



Report for:	Standards Committee	Item Number:	
Title:	Amendments to the Members' Code of Conduct		
Report Authorised by:	Bernie Ryan, Assistant Director of Governance and Monitoring Officer. <i>Bernie Ryan</i>		
Lead Officer:	Bernie Ryan, Assistant Director of Governance and Monitoring Officer.		
Ward(s) affected: N/A	Report for Key/Non Key Decisions: N/A		

1. Describe the issue under consideration

This report recommends some amendments to the Members' Code of Conduct.

2. Cabinet Member introduction

N/A

3. Recommendations

- (a) That Members consider the proposed amendments to the Members Code of Conduct and recommend their adoption by full Council.

4. Alternative options considered

- 4.1 No significant amendments to the Code are required, however some minor changes are required to improve clarity and include additional definitions.

5. Background information

- 5.1 S27 of the Localism Act 2011 imposes a duty on councils to promote and maintain high standards of conduct by members and co-opted members of



- the authority. In discharging this duty councils are required to adopt a code dealing with the conduct which is expected of members and co-opted members of the authority when they are acting in that capacity.
- 5.2 Section 28 of the Localism Act 2011 requires that codes of conduct adopted by councils are consistent, when viewed as a whole, with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Codes must also include appropriate provisions in relation to the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
- 5.3 Section 29 of the Localism Act 2012 requires the Monitoring officer to establish and maintain a register of interests of members and co-opted members of the authority. The register must be available for inspection at a place in the authority's area and on the council's website.
- 5.4 Section 30 of the Localism Act 2011 requires a member or co-opted member of the council, before the end of 28 days from the day when the person becomes a member or co-opted member, to notify the Monitoring Officer of any disclosable pecuniary interests which they have at the time the notice is given. Disclosable pecuniary interests are specified by the Secretary of State in Regulations and are included in the Code at Appendix A. Section 31 of the Localism Act 2011 includes provisions relating to actions members must take at meetings where they have a disclosable pecuniary interest and these are included in the Code at paragraph 9 of the Code.
- 5.5 Section 34 of the Localism Act makes it a criminal offence if a member or co-opted member fails, without reasonable excuse, to comply with requirements under section 30 or 31 to register or declare disclosable pecuniary interests. It is also a criminal offence to take part in council business at meetings, or act alone on behalf of the council, when prevented from doing so by a conflict caused by disclosable pecuniary interests.
- 5.6 Councils can amend their code as they see fit provided they comply with these requirements.
- 5.7 Haringey Council Members Code of Conduct was adopted by full Council on 16th July 2012. The Code has now been reviewed in light of its use over the past two years and some minor amendments and clarifications are now proposed.
- 5.8 The proposed changes are:
- (a) Explanatory Note (page 1) – addition of 'co-opted members' to make clear that the register contains their interests as well as elected members.



- (b) Application of the code para 2.6 – amended to make clear that members are acting in their capacity as a member when they claim to or give the impression they are acting as a representative of the authority.
- (c) Application of the code para 2.9 – a definition of ‘relevant authority’ is added for clarity.
- (d) Personal interests para 5.3 – definition of family member added for clarity.

5.9 Changes to the Code of Conduct must be approved by full Council. Standards Committee is requested to consider and then make recommendations for changes to full Council.

6. Comments of the Chief Finance Officer and financial implications

6.1 There are no financial implications arising from this report

7. Comments of the Assistant Director of Corporate Governance and legal implications

7.1 These are included within the body of the report.

8. Equalities and Community Cohesion Comments

N/A

9. Head of Procurement Comments

N/A

10. Policy Implications

N/A

11. Reasons for Decision

11.1 The Standards Committee supports the Council in discharging its duty to promote and maintain high standards of conduct by members and co-opted members. It is good practice to periodically review and amend (if needed), the Code of Conduct.

12. Use of Appendices

Appendix A – Members’ Code of Conduct

13. Local Government (Access to Information) Act 1985

Background papers used in the preparation of this report – current version of the Members Code of Conduct

Part Five, Section A

Members' Code of Conduct

MEMBERS' CODE OF CONDUCT

Explanatory Note

This Code of Conduct, is adopted under powers contained in the Localism Act 2011 ("the 2011 Act"), and contributes towards the discharge of the Council's duty under the 2011 Act to promote and maintain high standards of conduct by elected and co-opted members of Haringey Council. It is consistent with the principles of public life which are prescribed in the 2011 Act and which are included in the Code at paragraphs 1.1 - 1.7 below.

The 2011 Act requires the Council's Monitoring Officer to establish and maintain a register of interests of the members and co-opted members of the Council. It is a legal requirement that members must notify the Monitoring Officer of all their disclosable pecuniary interests within 28 days of becoming a member. Disclosable pecuniary interests are the member's interests, those of the member's spouse or civil partner, or person the member is living with as spouse or as if they were civil partners, and falling within categories specified in Regulations by the Secretary of State as set out at Appendix A. The Register of Members' Interests will be available for inspection by the public at all reasonable hours and will be published on the Council's website.

The 2011 Act has created a number of criminal offences for failure to comply with requirements relating to disclosable pecuniary interests. A summary of the offences is attached at Appendix B.

In addition to disclosable pecuniary interests personal interests as specified in the Code must be notified to the Monitoring Officer and declared at meetings if prejudicial in the manner described in the Code.

PART FIVE – CODES AND PROTOCOLS
Section A– Member 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, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

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) act, 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.

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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;
- (b) bully any person;
- (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,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.

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

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

- (a) act in accordance with your authority's reasonable requirements;
- (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 the 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 £50 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.

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

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.

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.
- 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 FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

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.