

NOTICE OF MEETING

STANDARDS ASSESSMENT SUB COMMITTEE

Thursday, 21st May, 2020, 6.30 pm – MS Teams meeting (view it [here](#))

Members: Councillors Luke Cawley-Harrison, James Chiriyankandath, Mahir Demir, Felicia Opoku and Elin Weston

Quorum: 3

1. **ELECTION OF CHAIR FOR THE DURATION OF THE PROCEEDINGS**
2. **APOLOGIES FOR ABSENCE**
3. **DECLARATIONS OF INTEREST**
4. **URGENT BUSINESS**

The Chair will consider the admission of any late items of Urgent Business. (Late items of Urgent Business will be considered under the agenda item where they appear. New items of Urgent Business will be dealt with under item 6 or 10 below).

5. **ARRANGEMENTS FOR THE HANDLING OF COMPLAINTS (PAGES 1 - 32)**
6. **NEW ITEMS OF URGENT BUSINESS**

As per item 4.

7. **EXCLUSION OF THE PRESS AND PUBLIC**

Items 8-10 are likely to be subject of a motion to exclude the press and public from the meeting as they contain exempt information as defined in Section 100a of the Local Government Act 1972; Paras 1 & 2; namely information relating to any individual, and information likely to reveal the identity of an individual.

8. **STANDARDS COMPLAINT SC004/1920 (PAGES 33 - 50)**

To consider a complaint received in relation to the Members' Code of Conduct.

9. **STANDARDS COMPLAINT SC005/1920 (PAGES 51 - 76)**

To consider a complaint received in relation to the Members' Code of Conduct.

10. NEW ITEMS OF EXEMPT URGENT BUSINESS

As per item 4.

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Wednesday, 13 May 2020

Part Five, Section A

Members' Code of Conduct

MEMBERS' CODE OF CONDUCT

Part 1: GENERAL PROVISIONS

1. The General Principles

1.1 **Selflessness**

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

1.2 **Integrity**

Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

1.3 **Objectivity**

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

1.4 **Accountability**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities. They should co-operate fully and honestly with any scrutiny appropriate to their particular office, including any formal standards investigations.

1.5 **Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

1.6 **Honesty**

Members should not place themselves in situations where their honesty may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

1.7 **Leadership**

Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

2. Application of the Code

- 2.1 This Code applies to you as a member of Haringey Council.
- 2.2 In your capacity as a member you should at all times adhere to the general principles set out at paragraphs 1.1 – 1.7 above.
- 2.3 It is your responsibility to comply with the provisions of this Code.
- 2.4 In this Code "meeting" means any meeting of
- (a) the Council; or
 - (b) the executive of the Council; or
 - (c) any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" means an elected member and a co-opted member

"co-opted member" means a person who is not an elected member of the Council but who has been appointed to a committee or sub-committee of the Council or represents the Council on a joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

- 2.5 You must comply with this Code whenever you are acting in your capacity as a member
- 2.6 This Code regards you as acting in your capacity as a member when you
- (a) conduct the business of your authority (which in this Code includes the business of the office to which you are elected or appointed); or
 - (b) act as a representative of your authority; or
 - (c) claim to act or give the impression you are acting as a representative of your authority.
- 2.7 This Code does not have effect in relation to your conduct other than where you are acting in your capacity as a member.
- 2.8 Where you act as a representative of your authority
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

conflicts with any other lawful obligations to which that other body may be subject.

2.9 “Relevant authority” as referred to in paragraph 2.8(a) above is as for the time being defined in section 43 Localism Act 2011 and currently means

–

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Common Council of the City of London in its capacity as a local authority,
- (f) the Council of the Isles of Scilly,
- (g) the London Fire and Emergency Planning Authority,
- (h) a metropolitan county fire and rescue authority, or
- (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of the Act applies.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

3. General Obligations

3.1 You must treat others with respect.

3.2 You must not

- (a) do anything which may cause your authority to breach any of its equality duties;

Additional section to cover bullying as follows:

- (b) bully or harass any person through any means;

(i) bullying includes conduct such as: offensive, intimidating, malicious or insulting behavior; or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure someone;

(ii) harassment includes conduct such as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;

(iii) examples of bullying or harassment include but not be limited to:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – including touching, standing too close, display of offensive materials, asking for sexual favours, making lewd or sexual comments remarks, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities

- (c) intimidate or attempt to intimidate any person who is or is likely to be

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

PART FIVE – CODES AND PROTOCOLS

Section A– Member Code of Conduct

in relation to an allegation that a member (including yourself) has failed to comply with this Members' Code of Conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority; or
- (e) make trivial or malicious allegations against any other person, including another member.

3.3 You must not

- (a) 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, except where
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (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
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

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

3.5 You 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.

3.6 You must when using or authorising the use by others of the resources of your authority

- (a) act in accordance with your authority's reasonable requirements;

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 3.7 When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) the Council's Chief Finance Officer; or
 - (b) the Council's Monitoring Officer,
- where that officer is acting pursuant to his/her statutory duties.
- 3.8 You must give reasons for all decisions you make in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

PART 2: MEMBERS INTERESTS

4. Disclosable Pecuniary Interests

4.1 You have a disclosable pecuniary interest in any matter to be considered or being considered by your authority if it is of a description set out at Appendix A and either:

- (a) it is an interest of yours, or
- (b) it is an interest of
 - (i) your spouse or civil partner
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

4.2 You must comply with the statutory requirements to register, disclose and withdraw from participating and voting in respect of any matter in which you have a disclosable pecuniary interest

5. Personal Interests

5.1 You have a personal interest in any matter to be considered or being considered by your authority where your interest is not a disclosable pecuniary interest in that matter and either

- (a) the matter 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 your 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) the interests of a person from whom you have received a gift or hospitality with an estimated value of at least £25 or

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) a decision in relation to that matter 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;

5.2 For the purpose of Paragraph 5.1(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; or
- (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 5.1(a)(i) and (ii) above of which such persons are members or in a position of general control or management.

5.3 “Family member” as referred to in paragraph 5.2(a) above is for the time being defined as –

A spouse, partner, parent, parent in law, son, daughter, step son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and partner means a member of a couple who live together.

6. Prejudicial Interests

6.1 Where you have a **personal interest** in any matter to be considered or being considered by your authority you also have a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and where that matter

- (a) affects your financial position or the financial position of a person or body described in Paragraph 5 above, or
- (b) relates to the determining of any approval, consent, licence, permission, or registration in relation to you or any person or body described in Paragraph 5 above.

6.2 A personal interest in any matter to be considered or being considered by your authority is not a prejudicial interest where that matter relates to the functions of your authority in respect of

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (i) housing, where you are a tenant of your 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;
- (vi) setting council tax or a precept under the Local Government Finance Act 1992

PART 3: REGISTRATION OF MEMBERS' INTERESTS

7. Notification and Registration of Members' Interests

- 7.1 You must, within 28 days of adoption of this code or of becoming a member notify the Monitoring Officer of any disclosable pecuniary interest, or personal interest as set out in Paragraph 5 (1)(a) above, which you have, and the Monitoring Officer shall, subject to Paragraph 8 (Sensitive Interests) below, enter the interest(s) notified in the Council's Register of Members' Interests maintained under the Localism Act 2011.
- 7.2 You must, within 28 days of becoming aware of any new interest or change to any interest registered under Paragraph 7.1 above, register details of that new interest or change by providing written notification to the Monitoring Officer who shall, subject to Paragraph 8 (Sensitive Interests) enter the interests notified in the Register of Members' Interests.
- 7.3 You must observe the notification provisions relating to disclosable pecuniary interests which arise at meetings or when a member is acting alone which are set out at Paragraphs 9.4 and 9.6 respectively.

Registration of Gifts and Hospitality

- 7.4 You should record in your Register of Interests any gifts or hospitality you are offered in your role as a Member or co-opted member of the Council with an estimated value of at least £25. You should record any such gifts or hospitality within 28 days of their being offered and in any event review and update your declaration form once per quarter.

8. Sensitive Interests

- 8.1 Where you have an interest (whether or not a disclosable pecuniary interest) and the nature of it is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence and intimidation if the interest is entered in the Register of Members' Interests then copies of the register available for inspection and any published version of the register must not include details of the interest but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011.
- 8.2 If Paragraph 8.1 above refers to the entry of the interest in the Register of Members' Interests that provision is to be read as requiring you to disclose not the interest but merely the fact that the you have a disclosable pecuniary interest in the matter concerned.

PART FIVE – CODES AND PROTOCOLS

Section A– Member Code of Conduct

8.3 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Paragraph 8.1 above is no longer sensitive information, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

PART 4: DISCLOSURE OF MEMBERS' INTERESTS AND EFFECT UPON PARTICIPATION AT MEETINGS

9. Disclosure of Interests

- 9.1 Subject to paragraphs 9.3 to 9.6 below, where you have a disclosable pecuniary interest or a prejudicial interest in any matter being considered by your authority and you are present at a meeting of the authority or of any committee, sub-committee, joint committee, or joint sub-committee of the authority at which the matter is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered in the Register of Members' Interests or for which you have made a pending notification.
- 9.2 Where you have a personal interest in any matter being considered by your authority which is not a disclosable pecuniary interest nor a prejudicial interest and you are present at a meeting of the authority or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, at which the matter is considered, you are under no obligation to make a disclosure to the meeting but you may do so if you wish.
- 9.3 Paragraphs 9.1 - 9.2 above only apply where you are aware or ought reasonably to be aware of the existence of the interest.
- 9.4 Where you have disclosed a disclosable pecuniary interest pursuant to Paragraph 9.1 above, and that interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- 9.5 Where you have an interest in any matter to be considered or being considered by your authority which would be disclosable by virtue of Paragraph 9.1 but by virtue of Paragraph 9 (Sensitive Interests) details of the interest are not registered in the Council's published Register of Members' Interests, at a meeting at which you are present you must disclose the fact that you have a disclosable interest in the matter concerned but details of that interest need not be disclosed.
- 9.6 If a function of the Council may be discharged by **a member acting alone** and you have a disclosable pecuniary interest or a prejudicial interest in any matter to be dealt with or being dealt with in the course of discharging that function:
- (a) if the interest is a **disclosable pecuniary interest** and is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date upon which you first became aware of having the interest in relation to the matter;

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) you must not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

10. Effect of Disclosable Pecuniary Interest or Prejudicial Interest on participation at meetings

10.1 Subject to Paragraph 10.3, if you are present at a meeting and you have a **disclosable pecuniary interest or a prejudicial interest** in any matter to be considered, or being considered at the meeting;

- (a) You may not participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting, and
- (c) You must withdraw from the room or chamber where the meeting considering the matter is being held,

unless you have obtained a dispensation from your authority's Standards Committee.

10.2 Subject to Paragraph 10.3, if you are present at a meeting and you have a **disclosable pecuniary interest or a prejudicial interest** in any matter to be considered, or being considered at the meeting;

- (a) You may not exercise executive functions in relation to that matter, or
- (b) seek improperly to influence a decision about that matter.

10.3 Where you have a **prejudicial interest** in any matter to be considered or being considered at a meeting of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority 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 matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Appendix A

Disclosable Pecuniary Interests

In the extract from the Regulations* below, 'M' means the member and 'relevant person' means the member, the member's spouse or civil partner or a person with whom the member is living with as spouse or as if they were civil partners.

<u>Subject</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	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.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

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.

*The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify the interests above as disclosable pecuniary interests for the purposes of Chapter 7 of Part 1 of the Localism Act 2011.

The Regulations provide the following definitions of terms used in the specification of disclosable pecuniary interests:

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Appendix B

Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of becoming aware of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting
- As an executive member discharging a function alone, takes steps or further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member)

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

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PART 5, SECTION A
 PROTOCOL – COMPLAINTS AGAINST MEMBERS

Arrangements for dealing with allegations that a member or co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct

1. Introduction

- 1.1 These arrangements set out how an allegation may be made that an elected member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the member or co-opted member against whom an allegation has been made. These arrangements fulfil the Council's statutory obligations.
- 1.3 In these Arrangements a number of terms are used which have the following meanings:

Member	An elected Councillor
Co-opted Member	A person who is not an elected member of the Council but has been appointed to a committee or sub-committee of the Council.
Monitoring Officer	A officer of the Council designated under section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its members and officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a register of interests of members and co-opted members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Localism Act 2011, whose views are sought and taken into account before decisions upon allegations against members are taken and who may be consulted by a member who is the subject of allegations or the Council, generally.

Standards Committee A committee of members responsible for promoting and maintaining high standards of member conduct within the Council.

Assessment Sub-Committee A Sub-Committee of Standards Committee established to decide whether allegations against members are worthy of being investigated.

Hearing Sub-Committee A Sub-Committee of Standards Committee established to conduct hearings into allegations against members and to determine such allegations following a hearing.

2. The Members' Code of Conduct

2.1 The Council has adopted a Members' Code of Conduct which is available for inspection on the Council's website and on request from the Monitoring Officer.

3. The Independent Person

3.1 Pursuant to Section 28 of the Localism Act 2011, the Council shall appoint an Independent Person. Additional wording as follows A person may not be appointed (i) if they are currently a Member or co-opted Member or employee of the Council, or they are a relative or close friend of such a person and or, (ii) they have been a Member, co-opted Member or employee of the Council in the five years prior to appointment,

3.2 The Council appoints two Independent Persons. The persons appointed shall have responded to a public advertisement for the vacancies and submitted an application for the posts. The appointment of the successful applicants shall be approved by a majority of the members of the Council.

3.3 The views of an Independent Person shall be sought and taken into account by:

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (i) the Monitoring Officer when deciding whether to undertake a formal investigation on an allegation.
- (ii) the Hearing Sub-Committee before it makes its decision on an allegation it has been asked to investigate.

3.4 The views of an Independent Person may be sought:

- (i) by the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee or by the Monitoring Officer/Investigating Officer in relation to an allegation in circumstances not within paragraph 3.2, above.
- (ii) by a member or co-opted member of the Council if that person's behaviour is the subject of an allegation.

4. Making an allegation

4.1 An allegation that a member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct should be made in writing, wherever possible, using the Complaint Form on the Council's website to:

Bernie Ryan
Monitoring Officer
Haringey Council
7th Floor
Alexandra House
10 Station Road
London
N22 7TR

Tel: 0208 489 3974

or email:

bernie.ryan@haringey.gov.uk

4.2 The Monitoring Officer plays a key role in promoting and maintaining ethical standards and standards investigations. The role is broad and is particularly varied. Paragraph 12 below sets out the procedure in place to address any conflicts of interest when undertaking a standards investigation, including the Deputy Monitoring Officer or a Monitoring Officer from another Council to oversee and undertake the investigation as set out in these arrangements.

4.3 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.

- 4.4 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
- 4.5 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 4.6 The Monitoring officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in his opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.

5. Assessment of an allegation

- 5.1 The Monitoring Officer will review every allegation received and will consult an Independent Person before taking a decision as to whether or not it merits reference to the Assessment Sub-Committee of the Standards Committee.
- 5.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the member against whom the complaint is directed. If the person making the allegation fails to provide the additional information requested the allegation may be dismissed by the Monitoring Officer pursuant to paragraph 5.3 (c), below.
- 5.3 The Monitoring Officer will use a number of criteria for assessing complaints, and will consult with an Independent Person and if necessary the appropriate party group whips and party leaders. The decision whether to investigate a complaint will be a proportionate response to the issues raised and likely outcomes. The Monitoring Officer may determine that an allegation does not merit any further action, where:
 - (a) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service, or
 - (b) It is about someone who is no longer a member or a co-opted member of the Council, or

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (c) There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
 - (d) The same or a similar allegation has been investigated and determined, or
 - (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
 - (f) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination, or
 - (g) the complainant is considered to be vexatious.
- 5.4 If the complaint is dealt with under 5.3 above, the Monitoring Officer will promptly notify the complainant and the member of the outcome, giving reasons for the decision. Except as provided for in Paragraph 5.3 above, the Monitoring Officer shall refer all allegations to the Assessment Sub-Committee for consideration.
- 5.5 The Assessment Sub-Committee shall determine whether the allegation:
- (a) merits no further investigation and is dismissed, or
 - (b) merits further investigation.
- 5.6 The Assessment Sub-Committee will take into account the view of the Independent Person as provided to the Monitoring Officer under 5.1 and/or 5.3 above. It may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 5.3 above and to the following additional criteria:
- (a) The allegation is not considered sufficiently serious to warrant investigation, or
 - (b) The allegation appears to be motivated by malice or is 'tit-for-tat', or
 - (c) The allegation appears to be politically motivated, or

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (d) The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.
- 5.7 Where the Assessment Sub-Committee considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation.
- 5.8 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially,

6. The Investigation

- 6.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.
- 6.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 6.3 The Monitoring Officer/Investigating Officer will normally write to the member against whom the complaint is made and provide him/her with a copy of the complaint and ask the member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the papers given to the member. Where disclosure of details of the allegation to the member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the member until the investigation has progressed sufficiently.
- 6.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.

6.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send his/her final report (the Investigation Report) to the Monitoring Officer for the latter's consideration prior to onward transmission to the Hearing Sub-Committee where appropriate. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.

6.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution pursuant to paragraph 8.1 below, the Monitoring Officer shall submit the Investigation Report to the Hearing Sub-Committee and an Independent Person.

7. Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.

7.1 In these circumstances the Monitoring Officer will refer the matter to the Standards Committee. When the Standards Committee receives an Investigation report which recommends that there is no evidence of failure to comply with the Members' Code of Conduct, the Committee may:

- (a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
- (b) remit the report to the Monitoring Officer for further consideration, or
- (b) remit the complaint to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and determine the allegation.

7.2 Prior to making a determination under Paragraph 7.1 above, the Standards Committee shall seek and shall take into account the views of an Independent Person.

8. Where the Monitoring Officer/Investigating Officer concludes that there is evidence of failure to comply with the Code of Conduct.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- 8.1 Where an Investigation Report concludes that there is evidence of failure to comply with the Code of Conduct the Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult an Independent Person and the person making the allegation and seek to agree what the person considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee which will note the outcome but take no further action.
- 8.2 If the Monitoring Officer considers that an informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will submit the Investigation Report to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

9. The Pre Hearing Process and Hearing

- 9.1 In advance of the Hearing the Monitoring Officer (and/or his nominees) will:
- (a) agree a date for the hearing with all the relevant parties;
 - (b) provide a timetable for the member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
 - (c) establish whether the member will be represented or accompanied at the hearing;
 - (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
 - (e) provide information about the procedure to be used at the hearing;
 - (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
 - (g) establish whether the Investigating Officer intends to call any witnesses.
- 9.2 Wherever possible hearings conducted by the Hearing Sub-Committee shall take place within three calendar months of the referral to the Hearing Sub-Committee.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- 9.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Standards Committee.
- 9.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.
- 9.5 If a member fails to attend the hearing, the Hearing Sub-Committee may decide to proceed in the member's absence and make a determination, or to adjourn the hearing to a later date
- 9.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- 9.7 The Hearing Sub-Committee, having sought and taken into account the views of an Independent Person may conclude:
- (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
 - (b) that the member did fail to comply with the Members' Code of Conduct.
- 9.8 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Hearing Sub-Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Hearing Sub-Committee will give the member an opportunity to make representations to the Sub-Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of an Independent Person. It will then decide what action, if any, to take in respect of the matter.

10. Action which may be taken where a member has failed to comply with the Code of Conduct

- 10.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Hearing Sub-Committee may:
- (a) Publish its findings in respect of the member's conduct;

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (b) Report its findings to Council for information;
- (c) Issue the member with a formal censure or be reprimanded, a report of which may be submitted to Council
- (d) 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;
- (e) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Instruct the Monitoring Officer to arrange training for the member;
- (g) Recommend to Council or Cabinet (as appropriate) that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet
- (h) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (i) Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.
- (j) Take no further action
- (k) Any other appropriate sanction which may be available to the Sub-Committee.

10.2 The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

10.3 At the end of the hearing, the Chair shall state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any action which the Sub-Committee has resolved to take.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- 10.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Hearing Sub-Committee.
- 10.5 The decision notice shall include a brief statement of facts, the provision of the Code of Conduct engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
- 10.6 As soon as reasonably practicable, the decision will be communicated as follows:
- (a) a copy of the decision notice will be sent to the person making the allegation and to the member concerned.
 - (b) the decision notice will be made available for public inspection at the Council's offices and on the Council's website.
 - (c) the decision will be reported to the next convenient meeting of the Council.

11. Appeals

- 11.1 There is no right of appeal for either the person making the allegation or for the member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee
- 11.2 If a person making the allegation considers that the Council has failed to deal with an allegation properly, he/she may make a complaint to the Local Government Ombudsman.

12. Conflicts of Interest

- 12.1 No member or officer of the Council will participate at any stage of this protocol if he or she has a conflict of interest in the matter.
- 12.2 Any member or officer with a potential conflict of interest must disclose it to the Monitoring Officer/Investigating Officer as soon as reasonably practicable.
- 12.3 The Monitoring Officer/Investigating Officer shall consider the appropriate steps to be taken in the event of a potential conflict of interest and may consult an Independent Person. Where appropriate,

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

the deputy monitoring officer or a monitoring officer from a different authority may undertake the investigation.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Appendix A

Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Hearing Sub-Committee and advised to the parties

1. The Chair shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
5. Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
6. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
7. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
8. Members of the Sub-Committee may question the Member and any witnesses.
9. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
10. The Member or his/her representative may sum up his/her case and make a closing speech.
11. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon the allegation. Prior to reaching a determination the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Sub-Committee shall seek and take into account the views of an Independent Person.

12. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision in the following terms:-

- (a) The Sub-Committee has determined that the Member has failed to comply with the Code of Conduct, or
- (b) The Sub-Committee has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Sub-Committee will give reasons for its decision.

13. If the Sub-Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.

14. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Sub-Committee shall seek and take into account the views of an Independent Person.

15. In addition to any action upon the current matter, the Sub-Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.

16. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision

17. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

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