

## REPORT OF THE GOVERNANCE COMMITTEE

### MEMBERS' CODE OF CONDUCT

- 1 The regime for regulating Members' standards of conduct introduced by the Local Government Act 2000 will be abolished (apart from any outstanding matters then current) with effect from 1 July 2012 and a new, less prescriptive, regime implemented.

- 2 Local authorities are required "to promote and maintain high standards of conduct by Members" and must adopt a Members' Code of Conduct (referred to in this report as "the Code"), and to deal with any alleged breaches themselves.

- 3 The Act requires that the Code should reflect the Nolan Principles of Conduct in Public life, which are:

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

- 4 The Code must also provide for registration of interests, both pecuniary and non-pecuniary (the current division of interests into "personal" and "prejudicial" is repealed). This is one area where detailed provisions are expected, but the relevant statutory instruments have not yet been finalised by the government.

- 5 Allegations of breaches of the Code must be investigated and adjudicated upon. If, following investigation, a Member is found to have breached the terms of the Code, he or she may be subjected to “sanctions”, although the new legislation does not specify what such sanctions might be, other than that suspension or disqualification will not be available as sanctions.

Code of conduct

- 6 The Council’s current Code of Conduct, which was based on a national model produced by the Standards Board for the purposes of the current regime, is more complex than is required to comply with the new regime. The Governance Committee has considered model Codes produced by both the Local Government Association (LGA) and the Department for Communities & Local Government (DCLG); a draft Code for Havering, which is an amalgam of the LGA and DCLG models, is now proposed for adoption and is set out in the Appendix.
- 7 The draft Code is greatly simplified, which should make it easier for Members to comply with it. However, such simplification could result in the scope of the Code actually being wider than the current detail/prescriptive Code.
- 8 In accordance with decisions already made by the Council, complaints about standards matters are to be within the purview of the Governance Committee and individual cases dealt with through the Adjudication & Review Sub-Committee. The Committee has agreed a procedure to be followed for handling complaints.

Registration and disclosure of interests

- 9 There continues to be need for a register of Members’ interests, which the Act requires the Monitoring Officer to establish and maintain. The register applies to both elected Members and co-optees.
- 10 The prescriptive requirements of the register that apply in the current regime have been repealed and the Council has some leeway as to what needs to be registered. There are a few statutory requirements but it is for the Council to decide whether to go beyond them. The obligation to register a Member’s interests ceases when he or she no longer has the particular interest or ceases to be a Member (unless re-elected or re-appointed). The register must be open to public inspection and published on the Council’s website.
- 11 The requirements of the register are that:
- (a) Within 28 days of election (or appointment, if co-opted) a Member must notify the Monitoring Officer of any disclosable pecuniary interest (other than any interest already disclosed by a re-elected or re-appointed Member)
  - (b) The Secretary of State will by regulation determine what interests are disclosable. Any such interest must be disclosed if it is an interest:
    - (i) of a Member or
    - (ii) of a Member’s spouse, civil partner or a person with whom the Member lives as if they were spouses or civil partners, and the Member is aware of that interest

- (c) The Monitoring Officer must register any interest disclosed, whether or not it is in fact an interest that must be disclosed.
- 12 A Member (elected or co-opted) who has a pecuniary interest in a matter that is being considered at a meeting of the Council, of the Cabinet or of a Committee or Sub-Committee is present at that meeting then he or she must disclose that interest, whether or not it is registered. An interest disclosed at a meeting must be registered within 28 days of that meeting.
- 13 A Member who has disclosed an interest at a meeting must not participate in any discussion of the matter at the meeting, nor vote upon it. Where a decision is to be taken by an individual Cabinet Member, that Member may not take a decision in relation to any matter in which he or she has a pecuniary interest. It is for the Council to decide whether any Member who has made a disclosure should withdraw from the meeting as well as not participate in discussing or voting upon it.
- 14 In certain circumstances, where a Member (or a person connected with that Member) could be subjected to violence or intimidation, such an interest must not be on the public part of the register nor need details of it be disclosed at a meeting.
- 15 The Council may (by decision at a meeting of the full Council) grant a dispensation from the obligation to make a disclosure where
- (a) So many Members would be prohibited from participating that the transaction of business would be impeded; or
  - (b) Without a dispensation the balance of the representation of different political groups would be so upset as to impede the truncation of business; or
  - (c) It is in the interests of persons living within the area that a dispensation be granted; or
  - (d) Without the dispensation, each Member of the Cabinet would be prohibited from participating or
  - (e) It is otherwise appropriate to grant a dispensation.
- 16 Once granted a dispensation applies for a maximum of four years.
- 17 Failure to register or to disclose a disclosable interest, without reasonable excuse, is an offence, as is participating or voting on a matter in which a Member has a disclosable interest. It is also an offence knowingly to make a misleading, reckless or untrue disclosure. Conviction for such an offence, in addition to a heavy fine, could result in up to five years' disqualification. A prosecution for these offences may be instigated only by, or on behalf of, the Director of Public Prosecutions.

The Governance Committee **RECOMMENDS** that the Council adopt the draft Code of Conduct set out in the Appendix, noting that the Monitoring Officer will amend the section of the Code that deals with interests if necessary to comply with any subsequent secondary legislation on interests.