectiveness of the Council's internal control systems, anti-fraud and corruption strategy, and levels of compliance through regular reports from internal audit.
 - iii. Reviewing the proposed work plans of internal audit and external audit, to ensure appropriate coverage of the Council's key internal control systems, compliance activities and anti-fraud arrangements.
 - iv. Considering the outcomes of internal audits and investigations, and the key findings from external audit work.
 - v. Conducts selected detailed reviews of the Council's anti-fraud arrangements.
 - vi. Providing assurance to external audit on the Committee's arrangements for overseeing management processes for identifying and responding to the risks of fraud, and the controls put in place to mitigate those risks.
 - vii. To be able to call externally appointed contractors to account, where concerns of fraud, error or maladministration have emerged.
- (4) In addition, the Audit and Performance Committee maintains an overview of the arrangements in place for maintaining high ethical standards throughout the Council and receives an annual report which includes details of anti-fraud activities.

6.7. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF SENIOR MANAGERS

- (1) Senior Managers have responsibility for ensuring that there are sound systems of internal control within their units and, in respect of contracted services, to determine the risk of fraud, corruption and irregularity and incorporate appropriate controls and safeguards within tender documentation and in the process of tender evaluation.
- (2) Controls should be designed and implemented to reduce the risks posed by fraud and ensure, as far as possible, its detection should it occur. Senior Managers must implement audit recommendations within agreed timescales to ensure that systems are maintained appropriately to prevent and detect fraud.
- (3) As part of that responsibility, line managers need to:
- i. inform staff of the Council's code of business conduct, gifts and hospitality, declaration of interest and Anti-Fraud, Bribery and Corruption policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
 - ii. ensure that all employees and contractors for whom they are accountable are made aware of the requirements of the policy;

- iii. assess the types of risk involved in the operations for which they are responsible;
- iv. ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
- v. be aware of the Council's Anti-Fraud, Bribery and Corruption Policy;
- vi. identify sensitive/at-risk posts;
- vii. ensure that controls are being complied with;
- viii. contribute to their Executive Director's assessment of the risks and controls within their business area, which feeds into the Council and the Auditor's overall statements of accountability and internal control;
- ix. report back swiftly to their Executive Director and contractors where faults and errors are detected or exposed; and
- x. ensure immediate preventative action is taken to prevent further loss of public funds where fault and error has been detected.

6.8. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF CONTRACTORS

- (1) The role of contractors is no different from that of Senior Managers in relation to controls operated on behalf of the Council. As such, contractors must ensure they have adequate systems and controls to ensure the prevention and detection of fraud and corruption. Contractors must also implement audit recommendations within agreed timescales.

6.9. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF INTERNAL AUDIT

- (1) The City Council has a statutory responsibility to maintain an adequate and effective internal audit function. This responsibility rests with the Chief Finance Officer, who arranges the internal audit of the Council's internal control systems and ensures appropriate planning, direction, standards and coverage.
- (2) Internal Audit is responsible for reviewing and appraising the adequacy, reliability and effectiveness of the Council's systems of internal control and reporting to Senior Managers. Coverage is risk based and the annual planning cycle provides Senior Managers with the opportunity to draw attention to any concerns.

- (3) Internal Audit is responsible for following up recommendations to confirm that these have been implemented by Senior Managers in accordance with agreed timescales.
- (4) Internal Audit will also periodically check the level of compliance across the Council with the Anti-Fraud, Bribery and Corruption policy and report on it. This will aim to identify the level of effectiveness so that controls can be improved if the policy is not being implemented effectively.

6.10. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF THE FRAUD INVESTIGATION TEAM

- (1) The Fraud Investigation Team will regularly report to the Tri-Borough Director of Audit and Fraud on the progress of the investigation of actual or suspected bribery if and when referral to the police is required.
- (2) The Fraud Investigation Team and the Tri-Borough Director of Audit and Fraud will decide who will conduct the investigation and when/if referral to the police is required.
- (3) The Fraud Investigation Team will also:
 - i. Ensure that other relevant parties are informed where necessary e.g. People Services will be informed where an employee is a suspect.
 - ii. Ensure that the Council incident and losses reporting systems are followed.
 - iii. Ensure that any system weaknesses identified as part of the investigation are followed up with management or Internal Audit.

6.11. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF THE BRIBERY ACT COMPLIANCE OFFICER

- (1) The Council has appointed the Director of Law as the Senior Officer who will be responsible for implementing the Anti-Bribery Policy and these guidelines, providing guidance and training, monitoring compliance and sanctioning violation of the policy. The officer will review annually the suitability, adequacy and effectiveness of the Council's anti-bribery arrangements and implement improvements as and when appropriate.
- (2) The Senior Officer will be supported by the Tri-Borough Director of Audit and Fraud and report the results of any fraud cases to the Audit & Performance Committee through the Internal Audit and Fraud report.

6.12. PREVENTION AND DETECTION – ROLES AND RESPONSIBILITIES OF THE PROCUREMENT TEAM

- (1) Procurement practices will be conducted in a fair and transparent manner and not deal with contractors or suppliers known or reasonably suspected to be paying bribes.

- (2) The Council will contractually require contractors and suppliers to comply with this Anti-Fraud, Bribery and Corruption policy and to make available HR data for security screening in-line with Council Employees as requested.
- (3) The Council will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement.

6.13. PREVENTION AND DETECTION – RECRUITMENT OF STAFF AND STAFF VETTING

- (1) It is important to ensure that the integrity of Council systems is maintained. A key element of this is to ensure that the Council employs staff of the appropriate quality and integrity. The Recruitment Code of Practice, which is part of the Council's HR Framework, provides guidance on the appointment process.
- (2) The Council will ensure staff provide adequate proof of identity and permission to work in the UK. Staff are appointed subject to satisfactory references and care must be taken to ensure that employment references and qualifications are genuine. Copies of appropriate qualifications will be requested and be held on the relevant personal file. For certain posts, checks to the Police Criminal Records Bureau and List 99 will be necessary and carried out. Records of these checks and their outcome will be maintained.
- (3) In addition, the Council's employment application form includes an "Applicant's Declaration". This requires confirmation by each applicant of their understanding that if false information is provided which leads to their appointment, or it is subsequently discovered that false information has been supplied, it will render them liable to dismissal without notice. Due regard will also be had to the rehabilitation of offenders in relation to 'spent' and 'unspent' convictions. The Council's Recruitment Code contains specific information on the way in which this sensitive area is to be handled.
- (4) The Council also requires contractors to properly vet applicants who will be working on Council contracts as staff or sub-contractors. The precise requirements are included within the contract terms and conditions.
- (5) HR will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.
- (6) New joiners will be bound by a contractual obligation in the employment contracts not to engage in bribery as defined in this policy.

6.14. PREVENTION AND DETECTION – ANTI-MONEY LAUNDERING

- (1) The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007, place obligations on the Council and its employees with respect to suspected money laundering. The following actions constitute money laundering:
 - i. Concealing, disguising, converting, transferring or removing criminal property;
 - ii. Becoming concerned in an arrangement in which someone knowingly or suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and / or
 - iii. Acquiring, using or possessing criminal property.
- (2) Detailed guidance on money laundering is included in the Council's Financial Regulations and communicated regularly to those staff most likely to be exposed to money laundering situations.
- (3) The Council's Money Laundering Reporting Team is responsible for reporting suspicious circumstances to the Serious Organised Crime Agency (SOCA).

6.15. PREVENTION AND DETECTION – PROACTIVE ANTI-FRAUD INITIATIVES

- (1) In addition to undertaking reactive investigations, the Internal Audit service also undertakes an annual risk based proactive anti-fraud programme, which targets resources to specific areas where there is a higher risk of fraud.
- (2) Data matching is used both within and outside the Council and is a successful means of identifying fraud. The Council participates in anti-fraud initiatives established by the Department for Work and Pension's (DWP) Housing Benefit Matching Service and the Audit Commission's National Fraud Initiative. Where appropriate, it also undertakes specific fraud drives and exchanges information with other external agencies including the Police, Benefit Agencies, HM Revenues and Customs, other Local Authorities and specialist counter fraud data matching organisations and agencies.
- (3) The Council may also run data matching exercises against its own databases. This may include systems holding information about Council employees (payroll and personnel), claimants of housing / council tax benefit and residents parking. Contractors' data must also be used.
- (4) In conducting data matching exercises, the Council will comply with relevant legislation, e.g. Data Protection Act 1998.

6.16. REDRESS AND RECOVERY

- (1) Disciplinary action and / or other legal action including prosecution, will be taken against those found and proven to be defrauding the Council. The Council may, in certain circumstances, offer an alternative to prosecution in

the case of Housing Benefit fraud in accordance with its Prosecution and Sanctions Policy.

- (2) In addition, all appropriate financial and other redress will be pursued to recover assets that have been lost as a result of fraudulent acts.

6.17. PUBLICITY AND AWARENESS RAISING

- (1) The Council places a high emphasis on ensuring that the Anti-Fraud and Corruption Strategy is well publicised and that obligations are understood. Information is included within the Council's corporate induction programme and its governance training programme.
- (2) The Council also uses publicity to promote the message that it will not tolerate fraud, corruption or any other form of irregularity and is committed to countering any that is perpetrated. This includes the use of warnings on Council application forms, local newspaper advertisements, articles and features through radio, television and other relevant media, newsletters to staff and Members and press releases on successful prosecutions.

6.18. REPORTING – WHISTLEBLOWING

- (1) The Council's Whistleblowing Policy encourages employees (and those of contractor and partner organisations) to report any misconduct, suspected misconduct, malpractice, illegal acts or omissions by Members or employees, or by the public in relation to the services they receive from the Council.
- (2) The Policy sets out the mechanisms through which whistleblowers may raise their concerns and the types of conduct that should be reported. For example:
 - i. A criminal act;
 - ii. Disregard for legislation, Council rules, policies and procedures;
 - iii. A miscarriage of justice;
 - iv. Danger to health and safety;
 - v. Any damage to the environment; or
 - vi. An attempt to cover up any of these.
- (3) The Council will not tolerate the victimisation or harassment of anyone raising a genuine concern, and employees are afforded protection from such by the Public Interest Disclosures Act 1998. This legislation aims to ensure employees who may be worried about coming forward can do so in the knowledge that it is safe to do so. Any harassment or victimisation of a whistleblower is treated as a serious disciplinary offence, which will be dealt with under the Disciplinary Code.

6.19. REPORTING – FRAUD AND WHISTLEBLOWING HOTLINE & REPORT A FRAUD (COUNCIL’S WEBSITE)

- (1) The Council operates a ‘freephone’ Fraud and Whistleblowing hotline (**0800 028 9888**). It is answered by trained fraud investigators within Internal Audit and staffed during normal office hours (an answering service operates at all other times).
- (2) Staff and the public alike, are encouraged to ring the hotline with any information about known or suspected fraudulent activity. All information is treated in the strictest confidence and if callers wish to remain anonymous, then that will be respected.
- (3) Frauds can also be referred anonymously through the Report a Fraud facility on the Council’s website. Both the online and hotline facilities are regularly publicised.

6.20. INVESTIGATION – WHO INVESTIGATES FRAUD WITHIN THE COUNCIL

- (1) It is the responsibility of the Council’s appointed Internal Audit contractor to investigate all cases of suspected fraud and corruption. Within Internal Audit, there is a dedicated Fraud Investigation Team. The overall aim of the team is to deliver a quality investigative service with the objective of preventing, detecting and deterring fraud throughout the Council, thereby securing the “public purse”.
- (2) The specific scope and objectives of the team are to:
 - i. Carry out investigation of “reactive” housing benefit and corporate fraud referrals to determine whether fraud has occurred;
 - ii. Carry out investigation of “proactive” housing benefit and corporate fraud referrals, including those arising from the Housing Benefit Matching Service and the National Fraud Initiative, to detect where fraud or overpayment has occurred;
 - iii. Apply appropriate sanctions and redress where it is proven that fraud has taken place in accordance with the Council’s Prosecution and Sanctions policy;
 - iv. Identify appropriate means to further tackle Housing Benefit and corporate fraud including the development of new and innovative proactive exercises;
 - v. Encourage referrals of suspected fraud from both internal and external sources;
 - vi. Evaluate all referrals to determine whether resources could be effectively deployed to investigate them;
 - vii. Carry out all investigations in accordance with prevailing legislation;

- viii. Adhere to any published performance standards and any other recognised best practice in respect of fraud investigation;
- ix. Liaise with the Head of Legal Services, the Police and Crown Prosecution Service and the DWP's solicitors branch in all prosecution cases;
- x. Liaise with the Director of Human Resources in the event of serious allegations against existing employees;
- xi. Provide feedback to the Benefits Service on cases of successful sanctions, and obtain publicity in the press for successful prosecution cases;
- xii. Report counter fraud activity to the Internal Audit Client and City Council members as directed;
- xiii. Liaise with the Counter Fraud Investigation Service of the DWP in accordance with prevailing Partnership Agreements;
- xiv. Liaise with partners in the Housing Benefits Service and other Council units where appropriate;
- xv. Ensure Housing Benefit Investigation officers are appropriately trained and qualified;
- xvi. Participate in local and / or national forums regarding Housing Benefit and corporate fraud;
- xvii. Respond to and comply with directives issued by the DWP in the form of Circulars;
- xviii. Comply with the investigators' Code of Conduct;
- xix. Maintain an up to date working knowledge of changes in legislation and best practice and to act accordingly;
- xx. Regularly review anti-fraud policies and strategies taking on board changes in legislation and any emerging best practice; and
- xxi. Alert elected Members and Directors where systemic abuse or failure is suspected or where systematic criminal or unusual patterns of potential fraudulent activity.

6.21. INVESTIGATION – TRAINING FOR INVESTIGATORS

- (1) The Council's Internal Audit provider ensures that its investigators are fully trained in carrying out their responsibilities and that this training is maintained to ensure continuous improvement. This includes, where appropriate, relevant qualifications such as the Professionalism in Security (PINS) accreditation.
- (2) All investigators are also required to sign up to and comply with a Code of Conduct for investigations

6.22. TRAINING

- (1) **33.22** The Council will provide training to all relevant employees on a regular basis to make them aware of our Anti-Fraud, Bribery and Corruption policy

and guidelines, in particular of possible types of bribery, the risks of engaging in bribery activity, and how employees may report suspicion of bribery.

- (2) If any specific training is needed, please contact the Tri-Borough Head of Fraud for further information.

Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.

Appendix A: Offences under the Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

Offences of Bribing Another Person

1. **Case 1** is where an employee offers, promises or gives a financial or other advantage to another person *and* intends the advantage:
 - (i) to induce that or another person to perform improperly a relevant function or activity, *or*
 - (ii) to reward that or another person for the improper performance of such a function or activity.
2. **Case 2** is where an employee offers, promises or gives a financial or other advantage to another person *and* knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to:

- (i) a function of a public nature,
- (ii) an activity connected with a business,
- (iii) an activity performed in the course of a person's employment, *or*
- (iv) an activity performed by or on behalf of a body of persons (whether corporate or non-corporate).

The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by the employee or through a third party, e.g. an agent or other intermediary.

Offences Relating to Being Bribed

3. **Case 3** is where an employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by themselves or another person).
4. **Case 4** is where an employee requests, agrees to receive or accepts a financial or other advantage, *and* the request, agreement or acceptance itself constitutes the improper performance by themselves of a relevant function or activity.
5. **Case 5** is where an employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance

(whether by themselves or another person) of a relevant function or activity.

6. **Case 6** is where, in anticipation of or in consequence of an employee requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly:

- (i) by that employee, *or*
- (ii) by another person at their request or with their assent or acquiescence.

Again, the bribery must relate to:

- (i) a function of a public nature,
- (ii) an activity connected with a business,
- (iii) an activity performed in the course of a person's employment, *or*
- (iv) an activity performed by or on behalf of a body of persons (whether corporate or non-corporate).

The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether the employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of an employee or another person.

In Cases 4 to 6, it does **not** matter whether the employee knows or believes that the performance of the function or activity is improper.

Bribery of Foreign Public Officials

7. **Case 7** is where an employee bribes a foreign public official and intends:

- (i) to influence that official in his/her capacity as a foreign public official *and*
- (ii) to obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

8. *The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.*

Failure of commercial organisations to prevent bribery (applicable only to corporates and partnerships - included for information)

A corporate or partnership is guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

Appendix B: Response and Investigation Plan

This Response & Investigation Plan provides detailed guidance and information on the fraud investigation process.

1. Role of Internal Audit

- (1) It is the responsibility of the Council's appointed Internal Audit contractor to investigate all cases of suspected fraud and corruption. The Council's Financial Regulations require that Internal Audit *"shall have access to all documents and records of the Council's units and shall be afforded all facilities and co-operation by Senior Managers and members of their staff who shall provide whatever information or explanation deemed necessary"*.
- (2) In carrying out investigations due regard, where appropriate, will be given to the following:
 - The Council's policies on Equal Opportunities;
 - The Council's Disciplinary Code;
 - Police and Criminal Evidence Act 1984;
 - Data Protection Act 1998;
 - Criminal Procedure and Investigations Act 1996;
 - Human Rights Act 1998;
 - Regulation of Investigatory Powers Act 2000;
 - Freedom of Information Act 2000;
 - Proceeds of Crime Act 2002;
 - Fraud Act 2006;
 - Money Laundering Regulations 2007; and
 - Bribery Act 2010.

2. Fraud Referrals – the Need to Report Concerns

- (1) The Council's Financial Regulations require that any suspected irregularity involving Council funds, cash, stores or other property or any material weakness which has been identified in any system or control, must be reported immediately to Internal Audit who will investigate the circumstances as a matter of urgency.
- (2) The scope of fraud that should be referred to Internal Audit for investigation is not limited to that which has a direct financial impact upon the Council.
- (3) For example, the unauthorised access and / or release of confidential information held on strategic decisions, commercial information relating to contracts let or being let and personal information on staff and / or customers could have a damaging or undermining effect, are also reportable.
- (4) The Internal Audit provider employs dedicated, trained and skilled fraud investigators. It is essential that contact is made with Internal Audit,

who act independently of specific Council activities, as soon as any fraud or irregularity is suspected and the risk of inappropriate action is minimised.

3. What to do if you suspect Fraud, Corruption, or Other Wrongdoing

- (1) If you suspect fraud, corruption or any misconduct directed against the Council, or directed at others by staff and contractors of the Council, you should use the freephone Fraud and Whistleblowing hotline or the anonymous, Report a Fraud facility on the Council website.
- (2) Investigators will then consider the merits of investigation and will communicate the intention so that reported complaints are clearly responded to and acted upon.
- (3) You have the option of referring your concerns directly to Internal Audit if you wish to do so. This would normally be the case only when:
 - it is inappropriate or not possible to inform a line manager; or
 - when a line manager has been informed and has taken no action.
- (4) The same applies when considering a referral to the Council's external auditors, which should only be made after having followed other internal procedures including referral to Internal Audit.
- (5) If you suspect fraud or corruption, as soon as you are aware of the problem:

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| ✓ | DO make a written note of your concerns and record all details of the people, documents and circumstances involved. |
| ✓ | DO pass any documents or other relevant materials and evidence relating to your suspicions that has come into your possession to your line manager (if appropriate) or the Internal Audit Anti-Fraud Team immediately. |
| ✓ | DO act promptly as delays could lead to further losses or the prospect of the destruction or contamination of evidence. |
| ✗ | DO NOT do anything that is likely to cause suspicion on the part of those you suspect, i.e. approach individuals or discuss your concerns with anyone apart from your line manager (if appropriate) or the Internal Audit Anti-Fraud Team. |
| ✗ | DO NOT ignore your suspicions – genuine concerns will not be reproached (see the Council's Whistleblowing Policy above). |
| ✗ | DO NOT carry out any investigation yourself, however reasonable it may seem to do so. At best the evidence may be lost or compromised, and at worst you could accidentally implicate yourself in the fraud. |
| ✗ | DO NOT put yourself at risk by attempting to obtain 'evidence' of your suspicions. |

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| ✓ | ALWAYS consider approaching the Internal Audit Anti-Fraud Team for any advice on the matter before taking any further action. |
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(6) Further information on reporting suspicions is contained in the Council's Whistleblowing Policy.

4. **How the City Council will respond to your concerns**

- (1) When fraud, corruption or other wrongdoing is suspected, it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both the Council and the suspected individual(s) or parties are protected. The latter is viewed as equally important as protected the Council, as a suspicion should not be seen as guilty until proven.
- (2) It is also crucial that those notifying their suspicions do not feel threatened. The Council seeks to protect the identity of such employees and does not release the source of notification at any time during the investigation, unless required to do so on a confidential basis, under a legal obligation.
- (3) It is recognised that in some cases, it will be necessary to talk to the person making allegations so as to clarify matters and to establish how this information came to light. The manner in which this is handled will depend on how the referral has initially been made and the willingness of the informant to be interviewed.

5. **Action following referral – How the Council will respond to allegations**

- (1) The stage at which allegations or suspicions are referred, the available evidence and the strength of the suspicions are some factors that determine what action will be taken in any case of suspected fraud, corruption or other irregularity.
- (2) The Anti-Fraud Team Manager, or their appointed Investigator, will carry out a preliminary evaluation in order to identify a course of action and to decide on the reporting processes. This may include interviews of those raising concerns.
- (3) Each referred case will create a file to record chronologically all aspects of an investigation. The file will typically record the following:
 - The original referral details;
 - Records of initial telephone conversations and face to face discussions and interviews;
 - Copies of relevant documents and records to be used as evidence;
 - Details of tests undertaken, their results, and conclusions drawn;

- Decisions on and, where appropriate, authorisation for undertaking any specialist investigative techniques;
- Records of the advice provided by the Director of Human Resources in cases where disciplinary action may be considered;
- Records of advice provided by the Head of Legal Services or the Police; and
- Transcripts of formal interviews undertaken with due regard to the Police and Criminal Evidence Act 1984.

(4) In cases where a criminal act is suspected, the manner in which evidence is collated and retained will be in accordance with the requirements of the Criminal Procedures and Investigations Act 1996.

6. **The Course of Investigation and Potential Outcomes**

- (1) There are many factors that will determine the course of an investigation and the potential outcomes.
- (2) Where it is appropriate to do so, the Investigation Team will involve the Police to assist with investigation or to assume responsibility for investigation in its entirety.
- (3) Any request for Police involvement will normally follow the conclusion of any initial investigation by the Internal Audit Investigating Officer.
- (4) The referral of a matter to the Police will be dependent on a number of factors including the nature of the suspicions, those suspected of being involved and resources required to investigate.
- (5) If the Police decide that a formal criminal investigation is necessary by them, all staff will co-operate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will usually be via the Internal Audit Investigating Officer. If the Police decide to investigate formally, this will not prejudice any internal disciplinary action that could be taken by the Council. In such circumstances, the Police and Director of Human Resources will be consulted to ensure that one investigation does not prejudice or otherwise hamper the other.
- (6) A decision by the Police not to undertake a formal investigation does not preclude subsequent criminal prosecution taking place should evidence of an offence emerge.

7. **Possibility of Disciplinary Offence by Council Staff**

- (1) The decision as to whether or not disciplinary action should be taken rests with line management.

(2) Internal Audit will advise the appropriate line manager when it is considered that there may have been a breach of the Council's Disciplinary Code by an employee.

(3) Any investigation (and decision about suspension from duty, pending completion of the investigation) and resulting disciplinary action under the Council's Disciplinary Code, will be separate from the audit investigation, but it may be used as evidence. As such, Internal Audit may be required to assist with proceedings under the Disciplinary Code.

8. **Offences committed by Employees of a Contractor**

(1) There are a wide variety of contractors carrying out the business of the Council. Many, if not all, of the staff fall outside the scope of the Council's Disciplinary Code, although many contractors adopt the same or a similar code.

(2) Where it is proven that a member of staff working for a contractor has committed an offence that would otherwise fall within the Council's Disciplinary Code, the Council will expect the contractor's own disciplinary code to be invoked.

(3) This includes the possibility of a suspension of the individual from their duties, where appropriate.

(4) In addition, the Council will expect that the contractor responsible for any individual found guilty of an offence, will take appropriate disciplinary action, including dismissal. In cases involving members of contractors' staff, the investigating officer will liaise closely with the appropriate Council (clientside) officer responsible for the contractor.

9. **Liaison with External Bodies**

(1) In some circumstances, the Investigation Team will liaise with or work jointly with external bodies such as the Police, DWP, Immigration, and other Local Authorities.

(2) If any specific training is needed, please contact the Tri-Borough Head of Fraud for further information.

10. **Specialist Investigation Techniques**

(1) When appropriate, the Investigation Team will employ specialist investigative techniques. These techniques will depend on the nature of the investigation and the evidence required to substantiate or refute allegations.

(2) Such techniques will be conducted in line with legislative requirements and may include surveillance, forensic computer analysis, chemical

analysis and handwriting analysis.

11. **Audit and Performance Committee**

- (1) The Audit & Performance Committee will receive regular reports on Internal Audit's work in relation to fraud and corruption.
- (2) In certain circumstances, Internal Audit may consider it necessary to report directly to the Chief Executive and / or Cabinet. This applies, in particular, to cases of suspected fraud involving senior employees or Members.
- (3) Such notification will be carried out in a manner consistent with the Council's Code of Conduct.
- (4) This is to ensure that Senior Managers maintain their independence in respect of appeals from employees against disciplinary action.

12. **External Audit**

- (1) Details of completed investigations will be shared with external audit as part of regular liaison and monitoring.
- (2) In addition, all cases of proven fraud valued at £10,000 and above will be formally reported to the Fraud section.

13. **Concluding the Investigation**

- (1) By the conclusion of the investigation it will be known what action is to be taken.
- (2) This will be dependent on the extent to which evidence supports the allegation(s) and in cases of criminal activity, the level of admissible evidence that has / can be obtained.
- (3) The appropriate action following an investigation is not limited to that taken against an individual or individuals, and may include recommendations for changes to systems of control.
- (4) The possible outcomes of investigation include:
 - No further action;
 - Decision by management to conduct Disciplinary Code investigation;
 - Criminal Prosecution (by Crown Prosecution Service / in-house / DWP);
 - Sanctions (as an alternative to prosecution in Housing Benefit cases only);
 - Civil proceedings for recovery of lost assets; and
 - Recommendations made for improved systems of control.

14. **Reporting Arrangements**

- (1) Arrangements will vary but, at the conclusion of the investigation, a report will usually be prepared for the relevant Senior Manager and any other appropriate line management. Typically this will include:
- how the investigation arose;
 - whose actions have been called into question;
 - their position within the organisation and their responsibilities;
 - how the investigation was undertaken;
 - the facts and evidence which were identified;
 - whether fraud or irregularity was proven;
 - the action taken or ongoing; and
 - a summary of findings and recommendations, both regarding the allegations themselves and any additional work required on the system weaknesses identified during the investigation. The report will recognise any system weaknesses and action taken to correct these that have already been addressed a result of the interim report.
- (2) On occasions, such as when it is necessary to correct a fundamental system weaknesses, an interim report may be issued setting out:
- the findings to date;
 - the interim conclusions drawn from those findings; and
 - recommendations for immediate system control improvements.

15. **Other Related Issues and Considerations**

(1) Confidentiality

- (a) No investigation report or supporting documentation is to be made available to any person except as outlined in the Anti-Fraud and Corruption Strategy and this procedure document, or as required for any legal reason.
- (b) All copies of audit reports dealing with allegations of misconduct will be endorsed "Confidential" or "Strictly Confidential".

(2) Feedback to Person Who Raised Suspicion

- (a) In some circumstances, it may be appropriate to provide feedback to the person who made the initial allegations.
- (b) Such feedback will be restricted to that information which is rightly in the public domain and will comply with the obligations of the Data Protection Act 1998.

(3) Prosecution of offenders.

- (a) The Council is committed to protecting public funds through its action on fraud. As a deterrent to others, prosecution will be considered in all cases with wide publicity given to successful

prosecutions.

- (b) There is an alternative to prosecution available to the Council i.e. Official Cautions and Administrative Penalties in cases involving Housing Benefit fraud.
- (c) Administrative Penalties and Official Cautions are detailed below and their use is to be considered on an individual case by case basis and in line with the Council's Prosecution and Sanctions Policy.
- (d) The Council's Prosecution and Sanctions Policy will be used by Internal Audit to determine what action should be taken against those who commit offences against the Council.

(4) Investigators Code of Conduct

- (a) The Council is keen to ensure that the Investigators employed by Internal Audit, act in a proper manner at all times in accordance with the "Investigators Code of Conduct".

(5) Defamation

- (a) All investigative work must be substantiated by the strongest evidence. Reports must avoid content that could be considered to be defamatory in the event of the report being made public.
- (b) Defamation in law is defined as:
"The publication (i.e. communication) of an untrue statement, which tends to lower a person in the estimation of right-thinking members of society generally, or which tends to make them shun or avoid that person".

Appendix C: Prosecution and Sanctions Policy

1. Introduction

This Policy specifically relates to the work carried out by the City Council's Internal Audit contractor.

- (1) The Council takes fraud committed against it very seriously. This document sets down the criteria which determines when the Council will or will not normally pursue criminal prosecution proceedings.
- (2) In relation to cases involving Housing Benefits the document also sets down the alternatives to prosecution and when these will and will not normally be considered appropriate.
- (3) The decision to prosecute someone is a serious step. The aim of this Policy is to provide a framework and guidance that investigators and those prosecuting offences use to ensure fair and consistent decisions are made.
- (4) This Policy forms part of the City Council's Anti-Fraud and Corruption Strategy although decisions about the course of action to take in any case can be made in reference to this Policy alone.

2. Deciding to Prosecute

(1) When Prosecution will normally be pursued

- (a) This Policy should be applied in all cases of fraud investigated by the Council's Internal Audit contractor.
- (b) As stated in the City Council's Anti-Fraud and Corruption Strategy, each case will be judged on its merits and where appropriate, advice will be sought from the Police, the Crown Prosecution Service (CPS) or the Head of Legal Services.
- (c) The majority of prosecution cases will be dealt with by the Council's Legal Services Team. However, it should be noted that where the CPS or the Solicitors branch of the DWP are responsible for prosecuting fraud committed against the Council, their respective prosecution policies would prevail.
- (d) The Code for Crown Prosecutors will be used to determine whether it is appropriate to prosecute: a two-stage test regarding evidence and the public interest.
- (e) Where there is sufficient admissible evidence and it is in the public interest to do so, the Council will normally pursue criminal proceedings against an offender.

- (f) However, the Council will not in all cases wish to pursue criminal proceedings. The following paragraphs set out the circumstances under which the Council is more likely, or less likely to prosecute in cases where there is sufficient evidence.
- (g) The ultimate decision on whether to prosecute rests with the Council's Head of Legal Services or, where cases are being prosecuted by an external body, the Crown Prosecution Service or the Solicitors branch of the Department for Work and Pensions.

(2) Circumstances where the City Council is likely to pursue proceedings

- (a) Any case meeting one or more of the following criteria is likely to result in the Council pursuing criminal proceedings:
- The offence was pre-planned and / or deliberate;
 - The offender has had a reasonable opportunity to rectify the fraud during its commission but has not done so;
 - The offence has continued for a sustained period;
 - The offence is committed by a person or persons in a position of authority or trust;
 - The person has previous convictions for dishonesty or has been formally warned for a similar offence within the past 5 years;
 - In the case of Housing Benefit fraud only, the person has been offered but has refused an alternative to prosecution (Administrative Penalty or Local Authority Formal Caution); and / or
 - The fraud was as a result of collusion or conspiracy.

(3) Circumstances where the City Council is unlikely to pursue proceedings

- (a) Any case meeting one or more of the following criteria is likely to result in the Council **not** pursuing criminal proceedings:
- The offender is seriously or terminally ill and there is evidence to support this;

- The offender has serious mental health problems and there is evidence to support this;
- The offender is a juvenile;
- The offender made a voluntary disclosure of the offence before the City Council had any suspicions and the offender was not prompted to make disclosure;
- The offender has caused a small or nil loss to public funds;
- The offender has social factors which the City Council deem are relevant; and / or
- To prosecute would place a vulnerable person at risk (such as an informant).

3. Alternatives to Prosecution in Respect of Housing Benefit

(1) Background

- (a) In cases involving offences relating to welfare benefits, the Council has the option of offering an alternative to prosecution in specified circumstances. There are two alternatives: a Local Authority Formal Caution or an Administrative Penalty.
- (b) These alternatives will only be considered where the Authority believes an offence to have been committed that could be prosecuted.
- (c) The following paragraphs set down the criteria when these alternatives would be considered appropriate.

(2) Formal Caution

- (a) The Council would normally consider it appropriate to administer a Formal Caution as an alternative to prosecution in the following circumstances:
 - The fraud is a failed attempt to obtain benefit or the value¹ of fraudulently obtained benefit is low; AND
 - It is known to be a first offence; AND
 - The offender has admitted the offence; AND
 - A Formal Caution or Administrative Penalty has not been previously accepted or refused.
- (b) When an Official Caution is administered, the offender must provide their written admission to the offence(s) after having admitted the offence verbally at a formal interview.

- (c) If the offender is found guilty or pleads guilty to an offence in the five years after the written admission is made, the offence(s) listed on the Formal Caution can be cited and used for sentencing purposes at court.
- (d) In addition, the DWP maintains a central record of all Formal Cautions. Local Authorities and the DWP investigators have access to these records which are checked before determining what action to take.
- (e) It is unlikely where a Formal Caution has already been issued for a welfare benefit offence in the preceding five years that a further Formal Caution would be issued. In such cases consideration would be given to prosecution.

(3) Administrative Penalty

- (a) The Council would normally consider it appropriate to offer an Administrative Penalty as an alternative to prosecution in the following circumstances:
 - A Formal Caution is not considered appropriate;
 - AND
 - The value of fraudulently obtained benefit is relatively low²;
 - AND
 - It is known to be a first offence;
 - AND
 - There is a realistic prospect of the overpayment and Penalty being paid;
 - AND
 - A Formal Caution or Administrative Penalty has not been previously accepted or refused.
- (b) The Administrative Penalty is offered in accordance with section 115A of the Social Security Administration Act 1992 (as amended).
- (c) The offer of an Administrative Penalty does not require an admission to offences by the individual but there must be grounds for instituting prosecution proceedings. In accordance with the legislation, the offender must pay a financial penalty (a percentage of the recoverable overpayment) at the rate specified by the prevailing legislation. The DWP maintains a central record of all Administrative Penalties.
- (d) Local Authorities and the DWP investigators have access to these records which are checked before determining what action to take. It is unlikely, where an Administrative Penalty has already been issued for a welfare benefit offence in the

preceding five years that a further Administrative Penalty would be issued. In such cases consideration would be given to prosecution.

4. Blue/White Disabled Badge and Residents Permit Prosecutions

(1) Background

- (a) The Council provides parking concessions to people with disabilities through the national Blue Badge scheme and the Council's own White Badge scheme.
- (b) The Council also provides both on and off street parking concessions for Westminster residents, referred to collectively in this document as "Residents' Permit" schemes. These schemes are there to provide help for people who genuinely require assistance with parking due to a disability (blue / white badges) or are genuinely a resident in Westminster.
- (c) They provide a significant financial benefit when compared with paid for parking. Due to this financial benefit, the Council does experience an element of fraud in this area. To combat this, the Council's Internal Audit undertakes a programme of investigations. This Policy applies to all cases of Blue Badge, White badge and Residents Parking scheme frauds investigated by Internal Audit investigators.

(2) Abuse of Badge

- (a) In order to understand the occasions on which prosecution may be considered it is necessary to understand the various ways in which Blue Badge, White Badge and Residents Permits might be abused.
- (b) The vast majority of those applying for these schemes are not acting fraudulently and do not misuse these facilities.
- (c) However, the following is a list (though not exhaustive) of the potential ways in which Blue Badges, White Badges and Residents Permits can be abused and the actions that will be undertaken on discovery of the abuse.
- (d) These actions are based on the Internal Audit contractor's experience of fraud in this area together with information in "The Blue Badge Scheme Local Authority Guidance (England)" issued by the Department for Transport.
 - (i) **Use of a Blue badge or White Badge or Residents Permit that is no longer valid.**

If an investigation reveals the use of an expired or illegible badge, then arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible, the user of the badge will be required to surrender it. Consideration will be given to prosecuting the non-badge holder and the badge holder.

(ii) **Misuse of a valid Blue/White badge by a non-badge holder.**

Where a badge holder has allowed another person to use their badge arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible the user of the badge will be required to surrender the badge. Consideration will be given to prosecuting the non-badge holder and the badge holder.

(iii) **Use of a Blue/White badge or Residents Permit that has been reported as lost/stolen.**

Where an investigation reveals a non-badge holder is using another person's Blue / White badge or Resident's Permit that has been lost or stolen, arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible the user of the badge will be required to surrender the Blue/White badge or Residents Permit. Consideration will be given to prosecuting the non-badge holder.

(iv) **Use of a forged, copied or amended Blue/White badge or Residents Permit.**

Where an investigation reveals the use of a forged or copied Blue / White badge or Residents Permit, arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible, the user of the badge will be required to surrender the badge. Consideration will be given to prosecuting the badge holder if the investigation has revealed evidence that they are involved in the forging/copying of the badge.

(v) **A Blue/White badge or Residents Permit that is obtained with a bogus application.**

If an investigation reveals that false information or documents has been provided in respect of a Blue Badge, White Badge or Residents permit application, consideration will be given to prosecuting the applicant

(vi) **Use of Residents Permit by a person who does not reside in Westminster**

If an investigation reveals that the holder of a Residents Permit is using the permit but they are not resident at their declared home address then consideration will be given to prosecution.

- (e) Where an investigation reveals that the misuse of a Blue badge, White badge and Residents permit appears to have occurred due to a mistake then the badge / permit holder will be provided with details of the correct use.
- (f) The Council may give consideration to withdrawing a Blue badge, White badge or Residents permit if there is repeated misuse.

5. Decisions Outside the Scope of Normal Operations

- (1) There may be a small number of cases where, although the value / duration of the fraud would normally results in prosecution, there are extenuating circumstances. In these exceptional cases, an alternative to prosecution will be considered.
- (2) To provide transparency in the decision making process, such cases will be brought to the attention of the Tri-Borough Director of Audit and Fraud and the Head of Legal and Democratic Services by the Internal Audit contractor for approval. The decision on whether or not to prosecute rests with the Head of Legal and Democratic Services.