

Non-Executive Report of the: Standards (Advisory) Committee 25 April 2019	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance	Classification: Unrestricted
Publication of Candidates Home Addresses and Disclosure of Sensitive Interests	

Originating Officer(s)	Mark Norman – Legal Adviser & Deputy Monitoring Officer
Wards affected	(All Wards);

Summary

This report informs the Advisory Committee of revisions to the requirements for the publication of home addresses for local election candidates and recent Government guidance to monitoring officers on the declaration of sensitive interests.

Recommendations:

- (1) That members of the Advisory Committee consider and note the revisions and guidance outlined in this report.

1. REASONS FOR THE DECISIONS

1.1 This report does not require a decision.

2. ALTERNATIVE OPTIONS

2.1 This report does not require a decision.

3. DETAILS OF REPORT

3.1 Following a commission by the Prime Minister, the Parliamentary Committee on Standards in Public Life published last year its review of intimidation in public life.

3.2 The review contained a recommendation for the removal of the requirement for candidates standing as local councillors to have their home address published on the election ballot paper. The Government has now implemented this recommendation and the rules that apply to local elections have been amended accordingly.

3.3 These changes mean that all candidates in local government elections in England are now able to request that their home address is not made public, but candidates will have a choice and may include their home address if they wish, for example to highlight their local connection to their ward. This brings the process into line with the procedure that applies to Parliamentary elections.

3.4 In addition, the review of intimidation in public life by the Parliamentary Committee recommended that monitoring officers ensure that members (Councillors and Co-opted Members) required to declare pecuniary interests are aware of the provisions relating to sensitive interests contained in the Localism Act 2011.

3.5 An interest is classed as sensitive where the member and the monitoring officer consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation. This issue was covered in the mandatory Ethics & Probity training that has been attended by all members.

3.6 In a letter to all Leaders of local authorities in England sent on 7 March 2019, the Ministry of Housing, Communities and Local Government stated that the Government would encourage monitoring officers to look sympathetically at requests (not to disclose the details of sensitive interests) where there are legitimate concerns of abuse or intimidation. The Government also emphasised in that letter that processes for election and for ensuring accountability and transparency should not expose those holding or standing for public office to abusive activity or personal risk.

4. EQUALITIES IMPLICATIONS

4.1 There are no specific equalities implications arising out of this report.

5. OTHER STATUTORY IMPLICATIONS

5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.

5.2 The removal of the requirement for candidates standing as local councillors to have their home address published on the election ballot paper seeks to strike a balance ensuring that capable individuals are not deterred from standing for office because they believe the election process makes them vulnerable to abusive activity.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 There are no financial implications arising from this report.

7. LEGAL COMMENTS

7.1 The Government has amended relevant statutory instruments to implement the removal of the requirement for the publication of the home address of local election candidates.

7.2 Section 32 of the Localism Act provides that if a member has an interest (whether or not a disclosable pecuniary interest), and the member and the monitoring officer, 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, copies of the register of interests that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32).

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE

Officer contact details for documents:

- N/A

2019 – REVISED CODE OF CONDUCT FOR MEMBERS

Application of the Code

1. The Code applies to the Mayor, councillors and co-opted members of the Council, collectively referred to as member(s) in the remainder of this document.
2. It applies in all aspects of your activities as a member, including when acting on Council business or when you are perceived by the public to be acting as a member. The Code does not seek to regulate what you do in your private and personal life.
3. The obligations set out in this Code are complementary to related Codes and Protocols which form part of the Council's governance arrangements.

Purpose of the Code

4. The Code of Conduct will assist you in the discharge of your obligations to the Council, local communities and the public at large by:
 - a) setting out the standards of conduct that are expected of you; and
 - b) providing the openness and accountability necessary to ensure public confidence in the way in which you perform your public duties.

General Expectations of Conduct

5. You are expected to observe the following general principles of conduct. These principles will be taken into consideration in determining allegations of a breach of this Code.

(a) Selflessness: you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

(b) Integrity: you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

(c) Objectivity: you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

(d) Accountability: you are accountable to the public for your actions and the manner in which you carry out your responsibilities and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

(e) Openness: you should be as open as possible about your actions and those of the council and be prepared to give reasons for those actions.

(f) Honesty: – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.

(g) Leadership: you should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

Rules of Conduct

6. You must act solely in the public interest. You should promote equality and not discriminate unlawfully against any person. You should treat all people with respect, you should not bully any person and you should respect the impartiality and integrity of the Council's officers.

7. You should not improperly confer (or seek to confer) an advantage or disadvantage on any person. You should not act to gain financial or other benefit for yourself, your family, your friends or your business associates.

8. You should not place yourself under a financial or other obligation to any individual or organisation that might seek to influence the performance of your duties as a member.

9. You should act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, you must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes).

10. You should promote and support high standards of conduct by leadership and example.

11. You should make decisions on merit, including when awarding contracts, making appointments, or recommending individuals for rewards or benefits.

12. You are accountable to the public for your actions and the manner in which you carry out your responsibilities and should co-operate fully and honestly with any scrutiny appropriate to your office.

13. You should be as open as possible about your decisions and actions and those of the Council. You should be prepared to give reasons for decisions and have regard to the advice of the Council's statutory officers before making any decision.

14. You should take account of the views of others, including your political group, but you must reach your own conclusions and act in accordance with those conclusions.

15. You must not disclose confidential information unless you are required by law to do so, or you have the consent of the person authorised to give it, or disclosure is reasonable and in the public interest and made in good faith and not for an ulterior motive.

17. You must ensure that your use of allowances, facilities and services provided at

public expense is strictly in accordance with any rules or requirements set by the Council.

Members' Interests

18. There are two categories of interest that you must register with the Monitoring Officer. These are:

- **Disclosable pecuniary interests (DPI's); and**
- **Non-DPI interests that the Council has decided should be registered (Non-DPI's)**

19. A DPI is defined by statutory regulation. You must within 28 days of taking office as a member, notify the Monitoring Officer of any DPI to be included in the Register of Members' Interests. **If you fail to register a DPI it is a criminal offence.**

20. DPI's also includes your partner's interests. A partner is your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners. You and your partner are referred to in the statutory definition of a DPI as 'relevant person'.

21. The categories of DPI are:

(a) Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on by a relevant person for profit or gain.

(b) Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(c) Contracts

Any contract which is made between a relevant person (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest) and the relevant authority:-

under which goods or services are to be provided or works are to be executed and which has not been fully discharged.

(d) Land

Any beneficial interest in land which is within the borough.

(e) Licences

Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.

(f) Corporate tenancies

Any tenancy where (to the member's knowledge):-

the landlord is the Council; and

the tenant is a body in which the relevant person is a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest.

(g) Securities

Any beneficial interest in securities of a body where:-

that body (to the member's knowledge) has a place of business or land in the borough; and

either:-

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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.

22. Non DPI's - other interests that the Council has decided should be registered. You must also within 28 days of taking office as a member, notify the Monitoring Officer of such Non DPI interests that the Council has decided you should be included in the register of Members' Interests. These are:

(a) Membership or position of control or management in:-

Any body to which you have been appointed or nominated by the Council; and/or

Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party

There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-

carry out a public service, or

take the place of local/central government (including through outsourcing); or

carry out a function under legislation or in pursuit of a statutory power;
or

can be judicially reviewed,

are likely to be bodies carrying out functions of a public nature. They include bodies such as government agencies, other councils, health bodies, council owned companies and school governing bodies.

23. You must ensure that your entries in the Register of Members' Interests are kept up to date and must notify the Monitoring Officer of any change to your interests within 28 days of the change arising. For a DPI remember this also includes your partner's interests.

Gifts and Hospitality

24. Any gift or hospitality offered to you (even if declined) with an estimated value of £25 or more must be included in the Register of Gifts & Hospitality kept by the Monitoring Officer within 28 days of the offer being made.

Declaration of Interests – DPI's

25. If you have a DPI in an item of Council business you may not participate in any discussion of, vote on, or discharge any function relating to the matter, unless a dispensation has been granted under Section 33 Localism Act 2011.

26. If you are present at a meeting where you have a DPI in an item of business on the agenda you must:

(a) Disclose to the meeting the existence and nature of the interest at the start of the meeting and specify the agenda item to which the interest relates. You must also leave the room (including any public viewing area) for the duration of consideration and decision on the agenda item and not seek to influence the debate or decision in respect of the item of business.

(b) If the DPI is not already included in your register of interests you must within 28 days of the meeting notify the Monitoring Officer of the interest for inclusion in the register.

N.B. If you fail to disclose a DPI it is a criminal offence.

Declaration of Non-DPI's

27. If you are present at a meeting and have registered a non-DPI in a matter which is to be discussed at the meeting, you must declare the nature of the interest at the earliest opportunity and before the matter is considered. You may stay in the room and participate in consideration of the matter and vote on it unless:

- (a) a reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. If so, you must withdraw and take no part in consideration or discussion of the matter.

Declaration of Interests not included in the Register of Members' Interests

28. Occasions may arise where you have an interest in a matter being considered at a meeting which is not a DPI or Non-DPI that you are required to include in the Register of Members' Interests. An example would be where the decision on the agenda item would affect the wellbeing of you, your family, or a close friend or associate of yours more than it would anyone else living in the local area .

29. In this situation you should consider whether a reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. If so, you must withdraw and take no part in consideration or discussion of the matter.

Note: The provisions of paragraphs 25 - 29 apply not only to meetings but to circumstances where a member makes a decision alone.

Sensitive DPI's

30. You should notify the Monitoring Officer if you feel that a DPI you are required to register should be treated as sensitive. The Monitoring Officer may agree to treat the DPI as sensitive if satisfied that registration/declaration of the DPI could lead to you, or a person connected with you, being subject to violence or intimidation. If the Monitoring Officer agrees the DPI is sensitive you will be obliged to register it but details will not be disclosed in the published version of the register and when attending a meeting you will only need to declare that a DPI exists and will not be required to give details of the interest itself.

DPI Dispensations

31. If you have a DPI in a matter coming before a meeting of the authority, you can make a written request to the Monitoring Officer beforehand for a dispensation, which may allow you to participate in the discussion and vote. A dispensation may be granted in the following circumstances:

- (a) Where members of the decision making body have disclosable pecuniary interests in a matter that would "impede the transaction of the business".
- (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter.
- (c) That the authority considers that the dispensation is in the interest of persons living in the authority's area.
- (d) That the authority considers that it is otherwise appropriate to grant a dispensation.

32. Any grant of dispensation must specify how long it will last, up to a maximum of 4 years. Dispensations under (a) and (b) above shall be decided by the Monitoring Officer, those in (c) and (d) shall be decided by the Monitoring Officer in consultation with the Chair of the Standards (Advisory) Committee.

Access to Information

33. You must not disclose confidential information given to you in the course of your duties without the consent of the person entitled to give it unless:-

there is a legal requirement to disclose the information, or

the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or

the disclosure is reasonable, in the public interest, made in good faith and made in accordance with any reasonable requirements specified by the Council in relation to the disclosure.

34. You must not prevent access to information to which another is entitled by law.

Protocols

35. This Code should be read in conjunction with the following additional Codes and Protocols which have been approved by the Council:

- Planning Code of Conduct
- Licensing Code of Conduct
- Member/Officer Protocol
- Employees' Code of Conduct

Complaints

36. Any alleged breach by a member of the provisions of this Code will be dealt with in accordance with the arrangements set out in Appendix A to the Code.

NB a breach of any of the statutory requirements relating to the registration and declaration of disclosable pecuniary interests may result in prosecution. If you need of advice about the application of this Code you should contact the Monitoring Officer.

TOWER HAMLETS LBC
Code of Conduct for Members
Agreed by Council on 5 December 2016

1. Introduction

1.1 This Code sets out the principles and standards of conduct for all elected and co-opted members of the London Borough of Tower Hamlets.

1.2 The Council is committed to the highest standards of ethical behaviour. The law prescribes minimum requirements of conduct which are included in this Code. The Code also contains additional requirements which the Council has chosen to adopt using its own local discretion.

1.3 Any reference to 'members' in this Code, or any appendices or related protocols, means the Mayor, elected and co-opted members. This Code applies at all times when members act in their capacity as member (or claim to act or give the impression of acting in their capacity as a member).

2. General Principles of Conduct

2.1 Members are required to comply with the following principles in their capacity as a member:-

SELFLESSNESS
INTEGRITY
OBJECTIVITY
ACCOUNTABILITY
OPENNESS
HONESTY
LEADERSHIP

2.2 Members must act solely in the public interest. They should not improperly confer (or seek to confer) an advantage or disadvantage on any person. They should not act to gain financial or other benefit for themselves, their family, friends or close associates.

2.3 Members should not place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a member.

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

2.5 Members are accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their office.

2.6 Members should be as open as possible about their decisions and actions and those of the Council. They should be prepared to give reasons for decisions and have regard to the advice of the Council's statutory officers before making any decision.

2.7 Members should act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes).

2.8 Members should take account of the views of others, including their political groups, but must reach their own conclusions and act in accordance with those conclusions.

2.9 Members should promote equality and not discriminate unlawfully against any person. Members should treat all people with respect, they should not bully any person and should respect the impartiality and integrity of the Council's officers.

2.10 Members should promote and support high standards of conduct by leadership and example.

3. Members' Interests

3.1 For the purposes of this Code there are two categories of interest that require registration with the Monitoring Officer:

Disclosable pecuniary interest

Other interests the Council has decided should be registered

3.2 **A disclosable pecuniary interest** is defined by statutory regulation. Members must within 28 days of taking office as a member, notify the Monitoring Officer of any disclosable pecuniary interest to be included in the Register of Members' Interests. **Failure to declare or register a disclosable pecuniary interest is a criminal offence.**

3.3 A disclosable pecuniary interest also includes the interests of a members' partner. A partner is your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners. A member and their partner is referred to in the statutory definition of a disclosable pecuniary interest as 'relevant person'.

3.4 The categories of disclosable pecuniary interest are:

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on by a relevant person for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between a relevant person (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest) and the relevant authority:-

under which goods or services are to be provided or works are to be executed; and
which has not been fully discharged.

Land

Any beneficial interest in land which is within the borough.

Licences

Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.

Corporate tenancies

Any tenancy where (to the member's knowledge):-

the landlord is the Council; and

the tenant is a body in which the relevant person is a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest.

Securities

Any beneficial interest in securities of a body where:-

that body (to the member's knowledge) has a place of business or land in the borough; and

either:-

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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.

3.5 Other interests the Council has decided should be registered.

Members must also within 28 days of taking office as a member, notify the Monitoring Officer of such other interests that the Council has decided should be included in the register of Members' Interests. These are:

3.6 Any person from whom you have received a gift or hospitality with an estimated value of at least £25.

3.7 Membership or position of control or management in:-

Any body to which you have been appointed or nominated by the Council; and/or
Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party

3.8 There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-

carry out a public service, or
take the place of local/central government (including through outsourcing); or
carry out a function under legislation or in pursuit of a statutory power; or
can be judicially reviewed,
are likely to be bodies carrying out functions of a public nature.

They include bodies such as government agencies, other councils, health bodies, council owned companies and school governing bodies.

3.9 All members must ensure that their entries in the Register of Members' Interests are kept up to date they must notify the Monitoring Officer of any change to their interests within 28 days of the change arising.

4. Declaration of interests

4.1 Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

4.2 The law requires that if a member has a disclosable pecuniary interest which is not entered on the Register of Members' Interests, then the member must disclose the interest to any meeting of the Council at which they are present where they have a disclosable pecuniary interest in any matter being considered at that meeting. However this shall not apply if the interest is a 'sensitive interest' (see para 4.3 below.) Following any such disclosure the law requires that members update their entry in the Register of Members' Interests within 28 days of the date of disclosure. In this context the law defines a meeting as a meeting of the Council, or any committee, sub-committee or joint committee of it.

4.3 A 'sensitive interest' is an interest the disclosure of which the member and Monitoring Officer have agreed could lead to the member or a person connected with them being subject to violence or intimidation

4.4 Where a member is present at a meeting and has registered an interest in any matter which is to be discussed at the meeting (which is not a disclosable pecuniary interest) they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. The member may stay in the room and participate in consideration of the matter and vote on it subject to paragraph 4.5.

4.5 Where a member has an interest which under this Code would not be a disclosable pecuniary interest but requires registration (and therefore would not generally by law prevent participation in consideration of a matter in which the member has that interest) the member must also consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.

5. Interests not included in the Register of Members' Interests

5.1 Occasions may arise where a matter under consideration would, or would be likely to, affect the wellbeing of the member, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be included in the Register of Members' Interests (for example, a decision in relation to a school

closure, where a member has a child at the school). In such matters, members must comply with paragraph 4 in its entirety as if the interest were a registerable one.

Note: The provisions of paragraphs 4 and 5 apply not only to meetings but to circumstances where a member makes a decision alone.

6. Access to Information

6.1 Members must not disclose confidential information given to them in the course of their duties without the consent of the person entitled to give it unless:-

there is a legal requirement to disclose the information, or

the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or

the disclosure is reasonable, in the public interest, made in good faith and made in accordance with the Council's reasonable requirements.

6.2 Conversely, members must not prevent access to information to which another is entitled by law.

7. Protocols

7.1 The Council has approved the following additional Codes and Protocols:

- Planning Code of Conduct
- Licensing Code of Conduct
- Member/Officer Protocol
- Employees' Code of Conduct

This Code should be read in conjunction with these Codes and Protocols.

8. Complaints

8.1 Any alleged breach by a member of the provisions of this Code or any of the Codes and Protocols listed in section 7 above will be dealt with in accordance with the arrangements set out in Appendix A to the Code.

8.2 Any failure by an officer to comply with the provisions of any of the Codes and Protocols listed in section 7 above will be referred to the relevant Corporate Director and may result in disciplinary action.

8.3 Members are reminded that breach of any of the statutory requirements relating to the registration and declaration of disclosable pecuniary interests may result in prosecution. Breach of the provisions

introduced locally by the Council will be dealt with in accordance with Appendix A.

Members in need of advice about the application of this Code should contact the Monitoring Officer