



Meeting of the

# **TOWER HAMLETS COUNCIL (EXTRAORDINARY MEETING)**

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**Monday, 18 June 2012 at 7.30 p.m.**

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**S U P P L E M E N T A L   A G E N D A**

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## **VENUE**

**Council Chamber, 1<sup>st</sup> Floor,  
Town Hall, Mulberry Place,  
5 Clove Crescent,  
London E14 2BG**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

John S Williams, Service Head, Democratic Services  
Tel: 020 7364 4204, E-mail: [johns.williams@towerhamlets.gov.uk](mailto:johns.williams@towerhamlets.gov.uk)



**LONDON BOROUGH OF TOWER HAMLETS**

**EXTRAORDINARY COUNCIL MEETING**

**MONDAY, 18 JUNE 2012**

**7.30 p.m.**

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**3. LOCALISM ACT 2011 - THE AMENDED STANDARDS  
REGIME**

The addendum report of the Assistant Chief Executive (Legal Services) is attached.

The addendum report sets out the recommendations of the Standards Committee (12<sup>th</sup> June 2012) and amended new Standards arrangements proposed to apply from 1<sup>st</sup> July 2012.

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**LONDON BOROUGH OF TOWER HAMLETS**  
**EXTRAORDINARY COUNCIL MEETING – 18<sup>th</sup> JUNE 2012**

**AGENDA ITEM 3**

**LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME**

**ADDENDUM REPORT OF THE  
ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

**1. SUMMARY**

- 1.1 The Council agenda includes a report on the amended Standards regime introduced by the Localism Act 2011. The report sets out proposals for arrangements to be adopted in Tower Hamlets and incorporates comments and suggested amendments from the Standards Committee on 10<sup>th</sup> May and the Members' Seminar on 30<sup>th</sup> May 2012. Council's approval is sought to the establishment of a Standards Advisory Committee; the adoption of a new Code of Conduct and arrangements for dealing with any complaint of a breach of that code; and the recruitment of a statutory 'Independent Person' to advise on any such complaints.
- 1.2 Since the report was prepared, additional proposed amendments have arisen as follows:-
- (i) On 6<sup>th</sup> June 2012, two Statutory Instruments were made in connection with the 2011 Act. These give further direction on the detail of the new regime, particularly in relation to the definition of a 'Disclosable Pecuniary Interest' and make provision for transitional arrangements.
- (ii) On 12<sup>th</sup> June 2012, the Standards Committee met to give further consideration to the proposed new arrangements and the comments thereon submitted by the political groups and others.
- 1.3 This addendum report sets out the proposed further amendments and the attached appendices 1 – 3 have been revised accordingly and are presented to the Council for adoption. The Council is asked to consider the information in this addendum report alongside the main report circulated with the agenda.

**2. REVISED RECOMMENDATIONS**

- 2.1 The Council is recommended to agree, with effect from 1<sup>st</sup> July 2012:-
- (a) The establishment of a Standards Advisory Committee with revised terms of reference as set out in Appendix 1 to this addendum report.

- (b) The re-appointment of the current Independent Members of the Standards Committee, with the exception of the Independent Chair, as co-optees to the new Standards Advisory Committee.
  - (c) The adoption of the new Code of Member Conduct for the Council as set out in Appendix 3 to this addendum report.
  - (d) The revised arrangements for dealing with allegations of a breach of the Code of Conduct as set out in Appendix 2 to this addendum report.
- 2.2 That the Monitoring Officer be authorised to make arrangements to advertise for, and together with an Appointments Panel drawn from the Standards Advisory Committee in accordance with proportionality to take the necessary action to appoint, an Independent Person and a reserve Independent Person, whose appointments shall be confirmed by the Council.
- 2.3 That the existing Independent Chair of the Standards Committee, Mr Barry O'Connor, be appointed as the 'Independent Person' under the new arrangements, to serve until the completion of the recruitment process to that position.
- 2.4 That consequent on 2.3 above, the existing Chair of the Standards Committee be not appointed at this stage as a co-opted member of the new Standards Advisory Committee but that he be invited to attend meetings of that advisory committee as an observer.
- 2.5 That the Monitoring Officer have authority to convene a Dispensations Sub-Committee of the Standards Advisory Committee, to consider and advise on applications from the Mayor, any Member or co-opted member for dispensations from the restrictions on participation in any matter in which there is a Disclosable Pecuniary Interest.

### **3. STATUTORY INSTRUMENTS**

- 3.1 At the time of publication of the Council agenda, regulations were awaited in relation to a number of issues. Two Statutory Instruments have now been made on these matters. Taken together these:-
- (i) Confirm the effective date of the new arrangements as 1<sup>st</sup> July 2012;
  - (ii) Make provision for transitional arrangements, including allowing the authority to appoint the existing independent chair or member of the Standards Committee as the 'Independent Person' under the new arrangements and measures to deal with any existing complaints not resolved by 1<sup>st</sup> July; and
  - (iii) Provide the definition of a 'Disclosable Pecuniary Interest' under the 2011 Act.
- 3.2 The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 brings the new arrangements for the standards and conduct of members into force on 1<sup>st</sup> July 2012. To avoid the Commencement Order creating any uncertainty about authorities' powers to

prepare for the new arrangements, it partially commences certain provisions from 7<sup>th</sup> June, the day after the Order was made.

- 3.3 The Order provides for two transitional measures. First, it allows a local authority, if it so chooses, to appoint a person who is currently the Independent Chair or an Independent Member of the existing Standards Committee as its 'Independent Person', having the statutory role of giving views on any complaint about the conduct of a member of the authority.
- 3.4 Accordingly the Standards Committee recommends that to provide continuity, the Council should appoint the existing Chair, Barry O'Connor, as the Independent Person from 1<sup>st</sup> July for a temporary period until the recruitment process described in the report is complete. This would mean that initially at least Mr O'Connor would not be appointed as a co-opted member of the Standards Advisory Committee, but he could be invited to attend as an observer.
- 3.5 The Commencement Order also puts in place measures to ensure that any complaints about a Member's conduct not resolved by 1<sup>st</sup> July are taken forward to a conclusion. Until 1<sup>st</sup> July, any complaints arising in the authority will be dealt with by the local elements of the old regime, except that the Standards Committee will not have any power of suspension. If not resolved by 1<sup>st</sup> July the complaint will be resolved using the new arrangements. The possibility also remains until 1<sup>st</sup> July for a Standards Committee to refer a case to the First-tier Tribunal, and the Order preserves the right to appeal a decision of a Standards Committee after 1<sup>st</sup> July.
- 3.6 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 come into force on 1<sup>st</sup> July 2012. A Member with a Disclosable Pecuniary Interest (DPI) must register and disclose it, and his/her involvement in any business of the authority connected with those interests is limited. Failure to comply with the arrangements on DPIs without reasonable excuse is a criminal offence, with a penalty of a fine of up to £5,000 and disqualification from office for up to five years. In summary, the new regulations specify DPIs as pecuniary interests covering:-
- A Member's employment, office, trade, profession or vocation;
  - Any sponsorship of the Member, including contributions towards their election expenses;
  - Any contracts between the Member and the authority;
  - Any land the Member has an interest in which lies within the area of the authority;
  - Any licences the Member holds to occupy land in the area;
  - Any corporate tenancies; and
  - Certain securities the Member may hold.

#### **4. FURTHER RECOMMENDATIONS FROM THE STANDARDS COMMITTEE**

- 4.1 The Standards Committee on 12<sup>th</sup> June 2012 gave further consideration to the proposed arrangements in the light of comments and suggested amendments

from the political groups, members and co-optees. The Committee agreed to recommend a number of revisions to the proposals, which are described below and highlighted in the attached appendices.

### **Closure of complaints**

- 4.2 The Committee considered that the Standards Advisory Committee should retain oversight of all complaints including those not pursued, and that where the Monitoring Officer was of the view that a complaint should not be referred for investigation, this decision should be subject to the Committee's endorsement. In order to enable a final resolution to be reached without delay, this function would be delegated to the Investigation and Disciplinary Sub-Committee of three members and would not be subject to ratification by the full committee (but would be reported for information).

### **Publication of decisions**

- 4.3 The proposed arrangements state that the recommendations of the Hearings Sub-Committee shall be published in the Public Notices section of a local newspaper and on the Council's website as well as in the minutes of the meeting. The Committee felt that there was a need to develop a protocol to govern the detail of this process – i.e. the size and detail of the notice, position in the newspaper/on the website etc, to ensure consistency and fairness in all cases. The Monitoring Officer undertook to draft such a protocol for discussion.
- 4.4 As an interim measure the Committee agreed to recommend (i) that a 'news' link to any such notice should remain on the front page of the Council's website for a period of one month from publication, or such other period or position as the Hearings Sub-Committee may recommend; and (ii) that the content of the notice to be published shall be subject to agreement by the Chair of the Hearings Sub-Committee.
- 4.5 The Committee also discussed whether or not there was a need to stipulate that the Council's own newspaper should not, in addition to carrying the decision notice, include editorial content on the case. However, the Monitoring Officer advised the Committee that this would not occur and any such provision was unnecessary.

### **Composition of the Standards Sub-Committees**

- 4.6 The Committee discussed the size and representation of the political groups on the Investigation and Disciplinary and other sub-committees. The Committee did not feel it would be impossible for a Member impartially to hear a complaint against, or made by, a party colleague but they agreed that it was desirable for reasons of transparency and public confidence to avoid such a scenario. This was however difficult to achieve in every case especially with a small committee. There was also discussion of whether the rules should address a situation where two or more members or groups may form a political alliance falling short of a formal group or coalition. It was agreed that



this matter would be kept under review with a view to possible recommendations at a future stage.

#### **Confidentiality of the process**

- 4.7 The Committee discussed the desirability of transparency of process, balanced with the need for confidentiality particularly to avoid publicity being given to groundless or vexatious complaints. The Committee agreed with the recommendation from the Monitoring Officer that all parts of the process prior to the hearing stage should remain confidential.

#### **Complainant's right to appeal**

- 4.8 Officers did not recommend that a complainant should have a right of appeal against the outcome of their complaint, particularly because of concerns that such a process could lead to unsubstantiated complaints nevertheless becoming protracted. In the event that the complainant submits additional relevant information this would be considered by the Monitoring Officer and if necessary treated as a fresh Complaint.
- 4.9 The Standards Committee however recommended that a complainant should have the same right of appeal against the outcome, on the same grounds, as the Member who is the subject of the complaint. The appellant should be required to provide specific reasons and any supporting information for the appeal; and a complainant's appeal should be subject to the same timescales as an appeal by the subject Member.
- 4.10 The Committee further recommended that the decision of the Hearings Sub-Committee should not be published, nor any sanctions applied, until the period allowed for an appeal had expired.

#### **Dispensations**

- 4.11 Statute allows for a Member to be granted, in certain circumstances, a dispensation to participate in decision-making on a matter, notwithstanding that s/he has a Disclosable Pecuniary Interest in that matter.
- 4.12 The Committee considered that dispensation requests should be subject to Member oversight. However, such requests require a swift resolution and there is a need for consistency in their consideration.
- 4.13 The Committee therefore recommended that a Dispensations Sub-Committee comprising three members of the Standards Advisory Committee should be established to be convened urgently as required to consider any dispensation request(s) by the Mayor, any Councillor or co-opted member.

#### **Sanctions/withdrawal of Council facilities**

- 4.14 The withdrawal of Council facilities is one of the sanctions that will remain available under the new regime in the case of a Member who is found to have

breached the Code of Conduct. However, such sanctions may not be applied so as to prevent the Member from undertaking his/her duties as a ward councillor.

- 4.15 Any sanctions that are recommended by the Hearings Sub-Committee must be endorsed by the Council before they are implemented. The Committee recommended that where a subject member feels that a recommended sanction would cause him/her undue hardship or prevent him/her from undertaking ward duties, that Member may make representations to the Council meeting that will consider the Sub-Committee's representations.
- 4.16 The Committee also asked that the Monitoring Officer issue guidance in due course on the application of the various sanctions available under the new arrangements.

### **Confidential information**

- 4.17 Finally, the Committee noted that the Code of Conduct places a duty on all Members not to disclose confidential information, and sought further guidance on this and a clear definition of 'confidential information'.
- 4.18 The Monitoring Officer undertook to circulate a summary of the various relevant provisions but pointed out that these were subject to a range of different considerations and it was therefore not possible to issue definitive guidance in all circumstances. There was also a 'public interest' test that could be applied where relevant and on which Members could seek advice if required.

## **5. OTHER MATTERS**

### **Anonymous complaints**

- 5.1 It is recommended that the new arrangements should retain the provision relating to anonymous complaints as included in the existing procedure. Complainants should be required to provide their name and postal address and anonymous complaints will not be considered unless in exceptional circumstances where the Monitoring Officer decides (after consultation with the Independent Person) that the complaint raises a serious issue affecting the public interest which is capable of investigation without the need to ascertain the complainant's identity.

### **Attendance at Investigation and Disciplinary Sub-Committee**

- 5.2 The proposed new arrangements provide for a member who is the subject of a complaint to be advised of, and have the right to attend, any hearing of his/her case and this was supported by members during consultation. The Monitoring Officer advises that it would not be appropriate for a subject member (or a complainant) to attend the Investigation & Disciplinary meeting before that stage and no hearing will be held prior to a complaint being investigated. The Sub-Committee will be observed by the Independent

Person and its decisions reported back to the Standards Advisory Committee to ensure member oversight.

## **6. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

6.1 There are no financial implications arising from this addendum report.

## **7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

7.1 The Assistant Chief Executive (Legal) is the author of this report and the legal implications arising from this matter are set out in the body of the report.

## **8. ONE TOWER HAMLETS CONSIDERATIONS**

8.1 Equalities considerations have been included in the proposed Code of Conduct.

## **9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

9.1 There are no implications arising from this report.

## **10. RISK MANAGEMENT IMPLICATIONS**

10.1 There are no implications arising from this report.

## **11. CRIME AND DISORDER REDUCTION IMPLICATIONS**

11.1 There are no implications arising from this report.

## **12. APPENDICES ATTACHED**

Appendix 1 – Draft terms of reference for the Standards Advisory Committee

Appendix 2 – Draft arrangements for dealing with complaints of breach of the Code of Conduct

Appendix 3 – Draft Code of Conduct

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### **Local Government Act, 1972 Section 100D (As amended) List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”

Name and telephone number of holder and address where open to inspection.

Letter from Deputy Director, Department for Communities and Local Government to the Chief Executive, 8<sup>th</sup> June 2012.

John S. Williams, Tel: 020 7364 4204  
1<sup>st</sup> floor, Town Hall, Mulberry Place, London, E14 2BG.

Standards Committee agenda, 12<sup>th</sup> June 2012.

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**DRAFT TERMS OF REFERENCE FOR THE STANDARDS ADVISORY COMMITTEE**

**1. Standards Advisory Committee**

The Council using the powers under section 102(4) of the Local Government Act 1972 have established a Standards Advisory Committee.

The Standards Advisory Committee shall have the power to create Sub-Committees in order to discharge its advisory role.

**2. Composition**

The Standards Advisory Committee shall be comprised of Members of the Council (not including the Mayor or more than one Cabinet Member), appointed by the Council in accordance with the requirements of political proportionality; and up to seven persons who are not Members or officers of the Council or any other relevant authority (i.e. Co-opted members.)

The Co-opted member(s) will be entitled to vote at meetings under the provisions of S13 (4) (e) of the Local Government and Housing Act 1989. The Standards Advisory Committee shall be chaired by a co-opted member.

The Committee shall establish Hearings and other Sub-Committees in accordance with these terms of reference.

**3. Appointment of Co-Opted Members**

A person may not be appointed as a Co-opted member of the Standards Advisory Committee or one of its sub-committees unless the appointment is approved by Full Council. The term of appointment shall be for four years unless otherwise determined by Full Council or the Co-optee does not continue to fulfil any required conditions as may be determined by the Authority from time to time. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

**4. Role and Function**

The Standards Advisory Committee has the following roles:

- 4.1 To recommend to the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the Monitoring Officer or an investigator appointed by the Monitoring Officer; and where a complaint has been subject to such investigation, to recommended whether or not the complaint should proceed to hearing. Where the Monitoring Officer considers that a complaint should not be subject to investigation or should not proceed to hearing, s/he shall convene an

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Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee which shall make the final decision on the matter.

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- 4.2 To receive regular quarterly reports from the Monitoring Officer on the numbers of complaints of the Code received, the decisions taken by the Monitoring Officer (in consultation with the Independent Person) on such complaints and investigation outcomes where the investigation determines there was no evidence of a failure to comply with the code or where the investigation outcome recommends a local resolution.
- 4.3 To convene a Hearings Sub-Committee of ~~three~~ Members of the Standards Advisory Committee comprising two of the co-opted members and one Councillor to consider any matter where the investigation finds evidence of a failure to comply with the Code and a local resolution is not possible or appropriate.
- 4.4 To make such recommendations to Council in respect of the matter as the Hearings Sub-Committee considers appropriate as a result of any matter referred including;
- Reporting its findings to Council for information;
  - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) removal from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Mayor removal from the Executive, or from particular Portfolio responsibilities;
  - Recommending the Monitoring Officer arrange training for the member;
  - Recommending removal from outside appointments to which he/she has been appointed or nominated;
  - Recommending withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
  - Recommending excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive Committee and Sub-Committee meetings;
  - Recommending the Member to contact the Council via specified point(s) of contact.
- 4.5 To convene a Hearings (Appeal) Sub-Committee of at least three different Members of the Standards Advisory Committee (comprising two of the co-opted members and one Councillor) to consider any appeal against a finding of, or sanction recommended by, the Hearings Sub-Committee.
- 4.6 To receive reports on compliance with any recommendation(s) made for sanctions to be applied in respect of any member.
- 4.7 Promoting and maintaining high standards of conduct by the Mayor, Members of the Council, co-opted members including church and parent governor representatives and where the Committee considers that there

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may be issues of concern recommending that the Monitoring Officer considers and reports on the issues raised.

- 4.8 Assisting the Mayor, Members of the Council, co-opted members including church and parent governor representatives to observe the Council's Code of Conduct for Members;
- 4.9 Advising the Council on the adoption or revision of the Code of Conduct for Members;
- 4.10 Monitoring the operation of the Code of Conduct for Members;
- 4.11 Advising, training or arranging to train the Mayor, ~~Members of the Council~~ and co-opted members including church and parent governor representatives on matters relating to the Code of Conduct for Members: Deleted: for
- 4.12 To act as an advisory body in respect of any matters referred to the Standards Committee by the Local Strategic Partnership (LSP) or Community Forums in respect of probity issues arising out of the codes and protocols applicable to relevant members of the LSP and Community Forums as set out in the Community Forum handbook and as may be amended from time to time.
- 4.13 To advise on allegations of Member breaches of the Protocols set out in the constitution as may be referred to the Committee by the Monitoring Officer and to make recommendations with regard to such allegations as maybe so referred.
- 4.14 Advising on local protocols for both Officer and Member governance.
- 4.15 To monitor and review Member and Officer Procedures for registering interests and declaring gifts and hospitality.
- 4.16 To receive periodic reports on the Council's Ethical Governance arrangements, on whistle blowing arrangements and complaints.
- 4.17 As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.

## 5. Validity of proceedings

A meeting of the Standards Advisory Committee or one of its sub-committees shall only be quorate where at least three members of the Committee or sub-committee are present for its duration and such quorum must include at least one councillor and at least one co-opted member.

Part VA of the Local Government Act 1972 applies in relation to meetings of the Standards Advisory Committee or its sub-committees as it applies to meetings of the Council.

#### **6. Hearings Sub-Committee and Hearings (Appeal) Sub-Committee**

Any Hearings Sub-Committee or Hearings (Appeal) Sub-Committee shall comprise a minimum of three Members of the Standards Advisory Committee at least two of whom shall be co-opted members.

The Hearings Sub-Committee shall consider complaints referred to it that the Mayor, an elected or co-opted Member of the Council may have failed to comply with the Council's Code of Conduct for Members or local protocol where the complaint has been subject to an investigation arranged by the Monitoring Officer and shall make recommendations accordingly. The Hearings Sub Committee shall decide at the outset of the meeting whether it is in the public interest that the Hearing is held in a public or private session in accordance with relevant statutory guidance as advised by the Monitoring Officer.

The membership of the Hearings (Appeal) Sub-Committee shall not include any member who served on the Hearings Sub-Committee that considered the same complaint.

The Independent Person, or if that person is unable to act a reserve Independent Person, shall have the right to attend all meetings of the Hearings Sub-Committee or Hearings (Appeal) Sub-Committee as an observer but may not vote or participate in the decision making.

#### **7. Attendance Requirements**

In the event that any Member of the Committee does not attend three or more consecutive meetings of the Committee, the Committee may draw the attention of the Council to such non-attendance and may recommend that the member concerned be replaced on the Committee.

The Committee shall not do so without first giving the absent Member an opportunity to make representations (which may be made in writing) as to their non-attendance and any matters they wish the Committee to take into account.

#### **8. Procedures**

The Committee shall agree a set of procedures to enable it to discharge the arrangements under these Terms of Reference.

#### **9. Confidentiality**

The Committee and any of its Sub-Committees may meet in private in accordance with the relevant legislation as advised by the Monitoring Officer.



Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential



**DRAFT ARRANGEMENTS FOR DEALING WITH COMPLAINTS OF BREACH OF THE CODE OF CONDUCT FOR MEMBERS**

1. The Monitoring Officer shall be the Proper Officer to receive complaints of any failure by the Mayor, a Councillor or a co-opted member to comply with the Code of Conduct for Members. On receipt of a complaint the Monitoring Officer shall within three working days inform the subject member of the substance of the complaint on a confidential basis.

2. The Monitoring Officer shall ensure that the Council appoints at least one Independent Person and at least one reserve Independent Person.

3. Complainants must provide their name and postal address when submitting a complaint. Anonymous complaints will not be considered unless in exceptional circumstances where the Monitoring Officer decides (after consultation with the Independent Person) that the complaint raises a serious issue affecting the public interest which is capable of investigation without the need to ascertain the complainant's identity.

4. The Monitoring Officer shall, after consultation with the Independent Person and within ten working days of receiving the complaint (so far as practicable), determine whether a complaint merits formal investigation and arrange for such investigation. In making this determination the Monitoring Officer may at his/her discretion also consult other persons including Counsel.

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5. In determining whether to refer a complaint for investigation, the Monitoring Officer may take into account how long has elapsed since the event(s) complained about took place and if this is more than one year, then a complaint will be rejected as out of time unless the complainant demonstrates that there are good reasons for the delay such as fresh evidence not available at the earlier date or only recently discovered.

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6. The Monitoring Officer may refer a complaint of failure to comply with the Code to the Standards Advisory Committee or its sub-committee to recommend whether or not the complaint requires investigation where s/he feel that it is inappropriate for him/her to take the decision without seeking their advice. Where the Monitoring Officer considers that a complaint should not be subject to investigation, s/he shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee which shall make the final decision on the matter.

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7. The Monitoring Officer will report quarterly (or less frequently if there are no complaints to report) to the Standards Advisory Committee on the number and nature of complaints received and action taken as a result. This will include details of complaints that did not require investigation so that the Committee can exercise its oversight role.

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8. If a complaint of failure to comply with the Code is referred for investigation the Monitoring Officer shall appoint an investigator or complete the investigation him/herself. Such investigation should be completed within one month of the decision to refer the matter for investigation. The Monitoring Officer may, having consulted the Standards Advisory Committee or its sub-committee, extended this period by up to a further month where s/he feels it is necessary to ensure an adequate investigation. Deleted: 7
9. The Monitoring Officer may, during the course of the investigation, seek local resolution of the matter to the satisfaction of the complainant before the investigation is concluded. Deleted: 8
10. Where any investigation into a complaint of breach of the Code finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer shall within ten working days of receipt of the investigation report, consult with the Independent Person and the Standards Advisory Committee Investigations and Disciplinary Sub-Committee to confirm their agreement that the matter shall be closed without further hearing. If the Sub-Committee agree then the matter is closed. The Monitoring Officer shall provide a copy of the report and findings of the investigation which shall be kept confidential to the complainant and to the member concerned and shall report the matter as part of the quarterly report to the Standards Advisory Committee for information. Deleted: 9  
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11. Where the investigation finds evidence of a failure to comply with the Code of conduct, the Monitoring Officer in consultation with the Independent Person, may seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Advisory Committee in due course. Where such local resolution is not appropriate or not possible the Monitoring Officer shall report the investigation findings to a Hearings Sub-Committee of the Standards Advisory Committee for local hearing and recommendations. The Hearings Sub-Committee will be convened within one month of the Monitoring Officer receiving the investigation report. The Hearings Sub-Committee may sit in private after advice from the Monitoring Officer. Deleted: 10
12. The Hearings Sub-Committee will advise the Monitoring Officer whether or not they consider there has been a breach of the Code and if they consider sanction is appropriate having heard the matter shall request that the Monitoring Officer prepare a report to Full Council setting out the details of the investigation, hearing and proposed sanction which may include any of the following:- Deleted: 11
- Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommend to the Mayor that the member be removed from the Executive, or removed from particular Portfolio responsibilities;

- Recommend the Monitoring Officer to arrange training for the member (subject to the Members agreement);
- Recommend remove as from all outside appointments to which the Member has been appointed or nominated;
- Recommend withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Recommend excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive Committee and Sub-Committee meetings (as appropriate);
- Recommend the member to contact the Council via specified point(s) of contact;
- Write to the member with their advice on the Members conduct.

13. In determining any recommended sanction the Sub-Committee may take into account any previous breach by the member concerned and/or their compliance with any previous sanction applied.

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14. Where a subject member feels that a recommended sanction would cause him/her undue hardship or prevent him/her from undertaking ward duties, that Member may make representations to the Council meeting that will consider the recommendations of the Hearings Sub-Committee on the relevant complaint. Any such representations shall be notified to the Monitoring Officer within five working days of the Hearing Sub-Committee meeting.

15. The recommendations of the Hearings Sub-Committee shall be published in a local newspaper in the Public Notices Section and on the Council's website as well as in the minutes of the meeting. The content of any notice to be published shall be subject to agreement by the Chair of the Hearings Sub-Committee. Following publication, a link to the notice shall remain on the front page of the Council's website for a period of one month or such other position and/or period as the Hearings Sub-Committee may recommend. The Monitoring Officer shall draft further guidance on the detailed procedures for publication of decisions as necessary.

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16. A member who is the subject of a finding by the Standards Advisory Committee that he/she has breached the code may appeal against that finding and/or against any sanction applied. A complainant who is dissatisfied with the outcome of his/her complaint may appeal against that outcome. Any appeal under this section shall be notified in writing to the Monitoring Officer within 15 working days of the Hearings Sub-Committee recommendation being notified to the member or complainant and the Monitoring Officer shall arrange for the appeal to be heard by a Hearings (Appeal) Sub-Committee of the Standards Advisory Committee within 15 working days of receipt of the appeal. The decision of the Hearings Sub-Committee shall not be published, nor any sanctions applied, until the period allowed for an appeal has expired.

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17. An appeal under 15 above may be made on grounds of either fact or defective procedure. The appellant must state the grounds on which the appeal is made and must provide specific reasons and any further information to support his/her appeal.

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18. The Sub-Committee to hear any appeal under 15 above shall not include any member of the Hearings Sub-Committee that considered the investigation of the matter in question.

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19. A member who is the subject of a complaint shall be informed of, and shall have the right to attend and/or be represented at, the hearing of the Standards Advisory Committee or any of its sub-committees that considers any matter relating to that complaint following investigation.

Deleted: 17. . Should a complainant be dissatisfied with the outcome of their complaint of a breach of the Code there is no formal right of appeal. However in the event that the Complainant submits additional relevant information the Monitoring Officer shall consider and decide if the matter warrants further consideration under these arrangements in which case it shall be treated as a fresh Complaint.¶

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20. The timelines set out in this procedure are for guidance only and shall be observed where practicable but may be extended by the Monitoring Officer as necessary if they cannot be complied with by any relevant party due to sickness, holidays or other reasonable cause.

## Draft Code of Conduct for Members

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#### 1. INTRODUCTION

1.1 Tower Hamlets Council has adopted this Code of Conduct for Members in accordance with the Localism Act 2011. The Code will assist the authority in providing excellent local government for the people of the borough. This Code of Conduct applies to the Mayor and all Members and Co-opted Members of the authority or any of its committees or sub-committees and it is your responsibility to comply with the provisions of this Code.

#### 1.2 Tower Hamlets' Code of Conduct

- (a) Any alleged breach of the provisions of the Code of Conduct by a Member or co-opted Member of the authority shall be dealt with in accordance with the arrangements set out in Appendix A to this Code.

#### 1.3 Additional Codes and Protocols

- (a) 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 that have been adopted by the Council as supplementary guidance for Members and officers. These Codes and Protocols do

not form part of the Code of Conduct but Members and officers are required to comply with their provisions.

- (b) Any failure by the Mayor, a Member or co-opted member to comply with these additional Codes and Protocols may be investigated in accordance with the arrangements set out at Appendix A to this Code
- (c) Any failure by an officer to comply with these additional Codes and Protocols will be referred to the relevant Corporate Director and where appropriate disciplinary action may be taken.

#### **1.4 General Principles of Conduct**

You should read this Code together with the general principles prescribed by the Localism Act 2011. These principles are listed below and they should guide all aspects of your conduct as a member of the authority:-

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness
- (f) honesty; and
- (g) leadership.

#### **1.5 Further Guidance**

If you require further guidance on the application or interpretation of the provisions of this Code of Conduct or any of the additional Codes and Protocols approved by the Council you should contact the Monitoring Officer.

### **2. SCOPE AND INTERPRETATION**

**2.1** In this Code 'meeting' means any meeting of:

- (a) the authority;
- (b) the executive of the authority (currently known as the cabinet);
- (c) any of the authority's or its cabinet's committees, sub-committees, joint committees, joint sub-committees, panels, or area committees

**2.2** In this Code 'Member' includes the Mayor, a co-opted Member and an appointed Member.

**2.3** Subject to paragraph 2.4, you must comply with this Code whenever you:

- (a) conduct the business of the authority (which, in this Code, includes the business of the office to which you are elected or appointed); or



- (b) act, claim to act or give the impression you are acting as a representative of the authority;

and references to your official capacity are construed accordingly.

**2.4** Where you act as a representative of the authority:

- (a) on another relevant authority (as defined by section 49(6) of the Local Government Act 2000), you must, when acting for that other authority, comply with any code of conduct adopted by that other authority;
- (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**3. GENERAL OBLIGATIONS**

**3.1** You must treat others with respect.

**3.2** You must not:

- (a) do anything which may cause the authority to breach the Equality Act 2010 or any other equality enactment;
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person, including anyone who is or is likely to be:
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct;
- (d) act in a threatening manner towards any person;
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

**3.3.** You must not:

- (a) prevent another person from gaining access to information to which that person is entitled by law.

- (b) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, including information that is exempt from publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972 ('Part 2' agenda items), **except** where:
  - (i) you have the consent of a person authorised to give it; or
  - (ii) you are required by law to do so; or
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is reasonable **and** in the public interest **and** made in good faith **and** in compliance with the reasonable requirements of the authority.

**3.4** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.

**3.5** You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) must, when using or authorising the use by others of the resources of the authority:
  - (i) act in accordance with the authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**3.6** When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) the authority's Chief Finance Officer; and/or
- (b) the authority's Monitoring Officer,

where they are acting pursuant to their statutory duties.

**3.7** You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

## 4. INTERESTS

4.1 You have an interest in any business of the authority where either:

(a) 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 the authority;

(ii) any body

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) 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 employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in the authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between the authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in the authority's area in which you have a beneficial interest;

(x) any land where the landlord is the authority and you are, or a firm in which you are a partner, a company of which you are a remunerated

director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

4.2 In paragraph 4.1(b), a relevant person is:

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 4.1 (a) (i) or (ii).

## 5. DISCLOSABLE PECUNIARY INTERESTS

5.1 A Disclosable Pecuniary Interest (DPI) is defined in law as a pecuniary interest of any of the following descriptions:-

**Deleted:** is ..... (to be inserted when the relevant regulations have been issued).....

<u>Subject</u>	<u>Prescribed description</u>
<u>Employment, office, trade, profession or vacation</u>	<u>Any employment, office, trade, profession or vocation carried on for profit or gain.</u>
<u>Sponsorship</u>	<u>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.</u>

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant authority.

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge)—

(a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

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

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

NB: A Member's DPs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

- 5.2 Subject to paragraphs 5.3 to 5.6, where you have a Disclosable Pecuniary Interest in any business of the authority which is not included in the Member's register of interests and you attend, in any capacity, a meeting of the authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent; and must within 28 days notify the Monitoring Officer of the interest for inclusion in the register.
- 5.3 Paragraph 5.2 only applies where you are aware or ought reasonably to be aware of the existence of the interest.
- 5.4 Where you have an interest but, by virtue of section 9, sensitive information relating to it is not registered in the authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 5.5 Subject to paragraph 7.1 (b), where you have an interest in any business of the authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 5.6 In this Code 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## 6. INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES

- 6.1 You have an interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where:
  - (a) that business relates to a decision made (whether implemented or not) or action taken by the Mayor or the authority's cabinet or another of the authority's committees, sub-committees, joint committees or joint sub-committees : and
  - (b) at the time the decision was made or action was taken, you were the Mayor or a member of the cabinet, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Deleted: 5.7** . You do not have a Disclosable Pecuniary Interest in any business of the authority where that business:¶  
 (a) does not affect your financial position or the financial position of a person or body described in section 4 above;¶  
 (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in section 4 above; or¶  
 (c) relates to the functions of the authority in respect of: ¶  
 (i) housing, where you are a tenant of the authority provided that those functions do not relate particularly to your tenancy or lease; .  
 (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends; .  
 (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; .  
 (iv) an allowance, payment or indemnity given to Members; .  
 (v) any ceremonial honour given to Members; or .  
 (vi) setting council tax or a precept under the Local Government Finance Act 1992.¶  
 (NB: The above provision to be reviewed when the regulations regarding DPs are issued)¶

**Deleted:** (NB: The above provision to be reviewed when the regulations regarding DPs are issued)¶

## **7. EFFECT OF DISCLOSABLE PECUNIARY INTERESTS ON PARTICIPATION AT MEETINGS**

**7.1** Subject to paragraph 7.2 where you have a DPI in any business of the authority:

(a) you must withdraw from the room or chamber where a meeting considering the business is being held, including from any public viewing area:

(i) in a case where paragraph 7.2 applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the authority's Monitoring Officer [following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee](#);

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

**7.2** Where you have a Disclosable Pecuniary Interest in any business of the authority, or in relation to business before an Overview and Scrutiny Committee of the kind described at section 6 above, you may attend a meeting (including a meeting of the Overview and Scrutiny Committee or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **8. THE REGISTER OF MEMBERS' INTERESTS**

**8.1** Subject to paragraph 9, you must, within 28 days of:

(a) this Code being adopted by the authority; or

(b) your election or appointment to office (where that is later); or

(c) Disclosing a DPI at a meeting of the authority, its executive or any committee or sub-committee;

Notify the Monitoring Officer in writing, for inclusion in the authority's Register of Members' Interests, of details of your Disclosable Pecuniary Interests and

other interests that fall within any of the categories mentioned in paragraph 4.1 (a).

- 8.2** Subject to paragraph 9, you must, within 28 days of becoming aware of any new DPI or change to any interest registered under paragraph 8.1, register details of that new interest or change by providing written notification to the authority's Monitoring Officer.

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**9. SENSITIVE INFORMATION**

- 9.1** Where you consider that the information relating to any of your interests is sensitive information, and the authority's Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 8.

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- 9.2** You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 9.1 is no longer sensitive information, notify the authority's Monitoring Officer asking that the information be included in the authority's Register of Members' Interests.

- 9.3** In this Code, 'sensitive information' means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.