

Committee: STANDARDS (ADVISORY) COMMITTEE	Date: 14 July 2015	Classification: Unrestricted	Report No.	Agenda Item No.
Report Of: Interim Monitoring Officer		Title: Code of Conduct for Members – Revised Code and Complaint Handling Arrangements		
Originating Officer: Meic Sullivan-Gould		Wards Affected: N/AI		

1. SUMMARY AND BACKGROUND

- 1.1.** In October 2014, the Advisory Committee received a report from Hoey Ainscough Ltd which provided a critique of the Council's current Code of Conduct and Complaint Handling Arrangements. The Advisory Committee discussed areas for improvement in the Council's Code and requested the Interim Monitoring Officer, in consultation with the Chair and Independent Person, to provide a draft of a Revised Code and Complaint Handling Arrangements.
- 1.2.** The proposed Revised Code of Conduct is based on the restatement of the Committee for Standards in Public Life's Seven Principles (January 2013) and the principle that Elected Persons should comply with the same standards of behaviour that they require of the staff that they employ.
- 1.3.** Since the implementation of the Localism Act 2011, the sanctions available to Councils in respect of misbehaviour are very limited and more proportionate processes are required to deal effectively and quickly with allegations of breach of Code.

2. RECOMMENDATIONS

- 2.1** That Members of the Advisory Committee approve the Revised Code of Conduct and Complaint Handling Arrangements for consultation with the Mayor, the Speaker and Group Leaders.

**LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT**

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
Standards (Advisory) Committee file		Meic Sullivan-Gould 020 7364 4800

3. REVISED CODE

3.1 Members will appreciate that the Revised Code (attached as Appendix 1) is a radical departure from the format that has previously been adopted by the Council. The principal change is that there is a single statement of the standard of expected behaviour and that there is a fundamental obligation on the people subject to the Code that they demonstrate their compliance with that standard, rather than that they avoid breaching rules that are derived from the standard required (as in the past).

3.2 Members will also recall that since the Localism Act 2011, the range of sanctions available to Councils in the event of them finding that there has been a breach of the Code of Conduct is substantially narrower than under the previous Standards Regime. Under the old regime there was a potential for people to be disqualified from public office but now the most significant sanction is a Council resolution that rebukes a person for their misbehaviour. The arrangements for handling allegations of a breach of the Code can therefore be more proportionate to the issue at stake: which is the reputation of that person and, by extension, the reputation of their political group and of the Council as a whole. A suggested revised process for the handling of complaints is therefore proposed (at Appendix A to Appendix 1). The principal changes are that the Speaker or Chairs of Meetings can introduce sanctions for breaches of Code at meetings without any new formal processes; that Group Leaders (or the Speaker) will be involved in seeking early resolutions of allegations; that timescales for response at various stages is shorter and that the Council is the arbiter of the behaviour of its Members.

3.3 The revised code and procedures will apply from a date to be agreed by the Council but it is suggested that the Standards Advisory Committee consults with those who are going to be subject to the Code before making a recommendation to Council.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

4.1 There are no immediate financial implications arising out of this report.

5. LEGAL SERVICES COMMENTS

5.1 This report has been prepared by the Interim Monitoring Officer and incorporates legal comments.

6. RISK MANAGEMENT IMPLICATIONS

6.1 None

7. ONE TOWER HAMLETS CONSIDERATIONS

7.1 There are no specific anti poverty or equal opportunity implications arising out of this report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 This report has no immediate implications for the Council's policy of sustainable action for a greener environment.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

9.1 There are no specific crime and disorder reduction implications arising out of this report. However, there is now a new provision which deals with behaviour which may not only be a breach of Code but could be unlawful or illegal otherwise.

10. EFFICIENCY STATEMENT

10.1 This report is not concerned with proposed expenditure, the use of resources or reviewing/changing service delivery and an efficiency statement is not therefore required.

Appendix 1

LONDON BOROUGH OF TOWER HAMLETS: REVISED CODE OF CONDUCT 2015

1. INTRODUCTION

- a. The Council is required by the Localism Act 2011 to promote and maintain high standards of conduct by members of the authority. In particular it is required to adopt a Code dealing with the conduct of those members when they are acting in that capacity and must secure that the Code is consistent with seven specified principles. These principles have been defined by the Committee on Standards in Public Life. The Code must also provide for the registration and disclosure of the pecuniary and other interests by the persons subject to it.
- b. This Code applies to the Executive of the Council, the elected ward councillors and persons who have been co-opted to the Council.
- c. This Code was adopted by the Council on xx xxxxx 2015 and applies to conduct that occurs after XX XXXX 2015.

2. ARRANGEMENTS FOR DEALING WITH ALLEGED BREACHES OF THE CODE

- a. Allegations of a failure to comply with the Code must be dealt with in accordance with the arrangements contained in Appendix A to this Code.
- b. Where requirements are marked with an asterisk “*”: this indicates that behaviour may also be conflict with criminal law and that councillors may be open to prosecution, conviction and possible disqualification from office if the punishment exceeds a three month prison sentence. It will normally be the case that criminal investigations and proceedings will have to be completed before any alleged breach of code is addressed by the Council’s own arrangements.

3. THE REQUIRED STANDARD OF CONDUCT

Whenever you are acting in an official capacity, you are expected to be able to show that you are complying with the Seven Principles of Public Life as defined by the Committee on Standards in Public Life (January 2013)

PRINCIPLE	DEFINITION	EXAMPLES OF COMPLIANCE
SELFLESSNESS	You should act solely in terms of the public interest.	<p>Fiduciary Duty: In respect of the resources of the Council, you must act in good faith and avoid situations where your personal interests could conflict with your duty to act in the public interest.</p> <p>Misconduct in Public Office: You carry out your duties for the benefit of the public as a whole. If you act with neglect or misconduct in the course of those duties this may lead to a breach or abuse of the public's trust.*</p>
INTEGRITY	You must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence you in your work. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and	<p>Bribery Act: You may not request, accept or agree to accept any financial or other advantage, in exchange for improperly performing your public duties.*</p> <p>Registration & Declaration of Interests: You must deal with your personal interests in accordance with Article 4 of this Code.*</p>

	relationships.	
OBJECTIVITY	You must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.	<p>Rules of Natural Justice: When you are making decisions that affect the rights of citizens, you will act fairly if you listen impartially to all points of view and make a decision on the merits of what you learn.</p> <p>Reasonableness: When making any decision, you will act reasonably if you have regard to all relevant considerations and exclude all irrelevant matters and only come to a conclusion that would be regarded as a reasonable one for the Council to reach.</p> <p>Equalities: When carrying out public functions, to comply with the Equalities Act 2010, you will have due regard to the need to eliminate discrimination, victimisation and other behaviour prohibited by the Act and to the needs to advance equality of opportunity and to foster good relations between persons who share a protected characteristic under the Act and persons who do not share it.</p> <p>Appointments: You are required to make appointments on merit.</p>
ACCOUNTABILITY	You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.	<p>Rule of Law – Judicial Review: You will acknowledge that the existence and powers of the Council depend on the provisions of Acts of the UK Parliament and that every action or decision that you make is subject to possible challenge in judicial review proceedings in the High Court.</p> <p>Overview and Scrutiny: You will acknowledge that the Council has established Overview and Scrutiny arrangements under the Localism Act 2011 and will comply with the Council's Overview and Scrutiny Procedure Rules.</p> <p>Questions: You will respond to questions as required by the Council's Procedure Rules.</p>
OPENNESS	You should act and take decisions in an open and transparent manner. Information should not be	<p>Access to Information: You will only seek information held by the Council in the public interest and you will uphold the legitimate rights of individuals and bodies to have similar such access while respecting the rights of confidentiality for individuals and bodies that have been established by law.</p>

	withheld from the public unless there are clear and lawful reasons for so doing.	<p>Freedom of Information: You will acknowledge that information that you hold in connection with your public duties may be subject to requests for disclosure and may only be withheld if a statutory exemption applies to it.</p> <p>Data Protection: You will acknowledge that any personal data that you receive as part of your public duties must be used fairly and lawfully, only for the purpose for which it was received and not retained for any longer than necessary for that purpose. Personal data will be completely deleted or put beyond use when no longer required for the purpose for which it was received and or retained. You will acknowledge that individuals may make Subject Access Requests to check what personal data is held about them.*</p>
HONESTY	You should be truthful.	You will have evidence that on a reliable and honestly held ground for believing that what you say is true, accurate and corresponds with reality.*
LEADERSHIP	You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.	<p>You will show your own compliance with the standards of behaviour that you expect of officers of the Council or its contractors.* You will use the appropriate complaints processes if you have reliable grounds for believing that such standards have not been met.</p> <p>NOTE: The Council's expectations of officers and procedures for protecting them from verbal abuse and threats are available at http://towernet/staff_services/hr_workforce_development/people_management</p> <p>The expectations of behaviour of contractors will depend on the terms of the contract agreed by the Council.</p>

4. THE REGISTRATION AND DISCLOSURE OF PERSONAL INTERESTS

Whenever you are acting in an official capacity, you are expected to be open and honest about your personal interests and to resolve any conflict between them and the public interest by acting solely in the public interest.

INTEREST	DEFINITION	EXAMPLES OF COMPLIANCE
YOUR EMPLOYMENT, OFFICE TRADE OR VOCATION	<p>Any employment, office, trade, profession or vocation carried out by you or your domestic partner for profit or gain.</p> <p><u>Note:</u> “Domestic partner” is your spouse or civil partner or any other person with whom you are living as husband and wife or as if you are civil partners.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest.</p> <p>Your interest is disclosed on any occasion when it may be affected by the discussion or decision.</p> <p>You withdraw from any meeting where your interest may be affected by the discussion or decision.</p> <p>You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>
YOUR SPONSORSHIP	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided to you or your domestic partner in respect of your expenses in carrying out your Council duties or towards your election expenses. This includes any payment or financial benefit from a trade union.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest.</p> <p>Your interest is disclosed on any occasion when the interests of your Sponsor may be affected by the discussion or decision.</p> <p>You withdraw from any meeting where the interests of your Sponsor may be affected by the discussion or decision.</p> <p>You do not exercise any executive powers in relation to a matter where the interests of your Sponsor may be affected.*</p>

<p>YOUR CONTRACTS</p>	<p>Any contract which is made between you or your domestic partner (or between a body in which you or your domestic partner have a beneficial interest) and the Council under which goods or services are to be provided or works undertaken which has not been fully discharged.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest. Your interest is disclosed on any occasion when it may be affected by the discussion or decision. You withdraw from any meeting where your interest may be affected by the discussion or decision. You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>
<p>YOUR LAND</p>	<p>Any beneficial interest in land which is within the Council's area and held by you or your domestic partner.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest. Your interest is disclosed on any occasion when it may be affected by the discussion or decision. You withdraw from any meeting where your interest may be affected by the discussion or decision. You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>
<p>YOUR LICENCES OF LAND</p>	<p>Any licence to occupy land which is within the Council's area and held by you or your domestic partner (alone or jointly with others).</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest. Your interest is disclosed on any occasion when it may be affected by the discussion or decision. You withdraw from any meeting where your interest may be affected by the discussion or decision. You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>

<p>YOUR CORPORATE TENANCIES</p>	<p>Any tenancy where the landlord is the Council and the tenant is a body in which you or your domestic partner have a beneficial interest.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest. Your interest is disclosed on any occasion when it may be affected by the discussion or decision. You withdraw from any meeting where your interest may be affected by the discussion or decision. You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>
<p>YOUR SECURITIES</p>	<p>Any beneficial interest held by you or your domestic partner in securities of a body where it has a place of business or land in the Council's area and either (i) the total nominal value of the interest exceeds £25,000 or one hundredth of the total issued share capital of that body, or (ii) if the share capital of that body is of more than one class, the total nominal value of the interest in shares of any one class exceeds one hundredth of the value of that class.</p>	<p>Your interest is registered as a Disclosable Pecuniary Interest. Your interest is disclosed on any occasion when it may be affected by the discussion or decision. You withdraw from any meeting where your interest may be affected by the discussion or decision. You do not exercise any executive powers in relation to a matter where your interest may be affected.*</p>
<p>NOTE 1: "Disclosable Pecuniary Interests"</p>	<p>The above definitions are derived from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI2012/1464)</p>	<p>Section 34 of the Localism Act 2011 creates criminal offences of failing to register, failing to declare and participating in discussion or voting while having Disclosable Pecuniary Interests. Allegations of Criminal Behaviour under these provisions shall be referred to the Director of Public Prosecutions for investigation and institution of proceedings.*</p>

<p>NOTE 2: Other Personal Interests</p>	<p>The Standards (Advisory) Committee of the Council considers that the above listed interests do not adequately cover the range of interests that need to be disclosed in order for there to be public confidence that they are <u>not</u> being taken into account by decision-makers and that conflicts are being resolved solely in the public interest. The following categories of interest should also be dealt with appropriately in the public interest:</p>	<p>Allegations of failure to deal appropriately with Other Personal Interests at decision-making meetings should be referred immediately to the Monitoring Officer of the Council for consideration whether action is required under Section 5 or 5A of the Local Government Housing and Planning Act 1989 to prevent the Council from acting unlawfully or with maladministration causing injustice.</p>
<p>Note 2.1: Interests of a Relative</p>	<p>Any Interest that would be a Disclosable Pecuniary Interest of any of your relatives. The following people will be regarded as your relative:</p> <ul style="list-style-type: none"> (a) Your grandparent; (b) Any lineal descendent of your grandparent; (c) The spouse or civil partner of a person identified in paras (a) & (b) above; (d) A person living with a person identified in paras (a) & (b) above as husband and wife or as if they were civil partners. <p>The above definitions are derived from section 28(10) of the Localism Act 2011.</p>	<p>Where you are aware of the Interest, your Relative's Interest is disclosed on any occasion when it may be affected by the discussion or decision.</p> <p>You withdraw from any meeting where your Relative's Interest may be affected by the discussion or decision.</p> <p>You do not exercise any executive powers in relation to a matter where your Relative's Interest may be affected.</p>

<p>Note 2.2: Interests of a Close Associate</p>	<p>Any Interest that would be a Disclosable Pecuniary Interest of any of your close associates. The following people will be regarded as your close associate:</p> <ul style="list-style-type: none"> (a) A Friend ie someone whom you make time to spend time with; (b) A person or organisation with whom you do business with personally and regularly (eg your corner shopkeeper but not the supermarket chain on your corner); (c) A person from whom you have received (or been promised to be given) any gift or hospitality of a value of more than £25.00. (d) A neighbour. 	<p>Where you are aware of the Interest, your Close Associate's Interest is disclosed on any occasion when it may be affected by the discussion or decision.</p> <p>You withdraw from any meeting where your Close Associate's Interest may be affected by the discussion or decision.</p> <p>You do not exercise any executive powers in relation to a matter where your Close Associate's Interest may be affected.</p> <p>Your receipt of the Gift or Hospitality has been registered as such by the Council.</p>
<p>Note 2.3: Interests of an Outside Body (ie bodies that operate in the area of the Council other than for gain or profit.)</p>	<p>Any Interest that would be a Disclosable Pecuniary Interest of any Outside Body which you control either alone or jointly with others. Examples of control would be being a Director, Trustee, Executive Committee Member or General Manager of an Outside Body.</p>	<p>Your interest is registered as an Outside Body Interest.</p> <p>Where you are aware of the Interest, your Outside Body Interest is disclosed on any occasion when it may be affected by the discussion or decision.</p> <p>You withdraw from any meeting where your Outside Body interest may be affected by the discussion or decision except where it is an Outside Body to which you have been appointed by the Council when you may speak but not vote upon matters</p> <p>You do not exercise any executive powers in relation to a matter where your Outside Body interest may be affected.</p>

Appendix A

ARRANGEMENTS FOR DEALING WITH ALLEGED BREACHES OF THE CODE

1. Alleged Breaches at Council Meetings:

- a. Conduct at meetings will only be dealt with under the following procedure.
- b. The Member presiding at the Meeting is expected to ensure that the business of the meeting is conducted in accordance with the law, the Council's Constitution and the Council's Code of Conduct.
- c. Allegations that a Member attending the Meeting has breached the Code of Conduct shall be raised immediately as a Point of Order. (Council Procedure Rule 15.13 applies).
- d. The Member presiding at the Meeting may accept the Point of Order and then shall move that the accused Member be excluded from the remainder of the meeting on the basis of their breach of the Council's Code of Conduct. If seconded, the motion will be voted upon without discussion.
- e. To be approved, the above mentioned motion must be agreed by a two-thirds majority of the voting Members present and voting on the motion.
- f. If approved, the Member who has been found to have breached the Code of Conduct shall immediately leave the room where the meeting is taking place and may not return to the meeting without the leave of the Member presiding at the Meeting.

2. Other Alleged Breaches

- a. Any person may allege that the Mayor, an Elected Member or a Co-opted Member has breached the Council's Code of Conduct while they are carrying out their official activities in those roles. Allegations will only be processed if received in written form.
- b. Informants must provide their name and postal address and must set out their allegation in full. A full allegation will be clear as to the identity of the person who is alleged to have breached the Council's Code of Conduct ("the Subject of the Allegation"); the behaviour that is alleged to indicate such a breach; the evidence that the Informant can produce that indicates such a breach and the names and addresses of persons who would be able to give first-hand evidence about the behaviour concerned. Allegations should be sent to the Monitoring Officer of the Council.
- c. The Monitoring Officer may, if such is agreed by the Council's Independent Person, reject an allegation which is incomplete or which does not, on the face of it, amount to a breach of the Council's Code of Conduct. The Monitoring Officer will give written reasons to the Informant for such a rejection. A decision to reject an allegation may be subject

- to a Complaint under the Council's Corporate Complaints Procedure. The Monitoring Officer shall report such rejections of allegations to the Council's Standards Advisory Committee.
- d. Otherwise, the Monitoring Officer shall refer the allegation to the Subject of the Allegation and to the Leader of the political group of which that person is a member. Where the person alleged to have breached the Code of Conduct is a Leader, not a member of a group or is a co-opted Member, the allegation shall be also referred to the Speaker of the Council.
 - e. The Group Leader/Speaker is then expected to:
 - i. investigate the issue as appropriate;
 - ii. convene a meeting with the Subject of the Allegation to explore possible resolutions to the allegation (This will normally be done within two weeks of the referral of the allegation.);
 - iii. reply to the Monitoring Officer within a week of such a meeting either describing the action which they propose to take and the time-scale to resolve the allegation or that the Allegation is disputed and that they will co-operate with an investigation.
 - iv. If it is not possible to respond within these periods, the Group Leader/Speaker must give a written explanation to the Monitoring Officer of why, and told when a reply can be expected.
 - f. Not later than four weeks after the referral of the Allegation as above, the Monitoring Officer will publish and send to the Informants (unless agreed with the Independent Person otherwise) a notice of Current Allegations, categorised by:
 - i. Outstanding Allegation: Response Awaited
 - ii. Outstanding Allegation: Remedial Action being Undertaken
 - iii. Allegation Resolved.
 - iv. Allegation Disputed
 - g. Not later than two weeks after receiving a reply under e.iii above that the Allegation is Disputed, the Monitoring Officer shall, with the agreement of the Independent Person, commission an appropriate independent investigation into the allegation.
 - h. Investigators have four weeks in which to gather evidence which shall include an interview with the Informant and any other person who may have evidence about the Allegation; to interview the Subject of the Allegation (and any other person whom they think has relevant information about the Allegation) and produce a written report of their investigation and their conclusion as to whether the Allegation has been substantiated or not. Where the Investigator considers that the Allegation has been substantiated their report will include a recommendation as to an appropriate sanction to be imposed by the Council on the Subject of the Allegation.

- i. Where the Investigator's Report concludes that the Allegation is not substantiated, the Monitoring Officer will (unless agreed with the Independent Person otherwise) advise the Informant and the Subject of the Allegation that the Allegation was Not Substantiated and shall in due course publish that outcome in a Notice of Closed Allegations.
- j. Where the Investigator's Report concludes that the Allegation is substantiated then the Monitoring Officer will (unless agreed with the Independent Person otherwise) submit the Investigation Report to a Hearings Sub-Committee of the Standards Advisory Committee.
- k. A Hearings Sub-Committee will receive the Investigation Report and any submissions from the Subject of the Allegation and may either accept or reject the report:
 - i. Where the Hearings-Sub Committee accepts the report, it shall refer the Allegation to a full Meeting of the Council with a recommendation as to sanction for the Substantiated Breach of the Council's Code of Conduct.
 - ii. Where the Hearings Sub-Committee rejects the report, it shall refer the Allegation to the Standards Advisory Committee with its reasons for not accepting the report.
- l. The Monitoring Officer shall report the recent activity under this procedure to the Standards Advisory Committee each quarter.