

# Part 5 - Codes and Protocols

## 5.1 Code of Conduct for Members

Effective 1<sup>st</sup> July 2012. Adopted by the Council on 18<sup>th</sup> June 2012.

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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:-

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any 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.

## **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.

## **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.

**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.

LONDON BOROUGH OF TOWER HAMLETS

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

Effective 1<sup>st</sup> July 2012. Arrangements agreed by the Council on 18<sup>th</sup> June 2012 and subsequently revised by the Council on 18<sup>th</sup> September 2013.

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.
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.
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.
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.

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 two months of the decision to refer the matter for investigation. The Monitoring Officer may extend this period by up to a further month where s/he feels it is necessary to ensure an adequate investigation.
- 8A. In cases where the Monitoring Officer exercises their power to extend the time period of investigations into complaints from two months to three months, a report on the reasons for this is presented to the Standards Advisory Committee for noting and a letter is to be sent to the complainant(s) and subject(s) of the investigation notifying them of the extension and the reasons for this. The Monitoring Officer will also at each meeting of the Standards Advisory Committee present a report listing all complaints which have exceeded the two month referral for investigation with details of the length of time elapsed and the reasons for the delay. This report will include all complaints which have exceeded the two month investigation period since the last meeting of the Advisory Committee as well as those complaints previously reported to the Advisory Committee which remain outstanding in excess of the two month investigation period.
9. The Monitoring Officer or his/her deputy may, either before a complaint is referred for investigation or during the course of the investigation, seek local resolution of the matter to the satisfaction of the complainant before the investigation is concluded. Where the Monitoring Officer or deputy attempts to reach a local resolution before a complaint is referred for investigation, such attempts shall be subject to a four week time limit.
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 four weeks 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.
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.

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:-
  - 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.
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.
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.

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.
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.
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.
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.