

Part 5

Codes of Conduct

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Chapter 5.1 - Code of Conduct for Members

1. INTRODUCTION

- 1.1 The Council is determined to provide excellent local government services for the people of Enfield and an important part of that commitment is ensuring high standards of conduct by Members and Voting Co-opted members of the Council and Officers. This Code of Conduct for Members of London Borough of Enfield has been adopted by the Council in line with its obligations under Section 27 (2) of the Localism Act 2011.
- 1.2 The Council has a legal duty to maintain a Code of Conduct and a register of disclosable pecuniary interests for Members of the Council. The Council also has a legal duty to deal with breaches of the Code of Conduct and failure to register pecuniary interests. The Officer Code of Conduct is set out in Part 5.4 of the Constitution.
- 1.3 The overarching purpose of the Code of Conduct is to establish an ethical culture within the Council. It is expected that political groups will set clear expectations of behaviour by their members and that senior officers will maintain effective relationships with political groups. The tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction of Members and ongoing training. Each member must attend training on the Code of Conduct/ethical standards, in addition to training for specific committees (for example Planning or Licensing Committee) and undertake refresher training a minimum of ever 2 years. Members who fail to attend training will be referred to the Group Whip and Leader.

2. PURPOSE OF THE CODE

- 2.1 The purpose of this Code of Conduct is to assist you in the discharge of your obligations to the Authority, the local communities and the public at large by:
- (i) Setting out the standards of conduct that are expected of you when you are acting in that capacity, and in so doing;
 - (ii) Providing the openness and accountability necessary to reinforce public confidence in the way in which you perform those activities; and
 - (iii) Meeting the Council's obligation to promote and maintain high standards of conduct.
- 2.2 The Code applies equally to co-opted members of Council Committees who are entitled to vote on any issues coming before those committees.

3. SCOPE OF THE CODE

- 3.1 The Code applies to you in all aspects of your behaviour when you are acting in an official capacity which includes your activities as a member, when acting on

4-7 Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives. Whilst the Code does not apply when you are acting in your private capacity, Members are reminded that the public expect Members to display the highest standards of conduct at all times.

3.2 The Code applies to comments or statements in print and those made whilst speaking in public or on publicly accessible social media sites.

3.3 The obligations set out in this Code are also complementary to related Codes and Protocols of the Authority within the Council's Constitution and elsewhere.

3.4 References to committees or meetings of the Authority within this Code also refer to Council, Cabinet, sub-committees, panels and working groups, as well as joint-committees.

4. PUBLIC DUTIES OF MEMBERS

4.1 You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act 2011, and to act on all occasions in accordance with the public trust placed in you. You are disqualified from acting as a councillor if, within 5 years of election you are:

- Convicted of an offence and sentenced to imprisonment for not less than three months; and/or
- Declared bankrupt.

Any criminal conviction or otherwise breaking the law, whether this is in your role as a Councillor or in a private capacity may cause reputational damage to you personally as well as the Council. It may also amount to a breach of trust and a breach of the general principles of conduct set out below.

4.2 You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the views of the residents of your ward.

5. GENERAL PRINCIPLES OF CONDUCT

5.1 In carrying out your duties, in exercising the functions of the Authority, or otherwise acting as a Councillor, you will be expected to observe the following general principles of conduct. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

Selflessness

5.2 You should take decisions solely in terms of the public interest. You should not seek to gain financial or other material benefits for yourself, your family, or friends.

Integrity

- 4-85.3 You should not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties. You should not place yourself in a situation where your honesty and integrity may be challenged or questioned.

Objectivity

- 5.4 In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit.

Accountability

- 5.5 You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

- 5.6 You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

- 5.7 You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

- 5.8 You should promote and support these principles by leadership and example. You should act in a way that secures or preserves public confidence.

Respect for Others

- 5.9 You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartial role of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

- 5.10 You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Stewardship

- 5.11 You should do whatever you are able to do to ensure that the Authority uses its resources prudently and in accordance with the law.

4-96. **EXPECTATIONS OF CONDUCT**

- 6.1 You shall base your conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
- 6.2 You shall at all times ensure that your use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and particularly not to use them for political purposes. It is important that you observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
- 6.3 You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute.
- 6.4 You shall cooperate and comply with any formal standards investigation including any informal pre-investigation discussions or mediation to attempt early resolution of complaints.
- 6.5 You shall not bring trivial or malicious allegations or complaints.

7. RULES OF CONDUCT

- 7.1 You shall observe the following rules when acting as a Member or co-opted Member of the Authority:
 - (i) Treat others with respect and courtesy;
 - (ii) You must not:
 - Do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010);
 - Bully, harass or intimidate any person;
 - Bullying can be characterised as offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.
 - Harassment is defined in the Equality Act 2010 and may be characterised 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.
 - By their nature, they are likely to be persistent behaviour but may also be one off instances. Genuine instances of bullying will fall outside the limits of legitimate free expression but

equally accusations should not be used as an attempt to restrict legitimate inquiries or free expression.

- (iii) Lobby, intimidate or attempt to lobby or intimidate any person who is or is likely to be:
- a complainant;
 - a witness; or
 - involved in the administration or determination of any investigation or proceedings
- in relation to an allegation that a member (including yourself) has failed to comply with their authority's code of conduct; or
- (iv) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority
- (v) You should 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;
- (vi) You must not 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:
- you have the consent of a person authorised to give it;
 - you are required by law to do so;
 - the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority
- (vii) You must not prevent another person from gaining access to information to which that person is entitled by law;
- (viii) You must comply with Council Policies and Guidance in respect of the use of social media and behaviour (for example, bullying, equalities and discrimination);
- (ix) You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

4-11 (x) You must follow the general principles and guidance in this Code of Conduct while speaking in public, commenting or writing in public or on publically accessible social media sites;

7.2 You shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others:

- Act in accordance with the Authority's reasonable requirements including the requirements of its ICT policy and the policies listed in the Constitution which you are deemed to have read and understood.
- Ensure that such resources are not used improperly for political purposes (including party political purposes);
- Have regard to any applicable Local Authority Code of Publicity made under the [Local Government Act 1986](#).

7.3 You shall observe the following rules when making decisions on behalf of or as part of the authority:

- Have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties;
- Give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority; and
- Have regard to the rules and advice on the registration and disclosure of interests as set out in this Code.

8. REGISTRATION AND DECLARATION OF INTERESTS

8.1 You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.

8.2 Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.

8.3 In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.

8.4 These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest.

4-12 **Registration of Interests**

8.5 You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.

8.6 When considering registering or disclosing any other pecuniary or non-pecuniary interests, you should ask yourself:

“Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?”

If the answer to this question is “yes”, then you should disclose that interest.

8.7 Within 28 days of becoming a member or Voting Co-opted member of the Authority, or of knowing you have a disclosable pecuniary interest, you must notify the Monitoring Officer. You must also draw attention to any relevant interest, including the nature of the interest, where it is required or appropriate to do so, in any proceeding of the Council or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member. Such registration and disclosures must be made even if the interest has already been included in the register of interests or where there is a notification pending to the Monitoring Officer.

8.8 You should approach the Authority’s Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation. If it is agreed that you have such an interest, you will be obliged to register it, but details will not be disclosed in the published version of the register. Similarly, when at a meeting, you only need to state the fact that you have a disclosable interest, and not details of the interest itself.

9. DISCLOSABLE PECUNIARY INTERESTS

9.1 The following will constitute pecuniary interests for the purposes of section 30(3) of the Localism Act 2011:

- employment, office, trade, profession or vocation carried on for profit or gain
- sponsorship towards election expenses or expenses incurred in carrying out duties as a member
- contracts between the authority and the individual, or a body in which the individual has a beneficial interest
- land in the local authority’s area

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- securities where the firm has land or a place of business in the local authority's area, and the holding is worth more than £25,000 or the individual holds more than 1% of share capital
 - licences to occupy land in the local authority
 - corporate tenancies where the landlord is the local authority

10. OTHER PECUNIARY INTERESTS

- 10.1 Any financial interest that is not a disclosable pecuniary interest and that would qualify as grounds for bias in an application to quash a decision of the Council. This could include benefits, gifts or hospitality received as a result of unpaid directorships, trusteeships or charitable roles. It is likely that most financial interests will be covered by the definitions in paragraph 26 above.

11. OTHER NON-PECUNIARY INTERESTS

- 11.1 Any non-financial interest that would qualify as grounds for bias in an application to quash a decision of the Authority.

12. MEMBERSHIPS

- 12.1 In addition, this Code requires you to disclose any interests in any business of the Authority where it relates to, or is likely to affect, either:
- (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 Council, this includes local authority trading companies;
 - (ii) Any body which exercises functions of a public nature, is directed to charitable purposes, or has a primary purpose of influencing 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.

13. REGISTER OF GIFTS AND HOSPITALITY

- 13.1 Declare any offers of gifts or hospitality to the Monitoring Officer before accepting them and follow any advice given about whether or not they should be accepted.
- 13.2 You shall comply with the Council's agreed policy on gifts and hospitality and disclose to the Monitoring Officer the offer or receipt of any gift or hospitality with an estimated value of £25 or more. Offers made but refused must also be disclosed.

14. DISCLOSURE AND DUTIES IN RESPECT OF INTERESTS HELD BY MEMBERS

4-14 **Declaration of interests not included in the Register**

14.1 If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest)

14.2 You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification)

14.3 You must then act in accordance with the below.

Disclosable Pecuniary Interests – Non Participation in Decision Making

14.4 Where you:

- (a) are present at a meeting of the authority and;
- (b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must:

- (c) not participate, or participate further, in any discussion of the matter at the meeting;
- (d) not participate in any vote, or further vote, taken on the matter at the meeting;
- (e) leave the room until the conclusion of the matter under discussion;
- (f) if the interest is not registered, you must disclose the interest at the meeting and notify the Monitoring Officer within 28 days.

14.5 Where you are an executive member taking a portfolio decision and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.

14.6 Where you have taken a portfolio decision that is subsequently discussed at a meeting of the authority, you must not try to influence the outcome of that discussion or take any further part in the proceedings unless answering questions to facilitate those discussions

14.7 If you have a disclosable pecuniary interest in a matter coming before a meeting of the authority, you can make a written request to the Monitoring Officer beforehand for a dispensation, which may allow you to participate in the discussion and vote.

4-1514.8 A dispensation may be granted in the following circumstances:

- (a) Where members of the decision making body have disclosable pecuniary interests in a matter that would “impede the transaction of the business”;
- (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter;
- (c) That the authority considers that the dispensation is in the interest of persons living in the authority’s area; and/or
- (d) That the authority considers that it is otherwise appropriate to grant a dispensation.

14.9 Any grant of dispensation must specify how long it will last, up to a maximum of 4 years.

14.10 Dispensations under (a) and (b) above shall be decided by the Monitoring Officer, with the right of appeal to the Councillor Conduct Committee. Those in (c) and (d) shall be considered by the Councillor Conduct Committee, after consultation with the Independent Person(s).

14.11 The following standard exemptions in relation to the granting of dispensations, in relation to members’ allowances, business rates, plus housing matters and rents have been agreed by the Councillor Conduct Committee:

- (i) An allowance, payment or indemnity given to members or any ceremonial honour given to members.
- (ii) Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012 as amended from time to time and any superseding legislation.
- (iii) Housing matters and rents (provided that those functions do not relate particularly to the members tenancy or lease).

15. CONSEQUENCES OF FAILING TO REGISTER OR DECLARE AN INTEREST.

15.1 Failure to register a disclosable pecuniary interest could be a breach of the Code and a criminal offence. You must register all such interests relating to you, your spouse, civil partner or partner.

15.2 If a disclosable pecuniary interest arises in relation to your family member or person with whom you have a close association or personal relationship, and you are aware that they have the interest, you must disclose and register that interest. Failure to do so could be in breach of this Code.

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15.3 If you fail to comply with the Code of Conduct (whether or not the finding is made in accordance with the Council's agreed arrangements) the Authority may have regard to that failure in deciding:

- (i) Whether to take action in relation to you; and
- (ii) What action to take.

Other Pecuniary and Non – Pecuniary Interests – Participation in Decision-making

15.4 Where you:

- (i) are present at a meeting of the authority; and
- (ii) have, or become aware that you have, an interest other than a DPI in any matter to be considered, or being considered, at the meeting,

You must disclose the interest at the meeting and notify the Monitoring Officer within 28 days, but can stay in the meeting, participate in the debate and vote.

15.5 Where you are an executive member taking a portfolio decision and are aware you have an interest other than a DPI, you must notify the Monitoring Officer of that interest within 28 days and record it on the portfolio decision.

15.6 Where you have taken a portfolio decision that is subsequently discussed at a meeting of the authority, you can stay in the meeting, participate in the debate and vote if appropriate.

Offences

15.7 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 the interest.

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- As an Executive Member discharging a function acting alone and having a disclosable pecuniary interest in such a matter, taking any steps in relation to such a matter.
 - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such an interest to a meeting.
- 15.5 The criminal penalties available to a court are to impose an unlimited fine and disqualification from being a councillor for up to five years.

16. DUTIES IN RESPECT OF THE AUTHORITY'S COUNCILLOR CONDUCT COMMITTEE AND THE MONITORING OFFICER

- 16.1 The application and guidance on this Code shall be a matter for the Authority and for the Councillor Conduct Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
- 16.2 You shall co-operate, at all stages, with any investigation into your conduct by the Authority or those persons acting on its behalf. Failure to do so is likely to be a breach of this Code.
- 16.3 All complaints will be dealt with according to the Council's Procedure for Handling Complaints against Councillors and Co-opted Members as set out in **Appendix 1** to the Code of Conduct.

Procedure for Handling Complaints against Councillors and Co-opted Members

1. Introduction

- 1.1 The Council has established a [Councillor Conduct Committee](#) to implement the relevant requirements of Section 28 of the Localism Act 2011. These include arrangements for dealing with allegations that a councillor or co-opted member has failed to comply with the Authority's Code of Conduct.
- 1.2 The Councillor Conduct Committee deals with policy, complaints against councillors and issues concerning the members' Code of Conduct. The Localism Act also set up a role of Independent Person who will be consulted in respect of complaints received and before findings and sanctions are agreed. The Independent Person will not be a councillor and will be drawn from the local community. The Council has agreed to appoint two Independent Persons who will be recruited through public advertisement and a competitive interview process. Further information on the role of the Committee and the Independent Persons can be found online.
- 1.3 Further reference to 'councillor' or 'member' in this document also refers to co-opted members of the Authority.

2. Key principles

- 2.1 The procedure for dealing with complaints should:
 - (i) Be relevant to the Council's Code of Conduct;
 - (ii) Have the confidence of the public, Council members and council staff;
 - (iii) Be as simple and economical as possible;
 - (iv) Be speedy and fair to all parties;
 - (v) Be decisive;
 - (vi) Provide oversight and support to the Monitoring Officer; and
 - (vii) Be proportionate and comply with the principles of natural justice

3. Criteria for eligibility of complaints

- 3.1 Complaints must be received by the Council's Monitoring Officer in writing within three months of the alleged matter, stating why it is felt the councillor concerned has breached the Code of Conduct. It will be considered solely on the evidence presented. The Council encourages complainants to provide their name and contact details. If the complainant asks for their identity to be protected, the Council will not disclose such details without their consent. The

4-19 Council will not accept anonymous complaints. The Monitoring Officer will consult the Councillor Conduct Committee or relevant Independent Person as appropriate throughout the process – subject to neither being at risk of being compromised in the event of them being involved at some future point.

3.2 Complaints will not be accepted where:

- (a) They are considered to be trivial, malicious, vexatious or frivolous
- (b) It is not in the public interest to investigate the complaint.
- (c) The subject matter has already been considered by the Council - except where new evidence has become available which could not previously have been produced
- (d) It would be more appropriate for the complaint to be dealt with by a court or under another complaints or arbitration procedure
- (e) One of the parties had registered their intention to take legal action on all or some of the matters complained about
- (f) Legal action is under way
- (g) Some or all of the matters complained about have been resolved through litigation.
- (h) The complainant seeks to overturn decisions made by the Council.

3.3 If a complaint is rejected on the basis of 3.2 above, there is no right of appeal.

4. Process

4.1 All complaints must be made using the Councillor Conduct Complaint Form.

4.2 The Council will use its reasonable endeavours to determine a complaint within 3 months of receipt. It will acknowledge the complaint within 5 working days, giving the complainant a contact name and details. The complainant will be kept informed of progress throughout. The process may include:

- (a) Requests for further information/evidence;
- (b) Informal resolution to the satisfaction of all parties;
- (c) Mediation;
- (d) Investigation; and/or
- (e) Referral to the Councillor Conduct Committee where the Monitoring Officer feels it would not be appropriate for him/her to take a decision

4.3 The Monitoring Officer, based primarily on the criteria set out in paragraph 3.2 above, will consider the complaint received and, in consultation with an Independent Person, will determine whether it warrants further action.

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- 4.4 If it is decided that the complaint does not warrant further action, as it falls within the criteria in 3.2, the Monitoring Officer will advise the complainant accordingly with reasons.
- 4.5 If the complaint is referred for further action, the Monitoring Officer will determine, in consultation with the Independent Person, the most appropriate way of dealing with the complaint.
- 4.6 The Monitoring Officer will send a copy of the Complaint to the Councillor and advise them that they may seek the advice of the Independent Person, not consulted by the Monitoring Officer. There is no right of appeal of the decision to refer a Complaint for further action
- 4.7 The Monitoring Officer will keep a written record of all consultations and discussions about complaints under consideration with the Independent Person(s) and the views expressed by the Independent Person(s).

5. Consideration of Complaints by Monitoring Officer

Informal Resolution

- 5.1 If the Complaint warrants further action, the Monitoring Officer will consider whether informal resolution is appropriate, and if so, will arrange mediation between the parties. If mediation is unsuccessful or is not appropriate, the matter will be referred for investigation.
- 5.2 The Monitoring Officer may decide to undertake any investigation and other actions him/herself or appoint another person to act as investigating officer on his/her behalf (for example where there is a conflict of interest). Whichever option is chosen, the outcome will be the responsibility (and in the name) of the Monitoring Officer.
- 5.2 The Monitoring Officer shall consider proportionality and the use of Council resources in determining what action should be taken.
- 5.3 Following an investigation which may involve requests for further information and advice, the Monitoring Officer or their representative, will seek to resolve the matter to the satisfaction of all parties or carry out mediation:
- If the complaint is resolved, there will be no further action; or
 - If this is not possible the Monitoring Officer will either determine the matter themselves or refer it to the Councillor Conduct Committee for determination
- 5.4 Where the Monitoring Officer determines the matter themselves, the Monitoring Officer, if upholding the Complaint can apply the following sanctions referred to at Paragraph 7.5.

6. Appeals against Monitoring Officer decisions

- 4-216.1 In cases where the Monitoring Officer has either found no breach of the Code the complainant will have a right of appeal against this decision, including a right of appeal against the sanction. A councillor will also have a similar right of appeal against a Monitoring Officer decision and sanction.
- 6.2 Such appeals must be submitted on the template within 10 working days of the receipt of the decision and sanction with any supporting evidence.
- 6.3 Appeals under 6.1 above will be considered by the Councillor Conduct Committee, with advice from an Independent Person not previously involved, if available.
- 6.4 When considering the appeal the Councillor Conduct Committee will follow the procedure for appeal hearings.
- 6.6 If the Councillor Conduct Committee do uphold the appeal and consider that there has been a breach of the Code, they will have the option of considering further action, imposing sanctions or adjourning to seek further information.
- 6.7 There is no further right of appeal to the Council against the decision of the Councillor Conduct Committee. The decision made will be final and binding.
- 6.8 If the complainant feels that the Council has failed to deal with a complaint properly, and that this failure has caused injustice, a complaint can be taken to the Local Government Ombudsman.

7. CONSIDERATION OF COMPLAINTS BY COUNCILLOR CONDUCT COMMITTEE

- 7.1 If appropriate, the Monitoring Officer (in consultation with the Independent Person) may refer the outcome of an investigation to the Councillor Conduct Committee.
- 7.2 The Committee will consider the Monitoring Officer / Investigating Officer's report which should include evidence and representations from both parties associated with the complaint.
- 7.3 The Committee will follow the procedure for Councillor Conduct Committee hearings
- 7.4 The Committee after considering the investigating officer's report will decide either that:
- (i) The member concerned has breached the Code of Conduct; or
 - (ii) There has been no breach.
- 7.5 In the event of a finding of a breach of the Code, the Committee will have the option of recommending a number of sanctions against the member concerned. This can include:

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- (i) Recommending an apology or attending an awareness course, e.g Diversity training;
 - (ii) Engaging in mediation
 - (iii) Reporting the findings to full Council;
 - (iv) Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member;
 - (v) Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities;
 - (vi) Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access;
 - (vii) Excluding the member from the Council’s offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member; and
 - (viii) Publishing the findings in the local media.

7.6 The decision will be communicated to all parties with reasons.

7.7 Where there is a finding of no breach, the Committee will communicate the decision to all parties together with reasons.

8. APPEALS AGAINST DECISIONS OF THE COUNCILLOR CONDUCT COMMITTEE (in relation to 7 above)

8.1 The decision of the Councillor Conduct Committee will be final and binding with no further right of appeal to the Council. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they can make a complaint to the Local Government Ombudsman.

Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints

1. General Principles

- 1.1 The Councillor Conduct Committee will decide, on a balance of probabilities, whether the allegation(s) is or are upheld. They will be able to call on the advice of relevant council officers and the Independent Person, who had not previously been consulted on the complaint (where we have two independent persons).
- 1.2 Papers will be sent out in advance of the hearing, including the Monitoring Officer/Investigating Officer report and written representations from both the complainant and the member complained against. They will both have the opportunity to comment, in advance, on the report. Any comments will be provided for the committee in advance of the meeting. Representations in writing must be provided no later than 7 days prior to the date of the meeting of the Councillor Conduct Committee.
- 1.3 The Committee will make a decision by considering the Monitoring Officer/Investigating officer's report and any representations by the Monitoring/Investigating officer or their representative and the written representations made by the complainant or member complained against, and any information provided at a hearing. Both parties will have the opportunity to make written and oral representations at the meeting.
- 1.4 There will be no requirement for either the complainant or the member(s) complained against, to attend committee hearings unless they wish to do so or the Conduct Committee requires them to attend.
- 1.5 If the complaint or the member(s) attend or the Committee requires their attendance, they may be accompanied by a representative or friend during the investigation hearing. The name of the representative shall be notified in advance to the Monitoring Officer so that a check can be made to ensure there is no conflict of interest in respect of the preferred representative. Where a conflict of interest arises the Monitoring Officer may determine that the preferred representative cannot make written or oral representations at the Councillor Code of Conduct Committee Meeting. The representative or friend will not be able to make representations themselves unless the Chair agrees on the advice of the Legal adviser to the Committee; this would be on an exceptional basis, where to do otherwise would result in breach of the Equality Act or the rules of natural justice.
- 1.6 The public and press will be excluded for those parts of the hearing where confidential or exempt information under Schedule 12A of the Local Government Act 1972, as amended, is disclosed. At the start of the hearing,

the Committee will make a decision as to whether or not all or part of the hearing should be held in public.

2. PROCEDURE AT INVESTIGATION HEARINGS

2.1 The Councillor Conduct Committee will be supported by a legal adviser and notetaker. The legal adviser shall have had no prior involvement in the matters which are the subject of the hearing. The Chair of the Committee will have a lead role in ensuring the fair and effective conduct of the hearing, supported by the legal adviser. During the hearing all questions and other proceedings shall be addressed through the chair. The legal advisor to the Committee may seek further information or ask questions at any point in these proceedings.

Presentation of the Monitoring Officer Report

2.2 The Monitoring/Investigating Officer will present his/her report and any relevant information to the committee members.

2.3 The Independent Person, who has been consulted on the Monitoring Officer decision, may include their comments.

2.4 The committee members will have an opportunity to ask questions of the Monitoring Officer and the Investigating Officer and the Independent Person.

If the Complainant and Member Complained Against Attend the Hearing

2.5 The member complained about or the complainant, they shall have the opportunity to make representations to the Committee after the submissions of the Monitoring Officer and/or Investigating Officer and the Independent Person and any questions from the Committee.

2.6 The committee members will at have an opportunity to ask questions of the member complained about or the complainant.

Consideration of the Outcome

2.7 The Monitoring/Investigating Officer, Independent Person and any other relevant parties, including the complainant, the member complained about, their representatives and members of the public will all withdraw. The legal adviser and notetaker will remain.

2.8 The Committee will consider all the information and make a decision as to whether or not there has been a breach of the Code of Conduct.

2.9 If it is decided that there had been a breach of the Code of Conduct, the Committee will then consider and agree what sanctions should be imposed. A list of possible sanctions is set out in paragraph 7.5.

Outcome of the Hearing

2.10 A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons.

This must be within five working days of the conclusion of the hearing. The decision will be published as soon as possible on the Council website. The formal written notice of the decision and the decision published on the Council website shall include a brief statement of facts, the provisions 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.

2.11 There is no appeal against the decision of the Councillor Conduct Committee.

General Recommendations from the Hearing

2.12 After the hearing the Committee may consider whether there are any general recommendations in relation to the application of the Code of Conduct for Members or ethical governance matters which they may wish to make arising from consideration of the allegation.

2.13 Where a registered complaint is subsequently withdrawn or resolved outside the Procedure, the Monitoring Officer in consultation with Independent Person(s) has the discretion to decide if the matter has been adequately and/or proportionately resolved or whether, given the substance of the original complaint, it should be escalated to the Committee for further consideration/resolution.

3. PROCEDURE AT AN APPEAL HEARING AGAINST A DECISION BY THE MONITORING OFFICER

3.1 The Councillor Conduct Committee will be supported by a legal adviser and notetaker. The legal adviser shall have had no prior involvement in the matters which are the subject of the hearing. The Chair of the Committee will have a lead role in ensuring the fair and effective conduct of the hearing, supported by the legal adviser. During the hearing all questions and other proceedings shall be addressed through the chair.

3.2 There will be no requirement for either the complainant or the member(s) complained against, to attend committee hearings unless they wish to do so or the Conduct Committee requires them to attend. If the complainant or the member(s) complained against attend the hearing, complainant and the member complained against may be accompanied by a representative or friend during the investigation hearing. The name of the representative shall be notified in advance to the Monitoring Officer so that a check can be made to ensure there is no conflict of interest in respect of the preferred representative. Where a conflict of interest arises the Monitoring Officer may determine that the preferred representative cannot make written or oral representations at the Councillor Code of Conduct Committee Meeting. The representative or friend will not be able to make representations themselves unless the Chair agrees on the advice of the Legal adviser to the Committee; this would be on an exceptional basis, where to do otherwise would result in breach of the Equality Act or the rules of natural justice.

Presentation of the Monitoring Officer Report

- 3.3 The Monitoring/Investigating Officer will present their report and any other information to the committee members along with any comments submitted in writing by the complainant or member(s) complained against.
- 3.4 The Independent Person, who had been consulted on the Monitoring Officer decision, may include their comments.
- 3.5 The committee members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.
- 3.6 The complainant or the member complained about or their representative may make comments or representations orally or in writing.
- 3.7 The committee members will at the discretion of the Chair have an opportunity to ask questions of the member complained about or the complainant.

Consideration of the Evidence

- 3.8 The Monitoring/Investigating Officer, Independent Person and other relevant parties (including the complainant, member complained about and the public) will then withdraw. The legal adviser and note taker will remain in the appeal hearing.
- 3.9 The Committee will consider all the information and make a decision as to whether or not to uphold the Monitoring/Investigating Officer decision.

Agree Outcome

- 3.10 If the outcome of the appeal results in Committee confirming that a breach of the Code has occurred then it will need to consider what sanctions it wishes to impose as a result. A list of sanctions is set out in paragraph 7.5 above.

Outcome of Hearing

- 3.11 A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the appeal hearing. The decision will be published as soon as possible on the Council website. The formal written notice of the decision and the decision published on the Council website shall include a brief statement of facts, the provisions 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.

General Recommendations from the Hearing

- 3.12 After the appeal hearing the Committee may consider whether there are any general recommendations in relation to the application of the Code of Conduct for Members or ethical governance matters which they may wish to make arising from consideration of the allegation

- 5.5 The Monitoring Officer will report quarterly to the Councillor Conduct Committee on:
- (i) The number and nature of complaints received;
 - (ii) Those rejected with reasons;
 - (iii) Those resolved through informal resolution and other methods (e.g. Mediation);
 - (iv) The number investigated; and
 - (v) Outcome/progress of investigations and action taken.
- 5.6 Where a registered complaint is subsequently withdrawn or resolved outside the Procedure, the Monitoring Officer in consultation with Independent Person(s) has the discretion to decide if the matter has been adequately and/or proportionately resolved or whether, given the substance of the original complaint, it should be escalated to the Committee for further consideration/resolution.

INTERNET AND EMAIL USAGE POLICY FOR COUNCILLORS

Policy Overview

Enfield Council gives you access to the information resources of the Internet and email to help you carry out your duties as a Councillor. You do not have to accept email and Internet access. However, if you do, you must read and keep to this policy.

First and foremost, the Internet is a tool, given to you to help the Council improve services to customers. You must only use your Internet access for Council-related purposes. This includes:

- communicating with residents, customers and suppliers, and
- researching relevant topics to obtain useful information to assist you in your duties.

We expect you to conduct yourself honestly and appropriately on the Internet, and respect the copyrights, software licensing rules, property rights, privacy and rights of others, just as you would in any other business dealings.

All existing Council policies apply to your conduct on the Internet, especially (but not exclusively) those that deal with privacy, misuse of Council resources, sexual or racial harassment, information and data security, confidentiality, and those included in the Member Code of Conduct, of which this policy forms a part.

ANY VIOLATION OF THIS POLICY COULD BE REFERRED TO THE MONITORING OFFICER OR THE COUNCILLOR CONDUCT COMMITTEE AND POSSIBLY FOR CRIMINAL PROSECUTION.

Guidance on Usage

The following provisions do not in any way limit your ability to carry out your official duties.

1. You are responsible for ensuring that if you have Internet access you also understand the requirements of this policy.
2. If you are posting to newsgroups, Internet mailing lists, etc. then you must include a Council disclaimer as part of each message.
3. You may participate in newsgroups or chat rooms only when relevant to your official duties. When participating you must clearly identify yourself by name and title. You must not endorse or appear to endorse on the Council's behalf any commercial product or service not sold or serviced by this Council, its agents or partners.
4. The Council retains the copyright to any original material posted to any forum, newsgroup, chat room or World Wide Web page by you in the course of your official duties.

5. Chat rooms and newsgroups are public forums where it is inappropriate to release confidential Council information, customer data, trade secrets, and any other material covered by existing Council confidentiality policies and procedures, whether or not the release is inadvertent.
6. When interacting with a Website, if you are asked whether you wish to proceed, do so only if you know that you can reasonably trust the Website. If you are uncertain, check with Corporate IT.

Council systems and equipment, including email and Internet systems and their associated hardware and software, are for official and authorised purposes only. However, personal use is authorised where it:

- does not interfere with the performance of your official duties
 - is of reasonable duration and frequency
 - serves a legitimate Council interest, such as enhancing your special interests or education
 - does not overburden the system or create any additional expense to the Council.
- You should consider carefully discretionary use for any other purpose.

Passwords and Security

Passwords to Council systems are provided in order to protect sensitive information and messages from unauthorised use or viewing. Such passwords are not intended to prevent appropriate review by Council management. Council management reserves the right to periodically monitor your use of any Council computer systems or network.

Passwords, login IDs, dial-in numbers and encryption keys must be kept unique and private. You must not share them or write them down.

You must not allow anyone else to send email using your identity. This includes your secretaries, assistants or any other individual.

Prohibited Usage

You may use the Council's Internet facilities for personal purposes as set out above, but you may not access any obscene or pornographic sites, and may not access or use information that would be considered harassing. Council facilities must not be used in an unlawful way.

A wide variety of materials may be considered offensive by colleagues, customers or suppliers. It is a violation of Council policy to store, view, print or redistribute any document or graphic file that is not directly related to your role as Councillor or to the Council's business activities. This should be understood with reference to the Council's policy framework, including the Equal Opportunities policy.

Some uses of the Council connection to the Internet can never be permitted.

Internet use is inappropriate when it:

1. Compromises the privacy of users and their personal data
2. Damages the integrity of a computer system, or the data or programs stored on a computer system

3. Disrupts the intended use of system or network resources
4. Uses or copies proprietary software when not authorised to do so
5. Results in the uploading, downloading, modification, or removal of files on the network for which such action is not authorised

It is impossible to define all possible unauthorised use. However, examples of other unacceptable Internet use include:

- Unauthorised attempts to break into any computer or network
- Using Council time and resources for personal gain
- Theft or copying of electronic files without permission
- Sending or posting Council confidential information outside the Council or inside the Council to unauthorised personnel
- Refusing to cooperate with a reasonable security investigation
- Sending chain letters through email

All Council Internet users are prohibited from transmitting or downloading material that is obscene, pornographic, threatening, racially or sexually harassing, or in any way contravenes the Equal Opportunities policy.

You may not visit sites known to contain offensive material. If you access an offensive site accidentally you must forward its address to Corporate IT within one working day of access or as soon as practical. We block access to known offensive sites.

You may buy or sell on the Internet. However, there are personal risks attached to this. See the Council's web site under Trading Standards for guidance.

If you commit the Council to a contract by electronic means without due authority, the Council may seek to recover any losses or expenses from you.

Use of interactive software (such as games) across the Internet is prohibited.

Software, Files and Downloading

1. All software used to access the World Wide Web must be Council approved and must incorporate all vendor provided security patches, as installed by ITNET.
2. Any files downloaded over the World Wide Web shall be scanned for viruses, using approved virus detection software as installed by ITNET.
3. Due to the non-secure state of the technology, no downloading of or interaction with Java, JavaScript, or ActiveX programs is allowed.
4. Only Council approved software may be installed on Council equipment.
5. You must not download software from the Internet. If there is a good reason to do so, you must ask for Corporate IT approval. When this is granted, the software will be downloaded and installed by ITNET.
6. Software licensed to the Council may not be transmitted to the Internet.

Use of Computer Equipment for Internet and Email Access

Access to the Internet from a Council-owned home computer or through Council-owned connections must keep to the same policies that apply to use within Council premises. As a Councillor, you may access Council computer systems; but family members or friends must not use them.

You may only connect to the Internet via Council supplied or approved Telecommunications lines.

You must inform the ITNET Help Desk if you detect any virus, configuration change or different behaviour of a computer or applications.

Monitoring the Policy

For management use, the Council's security software may record the Internet address of any site visited, and keep a record of file transmission or reception. Any message sent or received may be recorded and stored in an archive file.

Web browsers leave 'footprints' providing a trail of all site visits, and the Council reserves the right to monitor this. Any Councillor suspected of misuse may have all transactions and material logged for further action and potential investigation by management on behalf of the Monitoring Officer or the Councillor Conduct Committee.

Email Usage Policy

Electronic mail is provided by the Council for you to conduct Council business. However, personal use is allowed.

- Council confidential information may not be sent by email unless encrypted.
- Only authorised email software may be used.
- Email may not, by any means, be sent anonymously.

If you are found to be deliberately misusing email you will be referred to the Monitoring Officer or the Councillor Conduct Committee.

All electronic messages created and stored on Council computers or networks are the property of the Council and are not considered private.

The Council retains the right to access user electronic mail if it has reasonable grounds to do so. The Council may retrieve email messages even though the sender and the reader have deleted them. The contents of electronic mail will only be accessed or disclosed for security purposes or as required by law. Under such circumstances, ITNET will make relevant mail accessible to management for investigation.

Data Protection

The provisions of the Data Protection Act apply to any personal information held about constituents by Councillors on their private PC. All constituents' personal information should be kept secure, be used only for the purpose acquired, and kept only for as long as it is required.

General

This policy applies to Councillors using Council facilities. This means a Council owned laptop or PC, but equally applies to use of a private PC for Council business when connected to the Internet via a Council supplied telecommunications link.

The Council's email disclaimer need not be added to emails relating to Council business sent by Councillors using a private PC. The disclaimer will be automatically added to email sent from Council equipment using Council supplied email software.

Chapter 5.2 - Planning Committee Code of Practice

1. INTRODUCTION

- 1.1 This Code sets out how the Council expects Councillors to conduct themselves in carrying out all planning matters. This Code supplements and should be read with Members' Code of Conduct (Members' Code).
- 1.2 This Code is part of the Council's Constitution and is a policy of best practice which should be adhered to save for dispensations or the exercise of the Council's or the Chair's discretion in exceptional circumstances.
- 1.3 The aim of this Code to ensure Councillors conduct themselves properly in planning matters and there are no grounds for suggesting that any planning decision is unreasonable or invalid or open to challenge in any way on account of Councillors' conduct.
- 1.4 This Code covers all business conducted by the Planning Committee and any other planning matter that Councillors become involved with. The primary role of the Planning Committee will be determining planning applications, but this Code applies to all other matters as the context permits, for instance determining whether to initiate enforcement action.

2. COUNCILLORS' ROLE IN PLANNING

Determining Applications

- 2.1 Planning decisions are based on the consideration of private proposals against wider public interests. Often planning decisions will be made by balancing competing interests and having to judge the weight afforded to local and national policies against other material planning considerations.
- 2.2 The determination of planning matters is a statutory function of the Council. Councillors need to comply with the legislation to ensure that decisions taken by them are not open to challenge.
- 2.3 The law requires the determination of planning matters must be made in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act).
- 2.4 The Town and Country Planning Act 1990 (as amended) holds in dealing with an application for planning permission the authority shall have regard provisions of the development plan, so far as material to the application, and other considerations, including local finance considerations etc and any other material planning considerations (section 70(2)).

- 2.5 Government policy and guidance in the National Planning Policy Framework (NPPF) and Planning Practice Guidance, which themselves are material considerations, reiterate the importance of this, for instance in the presumption in favour of sustainable development in approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 of the NPPF).
- 2.6 This means, as the courts have held: ‘... *if the application accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the application does not accord with the development plan it will be refused unless there are material considerations indicating that it should be granted*’ (City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R. 1447).
- 2.7 It is common to refer to ‘balance’ and ‘weight’, in assessing material considerations for one outcome when ‘balanced’ against the development plan or other material considerations for the opposite outcome. The determination should follow the outcome that then outweighs the other, mindful of the statutory weight given to the development plan.
- 2.8 Councillors should also be aware that in cases of development involving works within a conservation area or a listed building the duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the 1990 Act) will also be engaged.
- 2.9 Section 66 of the 1990 Act is the duty on the Council to the desirability of preserving the listed building or its setting. Section 72 of the 1990 Act requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Development Plan

- 2.10 The Development Plan consists of the London Plan and the Council’s Local Plan (see this link for the Council’s local plan: <https://new.enfield.gov.uk/services/planning/local-plan/>). When adopted there may be further Local Plan documents e.g. Area Action Plans, Neighbourhood Plans (together these all constitute “the Development Plan”).
- 2.11 The time and cost of adopting the Development Plan, involving widespread consultation and independent examination, and the need for consistency in decision making explain why it is given statutory pre-eminence. The Courts have held that the “*development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction*”.

in the exercise of discretionary powers, while allowing a measure of flexibility to be retained" (Tesco Stores Ltd v Dundee City Council [2012] 2 P. & C.R. 9).

- 2.12 The duty in section 38(6) of the 2004 Act is for any proposed development to be in accordance with the Development Plan looked at as a whole, rather than with every policy in the Plan.
- 2.13 Any application that is not in accordance with the Development Plan will be advertised as such.

Material Considerations

- 2.14 In addition to the Development Plan and other statutory considerations, material planning considerations can be taken into account when determining planning matters.
- 2.15 It is for the Courts to determine what are material considerations, and the decision maker (acting reasonably) to determine what weight can be accorded to them.
- 2.16 There is no statutory definition of material considerations, but the Courts have held: *"In principle, ... any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances"* (Stringer v Minister of Housing and Local Government [1971] 1 All E.R. 65).
- 2.17 The general principle is that planning should be concerned only with the development and use of land and that usually wholly private interests are not material planning considerations. For instance, decreases in property prices are not material considerations.
- 2.18 Emerging development plan documents, and the planning history of the application site are examples of material considerations.
- 2.19 Whilst planning exists in a political sphere purely party-political considerations are not material and the party whip should not be used or followed in determining planning matters.
- 2.20 It follows that Councillors should limit their questions and discussions to only applicable Development Plan policies and material considerations. This is to avoid irrelevant considerations being taken in to account, which could lead to the Council's decision being challenged.

3. CHALLENGES AND APPEALS

- 3.1 Any party aggrieved by the Council's decision to approve an application could seek a judicial review or Local Government Ombudsman complaint. Grounds for doing so may include the consideration of irrelevant matters, failure to take into account relevant considerations or some other defect in the decision making process e.g. Councillor failed to declare and act on a notifiable interest (see below). The costs of a judicial review can run to the many thousands, especially if the claimant is successful and the Council has to pay their costs.
- 3.2 If a planning application is refused the applicant can appeal to the Planning Inspectorate (PINS). PINS will then reconsider the application afresh. If the Council's reasons for refusing the application are not substantiated by evidence or otherwise manifestly unreasonable the Council will face the risk of a costs award, in addition to the costs and time spent in defending an unsuccessful appeal.
- 3.3 Additionally, the Government monitors the performance of councils at appeals (in addition to other criteria such as the time taken in determining applications). Failure to satisfy these performance requirements will put the Council's planning functions at risk with the Government able to introduce measures enabling applications to be made directly to PINS.

Training

- 3.4 Given the above risks it is therefore essential that all Councillors at Planning Committee have received adequate training, enabling them to properly carry out their roles.
- 3.5 Councillors appointed to the Planning Committee must have received formal training in planning procedures and planning law before their attendance at their first Planning Committee unless they have received such training within the preceding year – or such time or training as the Head of Development Management determines.

4. INTERESTS

Declaring Interest

- 4.1 Councillors may have an interest in any planning matter they are dealing with. Depending on the circumstances and type of interest it may result in precluding them from any further involvement. Councillors need to refer to and comply with the Members' Code, in addition to the overview below.
- 4.2 Councillors need to raise any issue concerning a potential interest with the Director of Law and Governance as soon as they become aware of it. Certainly, it is advisable not to wait until the Committee meeting.
- 4.3 In declaring any interest at Planning Committee, the Councillor needs to declare the details of the interest for it to be accurately recorded. It is not

sufficient for a Councillor to merely declare they have an interest, without actually specifying what type of interest and how it has arisen.

- 4.4 Ultimately Councillors are responsible themselves for ensuring all applicable interests are declared and the correct procedures followed.

Disclosable Pecuniary Interest (DPI)

- 4.5 All DPis should be registered in line with the legislative requirements. Failure to do so or declare such an interest and vote on a planning matter where the Councillor has a DPI is a criminal offence.

- 4.6 If a Councillor has a DPI in a matter being considered by the Planning Committee, and has not been granted a dispensation then that Councillor must:

- (i) Declare the DPI at the start of the Planning Committee meeting;
- (ii) Not participate in any discussion of the matter at Planning Committee;
- (iii) Not participate in any vote on the matter; and
- (iv) Leave the room until the conclusion of the matter.

- 4.7 Being a Councillor for a ward within which a planning application is to be considered at Planning Committee is not a disclosable pecuniary interest assuming compliance with other parts of this section.

Other Interests

- 4.8 Councillors also have to disclose other interests that are not DPis. These interests are sometimes referred to as other pecuniary or non-pecuniary interests. Mostly these will cover matters where there is a real or perceived threat of bias from the Councillor or that the Councillor has pre-determined the matter.

- 4.9 These other interests can also apply if it affects the Councillor's family or their close associates more than it would a member of the public.

- 4.10 The appearance of bias can emerge in many ways and is a potential ground of judicial challenge if the apparently biased Councillor continues to be involved in the matter.

- 4.11 The Courts have held that what 'is to be considered is whether the fair-minded and informed observer would consider that there was a real possibility that the individual or body concerned was biased in the sense of approaching the decision with a closed mind and without impartial consideration of all relevant issues.

- 4.12 In considering a planning matter it is important that a Councillor does not have a closed mind, in that they have or may be perceived to have predetermined their position on that matter.
- 4.13 This is different to a Councillor being predisposed on matter, provided they remain open to listening to all arguments and changing their mind in light of all the information. However, clearly expressing an intention to vote in a particular way before a meeting is likely to be predetermination.
- 4.14 A Councillor who concludes they are biased or have predetermined the matter should follow the procedure for DPIs above. In that the non-pecuniary interest should be declared at the outset of the Planning Committee meeting, and the Councillor should have no involvement in the matter, subject to registered speaking, and leave the room until it has been concluded.

Speaking at Planning Committee

- 4.15 Any Councillor who has a other pecuniary or non-pecuniary interest who has registered to speak at Planning Committee may continue to do so. However, once they have finished speaking they must not participate in the discussion and must leave the room.

5. LOBBYING AND HOSPITALITY

Lobbying

- 5.1 Although lobbying is an acceptable and normal part of the political process, it can lead to questions about whether a Councillor is being honest and impartial.
- 5.2 Members of the Planning Committee may respond to lobbying and engage in pre-application discussions at their discretion as long as the procedures in **Appendix 1** are complied with but must avoid expressing their views in advance of the consideration of all material at Planning Committee.
- 5.3 In general, members of the Planning Committee should avoid organising support for, or opposition to, a planning application and should not lobby other members. If a member of the Planning Committee feels it appropriate to campaign in support of, or in opposition to, a particular application, then for the procedure for bias and predetermination in having a non-pecuniary interest should be followed.
- 5.4 Discussions between an applicant or potential applicant and the Council are encouraged but they should not become, or be perceived to become, part of the lobbying process. Such discussions should therefore take place within the following guidelines:
- (i) If practical when Councillors meet an applicant or potential applicant a professionally qualified officer should attend and a note made of any

such meeting, which can then be confirmed by correspondence. Any meetings should be declared at the outset of the Planning Committee meeting. The Head of Development Management should be contacted to arrange this;

- (ii) It must be made clear at the outset that the discussion will not bind the Council to a particular decision and that any views expressed are personal and provisional; and
- (iii) Advice should be considered and based upon the Development Plan and material considerations. Planning policies should be interpreted consistently.

5.5 It is recommended that Councillors should direct any approach made to them for a meeting to officers.

Hospitality

5.6 Members of the Planning Committee may be offered gifts or hospitality from people with an interest in a planning proposal such offers must be declined.

5.7 If receipt of hospitality is unavoidable – for example, where to refuse light refreshments on an extended visit would cause offence – those receiving it should ensure that it is of the minimum level and should declare its receipt as soon as possible. All offers, whether accepted or not, should be recorded and notified in writing to the Director of Law and Governance.

6. PLANNING PANELS AND DEVELOPER BRIEFINGS

Planning Panel

6.1 Before some applications are determined by Planning Committee (normally because of their scale or level of public interest) Councillors may decide in consultation with the Head of Development Management to hold a Planning Panel. This will be confirmed by the Planning Committee.

6.2 Planning Panels provide an opportunity for the applicant to present their development proposal in a public forum and for members of the public to ask questions about the development in the presence of the Panel who are able to listen to the concerns being raised and the responses being provided.

6.3 A Planning Panel is not a decision making forum and only provides an opportunity for Councillors to hear at first hand the issues being raised by the local community.

6.4 Membership of the Planning Panel is agreed by Planning Committee and will comprise of 3-5 members. The Chair will be a member of the Planning Committee.

- 6.5 Planning Panel meetings will normally be held at a location within the vicinity of the application site if at all possible. The format and procedure of the meeting to be followed is set out in **Appendix 2** and the meeting is usually scheduled for no more than 1½ hours (subject to the Chair’s discretion).

Developer Briefings

- 6.6 Normally forming part of the pre application process, Developer Briefings may be held to brief Councillors on proposed developments prior to the submission of a planning application or if appropriate, once an planning application has been submitted. The briefing will provide Councillors with the opportunity to ask developers questions to convey areas of interest the developers should be considering further. For some more complex or sensitive schemes, proposals may be brought to the Planning Committee for briefings on multiple occasions as the designs are developed.
- 6.7 Developer Briefings enable Councillors’ concerns to be taken into account as part of the design process to help shape the final development. However, they do not guarantee a favourable outcome when the application is reported to Planning Committee for determination.
- 6.8 Briefings will either be held in public as part of a normal meeting of the Planning Committee or in exceptional circumstances private. Whilst normally held in public, only Councillors may ask questions, pre-applications are private discussions and the forum will depend on where in the process, the developer is. The Developer Briefing is normally scheduled for no more than 30 minutes (subject to the Chair’s discretion).
- 6.9 The format and procedure of the meeting to be followed is set at **Appendix 3**.

Conduct

- 6.10 At Planning Panels and Developer Briefings no decision is being made. However, the contents of this Code will still apply as applicable, and in particular Councillors need to careful to ask open questions and not to predetermine or be perceived to have predetermined the application in question.

7. PROCEDURE AT PLANNING COMMITTEE

Committee Agenda and Reports

- 7.1 Planning Committee meetings are governed by the Council Procedure Rules as set out in the Constitution.
- 7.2 Planning Committee meetings will usually commence at 7.30pm and will finish at latest 10.00pm. The Planning Committee can extend the finish time after such a motion has been proposed, seconded and put to the vote.

- 7.3 The Planning Committee should also be mindful of the need to get through the agenda expeditiously to avoid delay and wasted journeys by members of the public. Subject to the Chair's discretion, no more than 30 minutes should be spent on most applications and 1 hour for complex cases.
- 7.4 The agenda for Planning Committee meetings is set by the Head of Development Management in consultation with the Chair. The Chair in their discretion may ask to move items on the agenda taking into account factors such as public speaking / interest in an application from those attending the meeting.
- 7.5 Each item on the agenda will be accompanied by an Officer's report with a recommendation to grant or refuse. It is important that Councillors read all reports before the Planning Committee meeting to enable them to participate, as the report will form the basis of the Planning Committee's decision unless representations are made to the contrary during the meeting by Councillors.
- 7.6 Each item on the agenda will be introduced briefly by an Officer. As the report is taken as having been read by Councillors the introduction is expected only to provide a summary of the proposal and key issues. The Officers will also provide any update or additional representations that have been received since the publication of the report.
- 7.7 The Planning Committee shall operate in accordance with the procedure outlined at **Appendix 4**.

Referral to Committee (Call-In Request)

- 7.8 Any Councillor can request to the Head of Development Management that a particular application is referred to Planning Committee rather than be dealt with under delegated powers. The process is as follows:
- (i) All requests must be made before the expiration of the statutory publicity period (usually 21 days);
 - (ii) All requests should be made in writing to the Case Officer, Planning Decisions Manager or Head of Development Management;
 - (iii) Each request should briefly set out the key reasons why it is necessary for the planning application to be determined by the Planning Committee rather than under delegated authority. This will assist the Planning Committee in their understanding why an application is being reported for their determination;
 - (iv) Each request will be considered by the Chair in consultation with the Head of Development Management who will make the decision on whether to agree to the requests. The Chair has discretion, in consultation, with the Head of Development Management to approve or reject such a call-in request; and

(v) The Councillor will be informed of the outcome of this process.

7.9 It is not the intention of this process to obstruct or prevent applications being reported to Planning Committee, but it does enable the process to be managed by ensuring that applications reported to Planning Committee (and which may therefore not be able to be determined within the statutory timeframes) raise issues that require the attention of the Planning Committee.

Attendance

7.10 The Planning Committee will be quorate if at least one quarter of the total number of members, rounded up to a whole number, is present.

7.11 Councillors who are members of the Executive or the Conservation Advisory Group or of Green Belt Forum cannot be a member of the Planning Committee.

7.12 To participate in the determination of a planning application and vote for an item, Councillors must be present for the entire duration of the agenda item: once the Committee has commenced consideration, they cannot participate in the discussion and voting.

7.13 Substitutes may be used subject to the substitute having received the applicable training as required by all members of the Planning Committee. Substitutes should also be from the same political party to maintain the political balance and will be subject to clearance from their group's Chief Whip. The substitute will be for the duration of the entire agenda and not used for individual items.

7.14 Councillors who are not members of the Planning Committee may attend the meeting and can register to speak.

7.15 At the Chair's discretion Officers from various Council departments as well as Conservation Advisory Group may attend the meeting and contribute to the discussion in response to questions from members of the Planning Committee.

Declaration of Interests

7.16 Councillors should declare any interests at the outset of the meeting when the Chair asks for such declarations.

7.17 Legal advice about any potential interest should be sought at the earliest opportunity, and not left until the item in question starts.

New Documents

7.18 The circulation of information or material will not normally be accepted during the meeting. In the interests of fairness, the Chair shall only exercise their

discretion to allow new information or material if all parties for that item have first had opportunity to review the new materials and agree that it can be circulated at the Planning Committee meeting.

- 7.19 If new or further information/material is to be allowed following the publication of the Planning Committee agenda it should be received in advance of the meeting (no later than 12pm the working day before the meeting) so that it can be reviewed by the Head of Development Management and circulated to Councillors of the Planning Committee by the relevant Democratic Services Officer.

Deputations (Public Speaking)

- 7.20 Public speaking at Planning Committee is allowed only in accordance with the below procedure. This aims to take into account procedural fairness for all parties and the Council's statutory requirements.
- 7.21 Those members of the public who wish to speak must have first made a written representation about the application within the prescribed notification period. They then must register to speak by contacting Democratic Services no later than by 10am on the day of the meeting.
- 7.22 In the interests of natural justice, the time allowed for objectors and supporters of the scheme will be limited to 5 minutes.
- 7.23 Public speaking will only be allowed if there are speakers opposing any aspect of the recommendation in the Officer's report.
- 7.24 Those registered to speak against the Officer's recommendation will be given 5 minutes in total, divided amongst them as they see fit. The Chair has discretion to allow more time in exceptional circumstances, subject to allowing any supporters of the proposal the same time.
- 7.25 Councillors may also speak if they register to do so, or with the approval of the Chair, for a total of 5 minutes each. Again, the time they speak for will be used to calculate the time allocated to supporters of the Officer's recommendation.
- 7.26 Public speaking is intended to aid Councillors make an informed decision by explaining or clarifying any representations objectors or supporters have made. Public speaking should only relate to material planning considerations. Anything included in public speaking that is not a material planning consideration should not be taken into account by the Planning Committee. In most cases, public speaking and public support or objection should not by themselves alter the weight given by Councillors to whatever material considerations are being addressed. Material considerations not addressed should similarly not be given lesser weight just on account of their omission in public speaking when assessing the application.
- 7.27 Speakers, including Councillors speaking, should not engage in any discussion with Councillors of the Planning Committee, unless the Chair

allows them to answer any factual questions from Councillors of the Planning Committee.

- 7.28 The Chair must be mindful to consider procedural fairness for all parties and the Council's statutory requirements in the exercise of the discretion. For instance, there may be occasions when no objectors are speaking the Chair allows the applicant to answer factual questions from Councillors.

Discussion and Voting

- 7.29 Following any deputation, the matter can be discussed, and the Chair will ask Councillors for any questions. All questions must be made to the Chair and not directly at officers or any speakers.
- 7.30 Unless the Chair directs otherwise, each Councillor will only be given one opportunity to ask questions. Councillors must avoid any repetition in addressing points already covered in the discussion or Officer's report.
- 7.31 Questions must only relate to applicable material planning considerations. Questions or comments that do not relate to applicable material planning considerations will not be answered.
- 7.32 Following any discussion, the Chair will move the officer's recommendation to the vote. Voting will be by show of hands and any matter will be decided by a simple majority.
- 7.33 If there are equal numbers of votes for and against, the Chair will have a second or casting vote.
- 7.34 Whilst there is no prohibition on abstaining, Councillors should note that it would often be unlikely for a Development Plan compliant proposal to be so finely balanced. A consistent voting record of voting against, or abstaining on, Development Plan compliant schemes may lead to the Head of Development Management, if circumstances merit it, to request the reasons for such voting patterns to see if further training for the Councillor(s) concerned is required.

Decisions Contrary to Recommendation

- 7.35 Any motion to decide an application contrary to the Officer recommendation should be made prior to the Chair calling for the vote on the Officer recommendation. Such a motion must be seconded before it is discussed and voted on.
- 7.36 Such a motion may include:
- (i) to refuse an application where the Officer recommendation is for approval;
 - (ii) to approve an application where the Officer recommendation is for refusal;

- (iii) agree with the recommendation that an application should be approved or refused but with additional / different conditions and/or legal agreement heads of term or with additional / different reasons for approval or refusal;
- (iv) to defer to enable further consideration of an identified issue(s);
- (v) to defer for a site visit (see section 7 below).

7.37 The Chair, in consultation with officers, will ensure that the planning reasons for such a motion are clear before the vote is taken. This may involve allowing applicable officers the opportunity to address the Planning Committee about the implications of such a decision.

7.38 When a decision is made contrary to the Officer recommendation a detailed minute of the Planning Committee's reasons will be made. This is especially case when a decision is made contrary to the Development Plan. The material planning considerations which led to the decision and the reasons they are considered to outweigh the Development Plan must be clearly identified and minuted.

8. SITE VISIT

8.1 Ordinarily the available information contained in the report including plans, drawings and photographs will enable decisions to be made without it being necessary for any formal site visit. Councillors should only request a site visit when this is not the case and the site visit will be a clear benefit in assisting them determine the matter.

8.2 Deferral of an application at Planning Committee for a site visit should only be made in exceptional circumstances, with the reason for the site visit and expected benefit to decision making being clearly articulated and recorded.

8.3 An officer will always accompany Councillors on any site visits. Councillors should refrain from entering into any discussion with third parties present at any site visit. Councillors must comply with this Code, as applicable throughout the site visit.

8.4 The procedure to be followed for site visits is set out at **Appendix 5**.

9. COMPLAINTS

9.1 Any complaints for breaching this Code should be made the same as detailed in the Members' Code.

10. REVIEW

10.1 This Code will be kept under review, especially to take into account any changes in legislation, caselaw and examples of good practice. Any feedback or comments about this Code can be made to the Monitoring Officer.

Lobbying

Councillors, when approached by an individual or group in respect of either a current or proposed application should:

- Listen to and note the facts and opinions expressed;
- Advise the lobbyists to submit these views in writing to the Head of Development Management;
- Explain the decision making process of the Council;
- Avoid giving, or appearing to give, any commitment as to the likely outcome of the proposal;
- Make it clear that any opinion given is personal and not the position of the Head of Development Management or the Council as the local planning authority;
- Pass on information of any such discussions to the Head of Development Management;
- Declare any contact under these circumstances at the relevant Committee before any vote is taken.

Councillors may be requested to meet with prospective applicants or other interested parties. Such meetings should not be common practice. However, when such meetings are held Councillors of the Planning Committee should:

- Advise the Head of Development Management of the intention to hold such a meeting;
- Discuss the need for an officer to attend;
- Ensure that an accurate record of the meeting is provided in writing to the Head of Development Management to include within the application file; and
- Councillors should avoid placing themselves in a position that could lead the public to thinking they are seeking preferential treatment for themselves, for relatives or friends or any firm or body with which they are personally connected.

Planning Panel

1. The Planning Panel will meet in accordance with its terms of reference.
2. The Chair will open the meeting, explain the purpose of the Planning Panel and introduce the panel members
3. The planning officer will give a brief introduction and set out the status of the application.
4. The applicant will speak for no more than 15 minutes.
5. The Chair will take questions and comments from Councillors on the Panel, Ward Councillors / politicians and then members of the public.
6. All questions and comments must be through the Chair and only relate to material planning considerations.
7. The Chair may direct officers or the applicant to answer or comment on questions and comments from the Councillors and members of the public.
8. The Chair, with support of the Head of Development Management, will summarise main points of the meeting and bring the meeting to an end.
9. The meeting should not last longer than 1½ hours, unless the Chair otherwise directs.
10. Minutes of the meeting will be taken and then appended to the agenda for the meeting of the Planning Committee when the planning application is reported.

Developer Briefing

1. The Chair will open the briefing and introduce the members present.
2. The planning officer will give a brief introduction on the purpose of the briefing and the current status of the matter under discussion.
3. The applicant will speak for no more than 15 minutes, subject to the Chair's discretion.
4. Questions will then be made by Councillor.
5. All questions must be through the Chair and only relate to material planning considerations.
6. The Chair may direct officers or the applicant to answer or comment on questions from the Councillors.
7. The Chair, with the support of the Head of Development Management, will summarise main points of the meeting and bring the item to an end.
8. The briefing should last no longer than 45 minutes, unless the Chair otherwise directs.
9. A minute of the meeting will be made.

Procedures for Planning Committee

1. Public speaking will only be permitted where prospective objectors' comments have previously been submitted in writing and the procedure for registering to speak has been complied with. Details of current procedure can be obtained from Democratic Services.
2. Democratic Services must be notified by 10am on the day of the Committee meeting. This can be in writing or by e-mail. Details including the name, address, and day-time contact number must be left.
3. Objectors have a total of five minutes, or this time can be split amongst objectors for two or more objectors, to address Planning Committee. If other people have requested to speak on an item details will be provided and then it will be decided on how their views are presented. Any deviation on this would be at the discretion of the Chair.
4. Public speaking will be permitted whenever the application is considered by the Planning Committee and if speakers objecting to the officer recommendation have been registered. If the application is deferred a further address to Committee will be permitted in certain circumstances i.e. if the application was deferred for additional information and the speaking should be limited to the new information. Normally no further deputations will be heard if the application had previously been deferred for a site visit subject to the decision to defer for a site visit having been made after the relevant deputations being made.
5. Those people addressing Committee will be advised when they have 30 seconds of their allotted five minutes remaining and will be expected to cease talking immediately on being advised that the five minutes is up.
6. Councillors are also afforded 5 minutes to make a deputation.
7. Those people who have advised the Director of Law and Governance of their desire to address Committee are requested to identify themselves to the Committee Clerk 15 minutes before Committee commences. This will enable the order of the discussion of items on the agenda to be varied at the Chair's discretion if it is appropriate.
8. The discussion on applications will be in the following order:
 - (i) Declarations of interest by Councillors;
 - (ii) Chair to announce the application;
 - (iii) Planning officers will briefly present the item including details of any addendum/additional information not in the original committee report;

- (iv) Objector(s) to the recommendation to address Committee for up to 5 minutes in total (dividing this time between themselves);
 - (v) Councillors (not on Planning Committee) to address Committee for 5 minutes each;
 - (vi) Those supporting the recommendation (e.g. usually applicant/agent) to address the Committee only if there were speakers against the recommendation and for the same time in total as all those who spoke against the recommendation;
 - (vii) At the direction of the Chair, applicable officers to respond to any issues raised;
 - (viii) Councillor questions and debate, all through the Chair;
 - (ix) At the direction of the Chair, applicable officers to respond to any issues raised;
 - (xi) Summary and proposition of the vote by the Chair, unless before this there is a motion seconded contrary to the officer recommendation;
 - (xii) Vote.
9. In addressing the Committee applicants, agents, supporters and objectors are requested to restrict their comments to issues which are material planning considerations.
10. Total time for each application not to exceed 30 minutes for most applications and 1 hour for exceptional cases, unless Chair allows otherwise.
11. Minutes of the meeting will be taken and usually approved at the next Committee meeting. In the event of any dispute regarding the approval of the minutes the Chair's decision will prevail.

Planning Committee Site Visits

1. All site visits to be undertaken by the Planning Committee which are not as a result of a Committee decision, will be discussed with the Chair and agreed by Planning Committee. A site visit will be used only when a proposal is contentious or particularly complicated and when in the Committee's view the expected benefit in assisting the Committee to determine the application is substantial. The nature of that expected benefit shall be minuted as the reason for the decision to make a site visit.
2. A site visit will normally take place immediately preceding the next Committee meeting following the decision to make the visit and should be arranged by the Planning Case Officer.
3. The applicant, the occupiers and the owners of private land to which access is desirable to consider the application shall be notified in writing and prior agreement shall be obtained if possible. The written notice shall make it clear that at the site visit only factual information or answers relating to the recorded matters which have caused the visit to be made may be given. No lobbying will be permitted.
4. Members must not talk individually with applicants, objectors or others during a site visit. So far as practicable, information, question and answers should be given in the hearing of all members in attendance. The ward councillors will also be notified of and able to attend site visits.
5. A note shall be made of members attending site visits.
6. The Committee will arrive on time at the site.
7. Site visits do not commence until the Chair or his nominated substitute and the authorised officer of the Council has arrived on site.
8. The Chair of the Committee will introduce the participants and explain the purpose of the inspection making it clear that the panel is not authorised to make a decision on the application.
9. The authorised officer will set out the main issues relating to the application, i.e. what the application involves, relevant planning policies, the main grounds of objection and relevant responses from consultees.
10. There will be an opportunity for Councillors of the Committee to ask questions to the officer.
11. The site meeting will be conducted with all those attending remaining together as a single group throughout.
12. Documents, letters, or positions concerning the planning issues or the site visit from any party will not normally be accepted at any site visit.

13. The Chair will terminate the site visit and the Planning Committee will depart.

Chapter 5.3 – Licensing and Gambling Code of Conduct

1. DEFINITIONS

- 1.1 **“Licensing Committee”** (the Committee) refers to the Committee established in accordance with Section 6 of the Licensing Act 2003 and consists of at least ten, but not more than fifteen, Members of the London Borough of Enfield (‘the Council’) as Licensing Authority.
- 1.2 **“Licensing Sub-Committee”** (the Sub-Committee) refers to no more than three Members of the Committee meeting as its Sub-Committee. The Sub-Committee is responsible for hearing applications made under the Licensing Act 2003 and the Gambling Act 2005.

2. INTRODUCTION

- 2.1 This Licensing & Gambling Code of Conduct (the Licensing Code) relates to the conduct of all Members in respect of both licensing and gambling, including Members of the Committee and any Sub-Committees appointed.
- 2.2 The Code is supplementary to the Members’ Code of Conduct (the Members’ Code).

3. MEMBERS’ ROLE IN OPPOSING APPLICATIONS UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005

- 3.1 The role of Members in opposing applications differs depending on whether the application was made under the Licensing Act 2003 or the Gambling Act 2005.
- 3.2 The role of Members in opposing applications for premises licence or club premises certificate under the Licensing Act 2003 is as follows:
- Members may represent persons who live in the vicinity or persons involved in a business in the vicinity, but only when asked to do so. Members may also sum up on behalf of the person/s they are representing. Where interested parties present at the hearing ask Members to sum up on their behalf, Members may choose to do so, but then must confine themselves to matters which arose during the hearing and/or were contained within the letters of representation;
 - Members may make representations in a personal capacity, subject to the restrictions as set out in paragraph 5.6 below.
- 3.3 The role of Members in opposing applications for premises licence under the Gambling Act 2005 is as follows:
- (i) Members may represent persons who live sufficiently close to the premises to be likely to be affected, or persons who have business

interests that might be affected by the authorised activities but only when asked to do so. Members may also sum up on behalf of the person/s they are representing. Where interested parties present at the hearing ask Members to sum up on their behalf, Members may choose to do so, but must then confine themselves to matters which arose during the hearing and/or were contained within the letters of representations;

- (ii) Members may make representations in personal capacity, subject to the restrictions as set out in paragraph 5.6 below;
 - (iii) Members may send a letter of representation to the Licensing Unit and then may orally address the Sub-Committee without being asked by a resident specifically to do so (i.e. a general ward representation);
 - (iv) In order to make oral representations before the Licensing Sub-Committee, members must first send a letter of representation to the Licensing Unit within the specified timeframe. Where Members have a personal and prejudicial interest, the letter of representation must also outline the existence and nature of the interest;
 - (v) If a Member decides not to attend the Sub-Committee hearing to make oral representations, their letter of representation will still be taken into account if it relates to one of the grounds for determination (see paragraph 7.7);
 - (vi) If Members making a general ward representation have no interest, or a personal interest only, they may remain for the duration of the hearing;
- 3.4 If Members making a general ward representation have a personal and prejudicial interest, they may attend the Sub-Committee hearing to make oral representations, answer questions or give evidence about the matter (provided that the public are also allowed to attend the meeting for the same purpose), they must then leave the room for the duration of the meeting but may be present for the announcement of the decision.

4. GIFTS AND HOSPITALITY

- 4.1 Members of the Licensing Committee should have particular regard to public perception when accepting any gift of hospitality from licensed premises (being premises licensed under the Licensing Act 2003 or Gambling Act 2005) in respect of which they might be called upon to consider an application, and should act with extreme caution when accepting any gift whatsoever, regardless of the monetary value.
- 4.2 It is generally acceptable for Members to accept light non-alcoholic refreshments (such as tea, coffee, soft drink, juice, biscuits, light snacks) whilst attending a meeting in an official capacity.

5. MEMBERS' INTERESTS – LICENSING AND GAMBLING APPLICATIONS

- 5.1 Members must comply with Part 2 of the Members' Code, which deals with Interests.
- 5.2 Members must always declare any personal interest, or personal and prejudicial interest, as defined by the Members' Code. The existence and nature of an interest must be declared when Members are sitting on the Sub-Committee or appearing before the Sub-Committee. This should include interests where Members have some doubt whether or not it is declarable and such an interest should be notified in advance of the hearing to the Legal Advisor for that hearing.
- 5.3 Members with a personal and prejudicial interest must not sit on the Sub-Committee and determine the application. As a general rule, Members are not invited to sit on any Sub-Committee which will consider applications relating to the ward which they represent.
- 5.4 Members with a personal and prejudicial interest may make an application under the Licensing Act 2003 or Gambling Act 2005, or act as a representative for the applicant, and may then attend the Sub-Committee hearing for the purpose of making the case, answering questions or giving evidence (provided that the public are also allowed to attend the meeting for the same purpose).
- 5.5 Members may be present for the announcement of the decision whether or not they are representing a party or have a personal and prejudicial interest.
- 5.6 Members who live in the vicinity of a premises subject to an application under the Licensing Act 2003, or who live sufficiently close to a premises subject to an application under the Gambling Act 2005 so as to be likely to be affected by gambling, would generally be regarded as having a personal and prejudicial interest. In such circumstances Members with a personal and prejudicial interest may:
 - (i) Send a letter of representation to the Licensing Unit within the specified timeframes for making representations. The letter of representation must also outline the existence and nature of the interest;
 - (ii) Attend the Sub-Committee hearing to make oral representations, answer questions or give evidence about the matter (provided the public are also allowed to attend the meeting for the same purpose). In addition, whilst this is a matter for the Member, it is suggested that a Member with a personal and prejudicial interest may wish to consider whether or not their involvement could be such as to make it unwise for them to participate because of an adverse potential impact on the reputation of themselves or of the Council;

(iii) In order to be able to make oral representations before the Sub-Committee, Members must first send a letter of representation to the Licensing Unit. If a Member decides not to attend the Licensing Sub-Committee hearing to make oral representations, the letter of representation will still be taken into account if it relates to one of the grounds for determination (see paragraphs 7.6/7.7) and the Member lives in the vicinity (Licensing Act 2003) / sufficiently close (Gambling Act 2005).

5.7 It is accepted that Members of the Sub-Committee may have visited the licensed premises in their personal lives. Members should declare if it amounts to a personal interest, or a personal and prejudicial interest.

5.8 Members involved in Council meetings which approved the Licensing Policy and the Gambling Policy, are not excluded from the Licensing Sub-Committee because of such involvement.

6. LOBBYING

Of Licensing Committee Members

6.1 If a Sub-Committee Member is approached by persons wishing to lobby them about a licence application under the Licensing Act 2003 or Gambling Act 2005 that they will be determining, then that Sub-Committee Member must politely explain that they cannot discuss the matter and refer the lobbyist to the Licensing Unit or to his/her Ward Member. However, the member can explain the process of decision making in general terms.

6.2 Any written presentations received by a Sub-Committee Member should be passed to the Licensing Unit. Any such approach received in time should also be reported at the hearing at which the application is being determined.

6.3 Requests for procedural advice with regards to licensing applications should be referred to the Licensing Unit for advice and information.

Of or by all other Members

6.4 Other Members must not lobby Members who sit on the Sub-Committee, directly or indirectly, in writing or otherwise, in respect of items to be decided by the Sub-Committee with a view to influencing their decision. Any representation by other Members, on behalf of an interested party, should be sent to the Licensing Unit for inclusion in his report.

7. GUIDING PRINCIPLES FOR SUB-COMMITTEE MEMBERS

7.1 In respect of any application listed for consideration by a particular Sub-Committee, Members of that Sub-Committee must avoid expressing personal

opinions prior to the hearing. To do so would indicate that the Member has made up his or her mind before hearing all the evidence.

- 7.2 Those Sub-Committee Members must not take nor declare a view on the merits of the application nor organise support or opposition in advance of the hearing and must keep an open mind until after they have considered all the evidence and arguments presented.
- 7.3 Those Sub-Committee Members should not form or show bias against or in favour of any particular person, company or group or any particular site or locality nor give the impression that they have done so.
- 7.4 Those Sub-Committee Members cannot represent one of the interested parties or applicant.
- 7.5 Decisions of the Sub-Committee shall not be taken in accordance with a political party direction given at a previous party group meeting or otherwise.
- 7.6 For applications heard under the Licensing Act 2003, the Sub-Committee must make their decisions based on the Licensing Objectives, having regard to the Guidance and Licensing Policy.
- 7.7 For applications heard under the Gambling Act 2005, the Sub-Committee should aim to permit the use of premises for gambling in so far as they think it:
 - (i) in accordance with any relevant Code of Practice;
 - (ii) in accordance with any relevant Guidance;
 - (iii) reasonably consistent with the Licensing Objectives (subject to (i) and (ii) above); and
 - (iv) in accordance with the authority's statement of Gambling Policy (subject to (i) and (iii) above).

8. NATURAL JUSTICE

- 8.1 Members of the Sub-Committee must comply with the rules of natural justice, ensuring that parties have an opportunity to be heard, whilst acting fairly and impartially. When the Sub-Committee is making its determinations, the following principles must be considered:
 - (i) Free from the appearance of bias – Sub-Committee Members must make an objective and impartial determination of the issues based on the evidence and should not make, or give the appearance of making, a biased decision. Members of the Licensing Committee should not make any public statements which may give the impressions to the public that they may not be objective when sitting on any Sub-Committee. Bias may include pre-judged ideas based on their own prejudices or party political influences;

- (ii) Fair hearing – For a hearing to be fair a number of conditions must be satisfied, including the right for the individual to know the opposing case; generally the right to call witnesses; the ability to question witnesses; the right to legal representation; and generally the right to be given reasons for any decision made.

9. CONDUCT AT HEARINGS

- 9.1 Members of the Sub-Committee should not communicate directly with the applicant, interested parties or responsible authorities (N.B. the Licensing Unit is not a responsible authority) either immediately prior to the hearing, during the hearing, or after the hearing, other than publicly through the Chair.
- 9.2 Licensing Sub-Committee Members' questioning of speakers is to clarify arguments and views, and care should be taken not to express or indicate a view at that stage, nor to intimidate speakers.
- 9.3 Any material considered by the Sub-Committee that does not comprise part of any material supplied by the Licensing Unit must originate only from the applicant, an interested party or responsible authority, and must be tabled through the Chair. The nature of any such material must be clear to all present at the hearing and available for inspection.
- 9.4 Members must comply with the 'Procedures to be followed at hearings of the Licensing Sub-Committee', as amended from time to time.
- 9.5 Members should not take part or vote on an item if they have not familiarised themselves with the report and letters of representation and been present throughout consideration of the item.

10. RECORDING OF REASONS

- 10.1 The Sub-Committee must give reasons for its decisions. The reasons will be published in the minutes.
- 10.2 Members of the Sub-Committee should be aware of the dangers in publicly discussing the reasons with persons other than relevant Council officers prior to the formal publication of the minutes and subsequently.

11. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY

- 11.1 Where the Local Authority applies for a premises licence under the Licensing Act 2003 for open spaces or buildings which it owns, or where there is a variation application or review in respect of such open spaces or buildings, the Sub-Committee must hear and determine this application/review in exactly the same manner as other applications/reviews. The Sub-Committee must give

no regard to the interests of the Council itself, aside from receiving relevant representations on this issue.

- 11.2 A dispensation to hear such applications will not usually be necessary, as a Member will not have a personal and prejudicial interest solely through being a Councillor.
- 11.3 Members who are part of the authority's decisions to apply for the licence, or who express a view in respect of such an application, should not also be part of the Sub-Committee.
- 11.4 Members of the Sub-Committee must be aware of any potential appearance of bias and must endeavour to avoid giving any potential appearance of bias even though none exists.

12. SITE VISITS

- 12.1 Site visits are generally unnecessary and can risk putting the Members and the Licensing Unit at risk of accusations of potential bias.

Chapter 5.4 – Employee Code of Conduct

1. INTRODUCTION

The residents of the borough of Enfield expect public servants, at all levels, to demonstrate the highest levels of integrity and professionalism at all times. This is essential to ensure that we deliver value for money services which put our customers first.

This code of conduct applies to all employees of the Council. The purpose of the code is to ensure high standards, and to avoid both impropriety and any appearance of impropriety. Failure to adhere to the standards expected could bring the Council into disrepute. Employees who fail to meet the highest standards of conduct will be managed in accordance with the Council's [Principles of Managing Misconduct](#).

The code of conduct is a framework which clearly outlines the expected standards, behaviours and responsibilities to be followed by all employees. The framework also supports the Council's policies and principles. Each employee of this Council is responsible for keeping up to date with any changes in policy, principles and procedures.

2. WORKING WITH PEOPLE

Working with clients and customers

The Council exists to provide a range of services for the benefit of people living in the Borough. Members of the public are our clients and customers. The Council has stated that it will provide the best possible services to meet the needs of its customers and clients within the resources available, and treat them all with dignity, respect and fairness.

Working with Councillors

Councillors expect staff to contribute to proper and effective working relationships with them. You serve the Council as a whole - all Councillors and not just those of any controlling group. You must ensure that the rights of Councillors are respected. You must maintain political neutrality at work and be seen to be impartial.

Working with Partners and Colleagues

You are expected to work with partners and colleagues constructively and collaboratively in order to achieve the Council's corporate aims and objectives.

Work Related Social Events

Whilst social events often take place away from the workplace and outside of normal working hours, this Code of Conduct will apply to such events.

Equality and Diversity

The Council's [Equality and Diversity in Employment Policy](#) provides a framework to ensure that it meets its statutory obligations and policy objectives to protect people from harassment, discrimination or being treated unfairly, when applying for a job (through fair recruitment and selection practices), as a

Council employee or, as clients and customers seeking and receiving Council services. The policy provides a means to ensure that we positively *promote* equality of opportunity in all areas of the Council's activities as an employer and provider of services.

All employees are required to treat colleagues, partners and the public in a fair and equitable way, avoiding discrimination in **any** form and anything that could demean, distress or offend other people. Remember that people may have different standards to you and may be offended or feel harassed by behaviour that **you** think is acceptable.

You are responsible for ensuring that you also read the following policies when you join:

- [Equality and Diversity in Employment Policy](#)
- [Dignity at Work Policy](#)

If you become aware of activities that you believe to be illegal, improper, unethical or otherwise inconsistent with this Code, you must report the matter through the Council's [Whistleblowing Policy](#), which is available on the intranet. This policy allows you to raise your concern in good faith and without fear of victimisation, subsequent discrimination or disadvantage.

Dress Code

It is the Council's policy to maintain an image of a professional public service organisation, providing high quality services. Therefore the appearance of employees does matter, especially when they deal with members of the public. Employees must therefore dress to a high professional standard appropriate for their role. This may be subject to further clarification at a local level, the line manager should confirm this during the induction process.

Disciplinary action may be taken against you if you consistently breach these dress codes.

3. RECRUITMENT

If you are involved in the recruitment of staff, you must ensure that appointments are made on the basis of merit and in accordance with the Council's [Recruitment Policy and Procedure](#).

4. INDUCTION

All new entrants to the Council must complete the online Corporate Induction programme. In addition to this all employees should receive a job induction and will be subject to an assessment period of up to 20 weeks. Further details can be found in the Council's Principles of [Induction and Assessment](#).

5. HEALTH & SAFETY

The Council has a legal duty of care for the health, safety & welfare of its employees. In addition, all employees must take reasonable steps to protect their own health and safety and that of other people who may be affected by their actions or omissions at work.

You can also seek more information and advice from your trade union safety representative or from the Corporate Health & Safety Team.

Working Time Regulations and Additional Employment

To enable the Council to comply with its Health and Safety obligations under the Working Time Regulations you are required to notify the Council of any work undertaken outside of hours worked with the Council.

Failure to disclose such information will be regarded as a disciplinary offence, which could lead to your dismissal from the Council.

6. INTEGRITY & HONESTY

The Council expects and trusts its employees to be honest in their work. The public are entitled to have absolute confidence in the trustworthiness and honesty of Council employees. Any action which breaches that trust or damages or undermines the public's confidence will constitute an act of gross misconduct and will result in disciplinary action possibly leading to dismissal.

7. GIFTS AND HOSPITALITY

You are already paid for the work you do, but some people may believe they will get better service or more favourable treatment if they provide additional payments or offer you favours. The general principle is that you should not receive or ask for any gift, reward or advantage for work done in your official capacity.

You must report to your Departmental Director, as soon as possible, any offers of money, favours, gifts or hospitality you are offered and receive (even if you refuse them or they have been received anonymously). This should then be logged in the Departmental register kept by your Director. If your Director says that you cannot accept the gift or hospitality, it must be returned or refused or donated to the Mayor's Charity fund. If it is suggested that this is the case, please contact the Mayor's Secretary in such circumstances.

In practice however, staff may receive or be offered unsolicited gifts and hospitality from genuine sources perhaps as a 'thank you' for a good service or by way of an invitation to a particular event. It is often very difficult to decide which offers can be accepted and which can't. If the value of the gift is £25.00 or less, provided the Director is satisfied that there has been no impropriety, the gift may be accepted.

It would not be acceptable to accept gifts or hospitality (say) from a company who is involved, or about to be involved, in a tendering exercise for a Council contract as any favouritism or perception of favouritism could result in the Council being subject to legal action by unsuccessful tenderers. Further clarification should be sought from the Procurement Team.

If you or your Director are in any doubt please contact either the - Monitoring Officer or the Borough Solicitor for further advice.

8. CONFLICT OF INTEREST/PECUNIARY INTERESTS

CONFLICT OF INTEREST

There may be occasions where there is a conflict between the Council's interests and your own. It is important for these interests to be declared and clearly documented. To avoid any difficulties arising from a potential clash of interests you must:

- Notify your manager if you have links, of any sort, with an outside organisation (for example through paid employment, consultancies or advisory positions, directorships or partnerships, significant holdings of shares or other financial securities, positions held as a councillor, governor or trustee, or trade union or pressure groups representative) which may:
 - work for the council, or supply goods and services to it (or are tendering or preparing to do so)
 - get (or are applying for) grants or other benefits from the Council, if you are involved in the grant allocation process or where this could create a conflict of interest
- Not participate in any appointment process (or application for appointment) to the Council's service, where you are related to, or have a close personal relationship with, the applicant. See link below for further guidance
- Avoid acting as professional representative on behalf of a friend, partner, or relative, in their dealings with the Council
- Declare **any** possible conflict of interest to your manager

You are responsible for ensuring that you also read the following policy when you join:

[Principles of recruiting and working with people with whom you have a close relationship](#)

9. POLITICALLY RESTRICTED POSTS

Some posts in the Council are politically restricted. These are primarily the most senior officers but can also include:

- Those postholders who give advice on a regular basis to Council, Cabinet and other council bodies, plus to individual members
- Those who speak on behalf of the authority on a regular basis to the press and media

If your post is restricted you will be disqualified from becoming a Member of another Local Authority, a Member of Parliament or a Member of the European Parliament or from engaging in political activities. Categories of politically restricted and politically sensitive posts are listed in your written statement of terms and conditions of offer.

Where a post is politically restricted, details will be outlined in your terms and conditions of employment, along with details of your right to appeal against the restriction, if applicable.

10. DISCIPLINARY RULES

What is misconduct?

Misconduct is behaviour that is deemed inappropriate. There are varying degrees of misconduct, ranging from minor misconduct, to serious misconduct. Misconduct is managed under the Council's [Principles of Managing Misconduct](#). Examples of the types of behaviour that constitute misconduct are outlined in [Appendix 1 at the end of this document](#). The list is neither exclusive nor exhaustive.

What is gross misconduct?

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Council, and justifies the Council dismissing you without notice. Examples of the types of behaviour that constitute gross misconduct are outlined in [Appendix 2](#) at the end of this document. The list is neither exclusive nor exhaustive.

11. DISCIPLINARY RULES

This Code of Conduct outlines some general standards and you must ensure that you are aware of any other rules that apply to your profession, position and workplace. Further details regarding standards are outlined in the Council's [Principles of Managing Misconduct](#).

Any breaches of this Code, or any other conditions or rules, may render you liable to disciplinary action under the Council's [Principles of Managing Misconduct](#).

12. GRIEVANCE

During your employment with the Council you may experience cause to seek redress for a grievance relating to your employment. Though the Council advises that the majority of situations should initially be addressed informally with the relevant parties to seek a satisfactory resolution at this stage, you reserve the right to submit a formal written grievance, in the first instance to your line manager, in accordance with the Council's [Principles of Managing Grievances](#).

13. USE OF COUNCIL ASSETS

Council assets comprise not only physical objects and financial resources but also computer data and information generally. We must ensure that we use the public funds entrusted to us in a responsible and lawful manner, ensuring value for money to the local community. You must not take anything that belongs to the Council unless you are specifically authorised to do so. Further you must ensure you have permission **before** you make use of Council property.

14. CONFIDENTIALITY

Data protections and disclosure of information

Council customers, suppliers and employees are entitled to protection of their personal information. The Data Protection Act imposes a legal duty on organisations to protect personal information about living individuals. You must keep all personal data confidential, whether computerised or manually held, and comply with the law and Council policies.

15. INFORMATION SECURITY, EMAIL, INTERNET, SOCIAL NETWORKING, SOFTWARE AND TELECOMMUNICATIONS ACCEPTABLE USAGE

You must adhere fully to the Council's [Information Security Policy](#), which is available within ilearn, the Council's learning and development system, which you will be able to access when you have started at the Council. This is a comprehensive document detailing the standards expected of all staff in protecting information in whatever form it takes, although it is particularly concerned with information held within, or accessible via, computer systems.

You are also responsible for reading the following policies and procedures when you join:

- [Acceptable Usage Policy](#)
- [Email, Internet and Social Networking Usage Policy](#)
- Data Protection Policy

Any breach of information security, email, Internet, social networking, software, and telecommunications acceptable usage guidelines may be dealt with in accordance with the Council's [Principles of Managing Misconduct](#).

16. SAFEGUARDING CHILDREN, YOUNG PEOPLE AND VULNERABLE

This authority is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff and volunteers to share in this commitment. If you are employed to work with children, young people or vulnerable adults you must ensure that your conduct, at all times, demonstrates your personal commitment.

DBS checks

The Council will check the status of successful candidates for regulated roles against the relevant barred list(s) held by the Disclosure and Barring Service (DBS) by conducting the relevant DBS check. In the event the checks reveal that a candidate is 'barred' the Council reserves the right to withdraw the conditional offer of employment.

The Council also has a duty to refer certain information about an individual's conduct to the DBS, and will comply with this requirement.

Registration with a professional body

In the event that you are being investigated in accordance with the Council's formal procedures, e.g. misconduct or capability, and the concerns are

founded, you should be advised that the Council may be required to formally refer the outcome to the relevant body, eg. the HCPC in the case of social care.

If registration with a professional body is a condition of your employment, it is your responsibility to ensure that your registration does not lapse. The Council reserves the right to take appropriate action including temporary demotion and disciplinary action in the event that registration is not maintained.

17. **BREAKING THE LAW**

Breaking the law either criminal or civil at or away from work could damage public confidence in the Council or could make you unsuitable for the work you do. You must advise your line manager immediately in the event that you are arrested by the police whether or not this leads to a criminal charge, caution or conviction of a criminal or civil offence. Your manager will then consider whether the arrest, including the actions leading up to the arrest, risks the reputation of the Council, damages confidence in you and makes you unsuitable to carry out your role. The relevant Council procedures will then be followed accordingly.

If you are in a driving role you must disclose any points received/speeding offences/driving ban to your manager immediately.

Disclosure and Barring Service

Staff employed to work with children or vulnerable adults **must** notify their manager in writing if:

- they are convicted of a criminal offence that affects their suitability for the job they currently do
- they are charged with a crime which (if convicted) would make them unfit for the job they currently do

PLEASE NOTE failure to disclose this information could lead to disciplinary action, which may result in dismissal.

Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 allows you not to have to disclose a previous conviction **unless** you are applying for a job where you are likely to be in regular contact with:

- people under 18 years of age or over 65;
- vulnerable adults; or if you will be working in:
 - a school or college
 - social services
 - youth service
 - leisure services

If you fall into any of these categories, you must give details (convictions, date and sentence) of any conviction against you even though they may be "spent" under the Rehabilitation of Offenders Act 1974. Any information you give the

Council about convictions will be kept confidential and will only be considered in relation to the job you are applying for.

Misconduct

Misconduct includes, but is not limited to, the following:

- persistent lateness
- failure to complete contractual hours
- unaccountable absences from the work area
- failure to observe policies and procedures, including, for example:
 - the correct recording of working time and attendance,
 - the reporting of sickness, and
 - regulations relating to time off work or release from duties (e.g. annual leave or domestic emergency)
- failure to conform to agreed working practices, where these are reasonably and properly required
- refusal or failure to carry out a reasonable instruction
- failure to comply with dress codes
- failure to take reasonable care of Council property
- Disclosure, alteration or destruction of confidential information without authorisation.
- failure to comply with the Council's 'No Smoking During Working Hours Policy'
- failure to participate in or follow instructions during fire drills/practice

This list is neither exclusive nor exhaustive

Gross Misconduct

Gross misconduct includes, but is not limited to, the following:

- serious abuse
- corrupt practices
- where an employee is charged with a criminal offence inconsistent with their position
- theft, fraud and deliberate falsification of records (e.g. expenses claims, time sheets, etc)
- physical violence, threats, fighting, assault on another person
- serious bullying, harassment or discrimination
- deliberate damage to Council property or employee's property
- removal or disposal of any Council property without management's permission
- serious insubordination
- interference with safety devices or equipment putting other employees or visitors at risk at work
- serious misuse of the Council's property or name
- misuse of a disabled person's blue badge
- using social media in such a way that discredits the Council and/or your position within it
- bringing the Council into serious disrepute
- incapability whilst on duty brought on by alcohol or illegal drugs, the misuse of drugs or the possession of illegal drugs whilst at work
- the supply and trafficking of drugs, money laundering activities, or the use, sale or distribution of illegal substances
- negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of duty of confidence (subject to the Public Interest (Disclosure) act 1998 and Confidential Reporting Policy)
- deliberate or reckless damage, mis-use or interference with or unauthorised use of the Council computers and/or software or unauthorised entry to

computer records

- serious misuse of electronic systems
- failure to notify line manager of arrest by the police
- conviction of a criminal offence that is relevant to the employee's employment
- deliberate falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee
- undertaking private work in working hours without express prior permission
- private use of Council property, equipment or transport without authorisation
- serious breach of trust or confidence

This list is neither exclusive nor exhaustive

EMAIL, INTERNET, AND SOCIAL NETWORKING USAGE POLICY AND PROCEDURES

1. INTRODUCTIONS

E-mail and Internet are essential business tools for communication, obtaining and sharing information where this can save time and expense. This use includes viewing and creating content on 'social media' sites (e.g. Facebook, Twitter) which are accessed via the Internet.

Employees must follow the rules within this policy and procedure. It is a term of each employee's contract that he/she complies with these rules, and any breaches could lead to dismissal. You should also be aware that improper use of e-mail or the Internet could result in either you and/or the Council incurring civil or criminal liability. The Council also reserves the right to report any illegal activities to the appropriate authorities.

All the Council's resources, including computers, personal handheld devices, e-mail and voicemail are provided for business purposes. At any time and without prior notice, the Council maintains the right and ability to examine any systems and inspect and review any and all data recorded in those systems. Any information stored on a computer, whether the information is contained on a hard drive, computer disk or in any other manner, may be subject to scrutiny by the Council. This examination helps ensure compliance with internal policies and the law. It supports the performance of internal investigations and assists the management of information systems. In order to ensure compliance with this policy, the Council may employ monitoring software to check on the use and content of any Internet access, Lync use or e-mail use, to ensure that there are no serious breaches of the policy. The Council specifically reserves the right for authorised personnel to analyse a users Internet Access Log and to access, retrieve, read and delete any communication that is created on, received through or sent in the email system, to assure compliance with all Council policies. Such monitoring will be used for legitimate purposes only.

Technology and the law change regularly and this policy will be updated to account for changes as and when necessary. Employees will be informed when the policy has changed but it is their responsibility to read the latest version of this document.

Staff must abide by all of the Council's Information Security Policies as published on Enfield Eye.

2. APPLICATION

This policy applies to all employees, contractors, consultants, agency workers, casual workers and relief workers with access to e-mail, Lync and the internet, with the exception of school-based staff who, under local management arrangements are covered by procedures adopted by the Governing Body of each school.

Any reference to employee or staff shall for the purposes of this policy include contractors, consultants, agency workers, casual workers and relief workers.

This policy applies regardless of work location and therefore includes those working from home and includes personal online activity away from the workplace or use of personal resources

3. STATEMENT OF INTENT

The aim of this policy is to be helpful, and to set guidelines on the use of e-mail, Lync, the Internet and social networking sites at work for the smooth and efficient running of Council business.

All new starters should be given a copy of this policy to read on the first day of their induction into the Council.

Self-employed contractors, agency workers or any other individuals working temporarily in the Council should be made aware of the rules regarding the use of e-mail, the Lync, the Internet and social networking sites. Breaches of this policy by contractors, agency workers or any other individuals working temporarily in the Council may result in the termination of their engagement.

These rules are designed to minimise the legal risks to the Council when employees and workers use e-mail and Lync at work and access the Internet. Furthermore, it aims to prevent misuse of internet, Lync and emails; protect Council data, systems and equipment; and encourage usage that supports the business goals and objectives of the Council. Where something is not specifically covered in this policy, employees should seek advice from their manager.

4. STANDARD OF USE FOR EMAIL, THE INTERNET, LYNC AND SOCIAL MEDIA

You should not engage in any activity that is illegal, distasteful or likely to have negative repercussions for the Council, whether using Council systems or your own ICT resources which are linked to Council ICT systems. You must not upload, download, use, retain or distribute any images, text or software which:

- Includes offensive, threatening, illegal or obscene content of any sort. Material accessed involving child pornography and similar material will always be notified to the Police.
- Discriminates or encourages discrimination on the grounds of race, ethnicity, gender, sexual orientation, marital status, disability or political or religious beliefs
- Involves distributing chain mail, including jokes, hoaxes or photographs.
- Knowingly uses material that infringes copyright or other intellectual property rights.
- Misrepresents any matter to a third party or commits the Council to a legally binding contract you are not authorised to do.
- Divulges confidential, personal or sensitive information to a third party.
- Uses a colleague's email account or password without senior management permission.
- Involves activities outside the scope of your responsibilities – for example, unauthorised selling/advertising of goods and services.

- Involves activities that might affect the performance of or damages the Council's system or network.
- Involves activities that might be defamatory or incur liability on the part of the Council or adversely impact on the image of the Council.
- Would be a breach of copyright or licence provision with respect to both programs and data.

The above is not an exhaustive or exclusive list of inappropriate usage.

The following activities are expressly forbidden:

- The wilful introduction of any form of computer virus.
- Seeking to gain access to restricted areas of the network or other hacking activities.
- Forgery.
- Attempts to read other users e-mail/Lync conversations without the relevant senior management permission.

5. USE OF EMAIL AND INSTANT MESSAGING AND VIDEO

Contents of E-mail, Instant Messages (IM) and Video Calls (VC)

E-mails and IMs that employees intend to send should be checked carefully. They should be treated like any other form of communication and, as such, what is normally regarded as unacceptable in, for example, a letter is equally unacceptable in an e-mail and IM. VCs should only be used for business purposes. All emails, IMs and VMs are recorded and can be viewed by the Council even after an employee deletes them from their account.

Employees must not use the Council's facilities to send or solicit an e-mail where the content (or any attachment) is pornographic, sexist, racist, homophobic, of a sexual nature or innuendo, or defamatory or in any way breaches the [Employee Code of Conduct](#) or [Equality in Employment Policy](#) (this applies to both business and personal use). Employees must not make statements on their own behalf, or on behalf of the Council, which are or may be defamatory or damage the reputation of any person, or bring the Council into disrepute.

The use of e-mail, IM and VC to send or forward messages, which are defamatory, obscene or otherwise inappropriate, will be treated as misconduct under the Council's [Principles of Managing Misconduct](#). In serious cases this could be regarded as gross misconduct and may lead to dismissal.

E-mails, IM and VC that have been deleted from the system can be traced and retrieved. Therefore, all persons having a part in creating, receiving or forwarding any offending material can be identified. Offending material, both in hard copy and electronic form, may be admissible in a court of law.

Equally, if an employee receives an obscene or defamatory e-mail, IM and VC whether unwittingly or otherwise and from whatever source, he/she should **not** forward it to any other internal or external e-mail address. If an employee receives an email, IM and VC that they believe to be of this nature, they should report this to their line manager.

Staff must **not** use their e-mail facility to conduct a business. Unauthorised use of another user's password or mailbox is prohibited.

Employees must not send 'all Enfield' e-mails unless they have the specific authority of a Director or an Assistant Director who has the appropriate authority from a Director.

Employees must retain/archive e-mails in accordance with Enfield Council's Information Retention Policy

All Council employees who require access to GCSx e-mail must read, understand, and sign the GCSx Personal Commitment Statement.

Corporate information to be included in e-mails

Employees should ensure that official corporate information is given as a signature on any e-mails that they send externally.

An example of the e-mail layout is provided below:

John Smith
IT Manager
London Borough of Enfield Council
Tel (+44) (1) 11 1111 111
Mobile (00000 000000)
Fax (+44) (1) 11 1111 111
John.Smith@enfield.gov.uk

Enfield Council is committed to serving the whole borough fairly, delivering excellent services and building strong communities.

Copying e-mail to others

Employees should exercise care not to copy e-mails automatically to all those copied into the original message to which they are replying. Doing so may result in disclosure of confidential information to the wrong person.

Attachments

Before sending an attachment via e-mail, IM or VC employees should be confident that the attachment does not contain a virus. The Council could be liable to the recipient for loss suffered. The Council has virus-checking in place but, if in doubt, employees should check with the IT department.

Employees should exercise extreme care when receiving e-mails or IM with attachments from third parties, particularly unidentified third parties, as these may contain viruses.

6. SECURE EMAIL

Instructions for the use of secure e-mail are contained within the Secure E-mail Policy.

7. PERSONAL USE OF EMAIL, IM AND VC

The e-mail and Lync is for Council business use only. However the Council understands that employees may on occasion need to send or receive personal e-mails using their work address or using Lync. Employees wishing to send or receive personal messages are permitted to do so on an occasional basis, preferably outside working hours or during official breaks, and so long as it does not impact on day to day work. Managers should note that there might be times when an employee receives a personal e-mail unexpectedly.

Employees who abuse the e-mail or Lync for personal use or to operate a business will be dealt with in accordance with the Council's Principles of Managing Misconduct.

For the sake of clarification a type of activity that may constitute abuse of the systems is high volume of outgoing and incoming personal e-mails or Lync conversations. High volume is determined solely by the manager. Excessive use of personal smartphones, tablet computers etc. during work time to access the internet and social media may also lead to disciplinary action.

The Council reserves the right to monitor employees' e-mails. The Council may check email accounts during periods of employee absence, if the Council suspects inappropriate use (eg material containing sexist, homophobic, racist terminology, nudity or other inappropriate content (although the Council understands that it is possible for employees to inadvertently receive such material and they will have the opportunity to explain if this is the case)), if the Council suspect excessive personal use and/or if the Council suspects the employee is sending or receiving emails that are detrimental to the Council, or any other substantial reason.

8. USE OF THE INTERNET

This policy covers all electronic devices supplied by the Council, which permit access to the Internet and includes viewing and creating content on web-based social media services such as Facebook and Twitter. It also applies to personal online activity away from the workplace using personal ICT resources, where this may bring the Council into disrepute

You must:

- Be aware that leaving your email address on internet sites may lead to you receiving unsolicited emails.

You must not:

- Access, download, forward, publish, store (on any storage medium) or print internet sites which contain offensive, sensitive, malicious or illegal material of any sort e.g. pornography, racist or sexist material, or violent images or which brings the Council in to disrepute.
- Access or place any material on the Internet that might be considered inappropriate or offensive to others.
- Use the Internet for personal gain or profit, including share dealing or gambling.
- Conduct online financial transactions as part of a private business for gain.
- Download or store materials from the Internet for non-work purposes.
- Copy software files from the internet – this is not permitted. Software downloads must only be carried out by authorised ICT staff.
- Access any sites or download or print any files displaying material, which the user knows to contravene the Council's Equality and Diversity policies (including any Codes of Practice covering discrimination/bullying). If such a site is accessed inadvertently, the user's line manager should be informed immediately.
- Respond to surveys on the Internet on behalf of the Council without consulting your line manager.
- Open a subscription account on the Internet on behalf of the Council without consulting your line manager.
- Access the Internet unless it is under your own username and password.

- Leave your computer unattended whilst logged on to the Internet.

Examples of inappropriate downloading includes any software (freeware or shareware) or information from external or internal sources that potentially breaches copyright law or intellectual property law including fonts, games, screensavers, desktop wallpaper, video clips, photographs/pictures and music files. This is not an exhaustive or exclusive list of inappropriate usage of downloading.

Do not download any information that can lead to criminal prosecution e.g. pornography, sexist or racist material, and incitement to religious hatred or advocating violence to a particular group. This also includes any copyright materials such as screensavers and music as mentioned above. As a safeguard against fraud, you should never provide personal data of any sort. Information (such as credit card details) sent across the Internet, can be "stolen", read or altered, unless encrypted. Do not send details on the Council's behalf unless the Internet site has a certificate of encryption and you are authorised to do so.

Remember – you are responsible for all internet sites accessed under your login. The Council can monitor your Internet usage – the internet sites you visit at work are recorded. Employees may be called upon to justify the amount of time they have spent on the Internet or the sites that they have visited. Material accessed involving child pornography and similar material will always be notified to the Police.

Licenses and Contracts

Some websites require the Council to enter into licence or contract terms. The terms should be printed off and sent for approval in advance or e-mailed to Legal Services department **before** an employee agrees to them on the Council's behalf. Employees should, however, always consider whether the information is from a reputable source and is likely to be accurate and kept up to date, as most such contract terms will exclude liability for accuracy of free information.

Employees should download work related files on to only those PCs with virus checking software and should check how long the download will take. If there is any uncertainty as to whether the software is virus-free or whether the time the download will take is reasonable, the relevant line manager and the Council's IT department should be consulted.

Employees are **not** permitted to download or store files or software for personal use, for example, music or pictures.

Removing Internet Access

The Council reserves the right to deny Internet access to any employee at work, although in such a case it will endeavour to give reasons for doing so.

Registering on Websites

Many sites that could be useful for the Council require registration. Employees wishing to register as a user of a website for work purposes are encouraged to do so. However, they should ask their manager for permission before doing this.

Prohibited use of the Internet

Abuse of Internet access is inappropriate behaviour for which individuals will be subject to disciplinary action and possible criminal prosecution depending on the nature of the offence. The following are examples, which could constitute gross misconduct and can result in summary dismissal, (these examples are neither exhaustive nor exclusive).

Inadvertent use of the Internet

It is recognised by the Council that staff may, during acceptable use of the Internet, make inadvertent access to a site or page that contains material which is unlawful, indecent or objectionable. In this circumstance, the individual should disconnect from the internet immediately and notify their line manager as soon as possible after the incident, providing details of the date and time of the inadvertent access. The ICT Helpdesk should also be advised (in writing) so that steps may be taken to block any further access. Do not forward on any material inadvertently accessed.

9. PERSONAL USE OF THE INTERNET

The Council provides access to the Internet as a business tool. However, it is accepted that employees may use these facilities for limited personal use. This must normally be restricted to outside working hours or during your official breaks. Permitted personal use is, of course, subject to the restrictions as set out in this guidance and must not impact on your day to day work.

If you know or suspect that someone is breaching this policy/guidelines, the Council would expect you to raise your concerns at the earliest opportunity. You can do this by:

- Informing your line manager,
- Contacting the Chief ICT Officer.
- Contacting the Chief HR Officer or Chief Auditor under the Council's Whistle blowing Policy.

Any breach of this policy will be dealt with, where applicable, in line with the Council's Principles of Managing Misconduct.

10. USE OF SOCIAL MEDIA AT WORK

Access is permitted to some social media sites such as Facebook and Twitter and YouTube via the Council's email and internet systems. Access is normally authorised for the purposes of conducting Council business. Specific guidance is available on the professional use of social media for communications, customer service and public engagement on behalf of the Council.

In general, access to social media sites, chat rooms, bulletin boards, newsgroups or any similar Internet service at work should mainly relate to Council business. However, it is accepted that employees may use these facilities for limited personal use. This must normally be restricted to outside working hours or during your official breaks.

Permitted personal use is, of course, subject to the restrictions as set out in this guidance and must not impact on your day to day work.

Excessive and repeated use of personal smartphones, tablet computers etc. during work time to access the internet and social media may lead to disciplinary action. Anyone using social media services should consider the level of privacy they are comfortable with, and to restrict access to their personal information accordingly. Employees are reminded that material posted on social media sites may be viewed by people who were not the intended recipients. Some people prefer to keep their work and personal lives separate so careful thought should be given to including work colleagues in social media networks e.g. as Facebook 'friends'. Staff posting content on professional social media sites, blogs etc. should state they are doing so in a personal capacity, and even then be mindful of saying things that could embarrass the Council.

Under the Employee Code of Conduct, there are some political restrictions placed on certain post-holders by the Local Government and Housing Act 1989 and ensuing Regulations, and those political restrictions should be considered when posting content online.

11. USE OF SOCIAL MEDIA AWAY FROM THE WORKPLACE

The Council recognises that many employees make use of social media in a personal capacity, away from work and in their own time. This is their own personal business as they are not acting on behalf of the Council. However employees must be aware that they can damage the Council's reputation if they are associated with damaging content and identified – deliberately or inadvertently - as a Council employee.

Staff should take reasonable steps to keep their work and personal profiles separate. For instance, your online profile (for example, the name of a blog or a Twitter name) must not contain the name of the Council and you must not use the Council logo to brand your blog or personal website. Any communications that you make in a personal capacity through social media must not bring the Council into disrepute by breaching confidentiality and/or do anything that compromises an individual's adherence to the Code of Conduct at work. Even if a personal profile appears private, any information that is posted on social media platforms can potentially end up on the WWW public domain.

Any breach of this will be dealt with, where applicable, in line with the Council's Principles of Managing Misconduct.

12. USE OF SOCIAL NETWORKING SITES FOR PERSONAL USE

Where an employee uses non-Council computer equipment in their free time to connect to the internet and create or use social networking sites in a personal or private capacity, they must adhere to the following:

- Employees must be personally responsible for everything on their personal pages including any link to any material on other web pages.
- The Council's logo must not be used on any personal page.
- Employees must not claim to be representing the Council when using social networking sites in a personal capacity.
- Employees should be mindful that stating they are employed by the Council does not infer 'representation' of the Council.
- Employees should understand their online privacy settings – check the settings and understand who can see the information published and personal information.
- All employees should be aware of and follow the Staff Information Security Policy

- If an employee does talk about the work they do or an Enfield Council service they are associated with, they must make it clear that they are speaking for themselves and not on behalf of the Council. Use a disclaimer such as: “The views expressed here are my own and do not necessarily represent the views of Enfield Council.”
- Employees must not let the use of social networking interfere with their job and always access in their own time as detailed above.

When using social networking sites for either business or personal purposes employees must not:

- use the Council's logo, official or otherwise, without the specific written consent of the Director of the department
- write about their work or make reference to the Council on external web pages, i.e. in blogs or on social networking sites, when using the sites for personal purposes
- disclose any information that is confidential to the Council or any third party or disclose personal data or information about any individual/colleague/service user, which could be in breach of the Data Protection Act or Information Security requirements
- disclose any information, which is not yet in the public arena
- post illegal material, e.g. images of child abuse or material which incites racial hatred
- link their own blogs/personal web pages to the Council's website
- include any information, sourced from the Council, which breaches copyright
- make defamatory remarks about the Council, colleagues or service users
- publish any material or comment that could undermine public confidence in you as an employee/officer of the Council and/or in position of trust within the community
- misrepresent the Council, by posting false or inaccurate statements about the work of the Council.

This list is not exhaustive.

Any breach of this policy will be dealt with, where applicable, in line with the Council's Principles of Managing Misconduct.

13. MONITORING OF INTERNET ACCESS AT WORK

The Council reserves the right to monitor employees' internet usage. The Council considers the following to be valid reasons for checking an employee's internet usage:

- If the Council suspects that the employee has been viewing or sending offensive or illegal material, such as material containing sexist, homophobic, racist terminology, nudity or other inappropriate content (although the Council understands that it is possible for employees inadvertently to view such material and they will have the opportunity to explain if this is the case);
- If the Council suspects that the employee has been viewing obscene or pornographic sites;
- If the Council suspects that the employee has been spending an excessive amount of time viewing websites that are not work related.
- If the Council suspects that the employee has posted offensive or inappropriate comments or information that may undermine public confidence or damage the reputation of the Council or its partners.

This list is not exhaustive

14. OPEN ACCESS PCs FOR INTERNET USE

There are three computers in the Civic Centre canteen that can be used for personal use. They are free of charge to use, allowing employees and visitors to access their personal email (for example Yahoo mail) as well as social networking sites and online banking.

These PCs must not be locked and documents must not be saved to the desktop.

These PCs are not attached to the Council's main network, and therefore have no restrictions to access; however access to offensive or illegal material, such as material containing homophobic, sexist or racist terminology or nudity is prohibited.

Any employee found accessing this material will be dealt in accordance with the Council's [Principles of Managing Misconduct](#).

Chapter 5.5- Protocol for Member/Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this Protocol is rather to help Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. All Members and officers should operate in compliance with the protocol.
- 1.2 Responsibility for upholding the protocol rests with Group Leaders in relation to elected Members within their Group and with the Chief Executive and Director of Law and Governance as Monitoring Officer in relation to staff, although all individuals are responsible for their own compliance with the Protocol.
- 1.3 The relationship between Councillors and officers is an essential to the successful working of the organisation. This relationship is characterised by mutual respect and trust. Councillors and officers should feel free to speak to one another openly and honestly. Equally, the Code of Conduct for Officers provides that Councillors should expect staff to contribute to proper and effective working relationships, to serve the Council as a whole, to maintain political neutrality at work and be seen to be impartial.
- 1.4 The Protocol must be read and operated in the context of any relevant legislation and the Code of Conduct for members and staff. If members or officers are in any doubt about issues they should seek advice from either the Director of Law and Governance.
- 1.5 Referrals from the Chief Executive to the Monitoring Officers relating to member/officer complaints do not require a form to be completed containing the details of the complaint.

2. ROLE OF COUNCILLORS AND OFFICERS

- 2.1 All elected members have a right to professional, impartial and, if appropriate confidential advice from officers. They also have a right to expect officers to uphold and carry out the values of the Council and deliver policies within the agreed framework.
- 2.2 Councillors must abide by the Code of Conduct for Members of the London Borough of Enfield and the 10 principles that underpin the Code.
- 2.3 When dealing with Council officers Councillors must declare any special relationships with constituents, such as a spouse, partner, civil partner, family members or persons with whom they have a close association or personal relationship. Although members are elected to represent the interests of their

constituents, they should not seek special treatment for any individual or themselves.

- 2.4 Without prejudice to their individual rights, all members shall have regard to the advice given by the Council's Monitoring Officer and the Councillor Conduct Committee in the exercise of their functions and duties, and they shall assist the Monitoring Officer in any aspect of investigations.
- 2.5 The law and the Council's Constitution lay down rules for the appointment, discipline and dismissal of staff. Councillors must ensure that they observe these rules scrupulously at all times. If councillors are called upon to take part in the appointment of an officer, the only question they should consider is which candidate would best serve the whole council. Section 7 of the Local Government & Housing Act 1989 requires every officer appointment to be made on merit. They should not let their political or personal preferences or prejudices influence their judgement. They should not canvass the support of their colleagues for any candidate and they should resist any attempt by others to canvass them. They should report any such attempt to the Chief Executive or the Monitoring Officer.
- 2.6 The recruitment and management of Council staff are the responsibility of the Chief Executive and the Council's Management Team. Except in cases where members are involved in the recruitment process as governed by the Officer Employment Procedure Rules, it is not appropriate for members to involve themselves in these issues or to refer to such matters in public meetings or to the press (e.g. disciplinary cases).
- 2.7 Any act on the part of a member against an individual officer, if intended to gain unfair advantage or influence unfairly that person's actions, thoughts or deeds, may be regarded as a form of bullying, intimidation or harassment.

3. OFFICER ADVICE TO POLITICAL GROUPS

- 3.1 There is now a statutory recognition for political groups and they are a well-established feature of local government. Officers may be called upon to give information and advice to party groups as part of the political consideration given to an issue before it reaches the formal decision making Council body. Political sensitivity and awareness are therefore required, particularly from senior officers. All members have the right to seek advice in confidence from senior officers, without it being perceived by others that the officer's political neutrality is being compromised. Whilst in practice such officer support is likely to be most in demand from the party group in control of the Council, it is an important principle that such support is available to all political groups.
- 3.2 Information may, from time to time, be requested by the Opposition Group from officers on a confidential basis. Providing this is not unlawful, improper, or

against the interests of the Council specifically or generally, officers should respect the confidentiality of these discussions. If a councillor wishes such a discussion to be in confidence, they should state that to the officer at the outset. If the officer feels able to keep that confidence, then the discussion can proceed on that basis. If however the officer feels that it would not be in the best interests of the Council to keep the matter confidential, then they should say so at the time. The member concerned can then decide whether or not to proceed with the discussion.

- 3.3 Officers must be allowed to give support honestly but in a way that does not compromise their political neutrality. They also have a right to have their professional views listened to and respected (if appropriate in confidence) – but not necessarily followed – unless failure to do so would give rise to illegal, unlawful or improper conduct or maladministration. They should not be asked to make recommendations they could not professionally support. They should not be asked to justify political decisions of the administration or to be involved in advising on party business. Officers should ideally not be present at those parts of the meeting when such business is in fact discussed.
- 3.4 Advice and information given to party group meetings by officers is no substitute to them (the officers) providing all the necessary information and advice to the relevant decision making body of the Council at the appropriate time.
- 3.5 Members may ask officers to draft papers, resolutions or amendments to be presented to meetings. Whilst it is quite in order for officers to advise on such wording (e.g. to ensure legality or accuracy) this should not be taken that the officer supports the proposal.
- 3.6 Officers may be asked to give advice and information at meetings where non councillors are present. In most instances, such people (unless co-opted to a Council body) will not be bound by the Code of Conduct for Members of the London Borough of Enfield, particularly in relation to declarations of interest and confidentiality. Therefore in such circumstances, officers may not be able to provide the same level of information as they would for a member only meeting.
- 3.7 Exceptionally, Health and Wellbeing Board members (both councillors and non-councillors) are bound by the Code of Conduct for Members of the London Borough of Enfield. Board membership includes officers and councillors as well as other health and voluntary sector representatives. All are treated as co-opted members and are subject to the Code. Officers who are full Board members will therefore be subject to both the Code of Conduct for Members and the Code of Conduct for Officers.

- 3.8 Officers must respect the confidentiality of any party group meeting they attend.
- 3.9 Officers must abide by the terms of the Code of Conduct for Officers in relation to working with councillors.
- 3.10 Officers have a line management relationship with the Chief Executive or their Director – not individual members, whatever office that member might hold.

4. OFFICERS' ROLES

- 4.1 Employees serve the Council as a whole. They must have a loyalty to all councillors, not just those of any political group and ensure that the rights of all councillors are respected.
- 4.2 Officers must at all times keep members fully informed about significant issues which affect their wards or bodies on which they represent the authority. This is fundamental to the Council's wish to enhance the representational role of councillors. For example, if the authority conducts a consultation exercise in the borough, relevant members, including ward councillors should be notified at the beginning of the exercise.

5. PUBLIC MEETINGS CALLED BY INDIVIDUAL COUNCILLORS/PARTY GROUPS

- 5.1 Individual members or political groups may wish to hold public meetings, as part of their ward councillor role or in relation to a particular issue. Publicity for such meetings should clearly state the nature of the event and should not imply that it is a Council meeting.
- 5.2 Any request for an officer to attend such a meeting in their official capacity must be made through the Chief Executive, their Chief Officer or the Monitoring Officer. It will be for those officers to decide if such attendance is both possible and appropriate, in the light of officer availability and priorities.
- 5.3 Any officer attending such a meeting does so in his/her official capacity. They are politically neutral and their presence does not imply support for a particular political proposal or initiative.

6. PUBLIC MEETINGS INVOLVING MPS, OTHER ELECTED REPRESENTATIVES AND ELECTION CANDIDATES

- 6.1 Where at any time an officer is invited to attend any public meeting called by or involving MPs, other elected representatives (e.g. GLA Assembly Members) or prospective candidates, such an invitation should be directed

through the Chief Executive, appropriate Director or Monitoring Officer who will consult the Leader or relevant Cabinet member.

- 6.2 In the period between publication of Notice of Election (or Referendum) and polling day, the Council, its Members and its Officers must be aware of special rules designed to ensure the political impartiality of all Council publicity and communication. This period is generally known as “purdah” and will apply in the area in which the election or referendum is being held, whether that be the whole borough or one ward.
- 6.3 The Monitoring Officer will issue specific advice on purdah in the run up to any applicable electoral event.
- 6.4 If an officer is invited to attend any such public meeting in the purdah period, officers will only attend if representatives of all candidates standing in the election have been invited to the meeting. The same provisions apply in respect of local and national referendums.

7. RESPECT AND COURTESY

- 7.1 For the effective conduct of Council business, there must be mutual respect and trust in all dealings between members and officers. As detailed in paragraph 12(2)(b) of the Code of Conduct for Members, members should not exert undue influence or inappropriately use their position in their dealings with officers. It is accepted that in some cases, discussions will be robust and challenging. Such dealings must however be conducted with courtesy, civility and professionalism, with respect for differing views and for legal and professional guidance. The way in which members and officers work together will affect the external perception of the Council overall.
- 7.2 If a member feels that they have not been treated properly by an officer, they may take the matter up with the relevant Director. If the issue remains unresolved, they may raise it further with the Chief Executive or Monitoring Officer. A breach of the Officers’ Code of Conduct could result in disciplinary action being taken against the employee concerned.
- 7.3 If an employee considers that they have been treated inappropriately by a councillor, they should raise the matter with their line manager or Director. The manager or Director will as appropriate discuss the matter with the member concerned or the party whip or group leader. If the matter directly relates to a group leader, the Chief Executive will be notified.
- 7.4 If the matter cannot be resolved it shall be referred to the Monitoring Officer who shall discuss the matter with at least one of the two independent persons to agree the most appropriate course of action within the Council’s complaints procedure for Councillors.

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8. SUPPORT SERVICES TO MEMBERS AND POLITICAL GROUPS

8.1 The Council can only lawfully provide support services to members (e.g. stationery, typing, IT equipment, photo-copying etc) to assist them in carrying out their roles as councillors. Such support services must therefore only be used for Council business. They should never be used in conjunction with any party political campaigning activity or for private purposes unless with prior approval of the Monitoring Officer and full payment made to the Council.

9. Members' Access to Information and Council Documents

General

- 9.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Constitution and is without prejudice to rights members have to access information under the Freedom of Information Act 2000 and the Data Protection Act 1998.
- 9.2 Members have a right to request such information, explanation or advice, as they may reasonably need to assist them in carrying out their duties as a councillor. When information is requested on behalf of a third party, it must only be provided if it would be made available to a third party, on request under the Freedom of Information Act 2000.
- 9.3 The test to be applied in relation to a member's right to information or Council document is set out in common law and relates to a "need to know" to perform their duties effectively as a councillor. Members do not have a right to a "roving commission" to examine documents – mere curiosity is not sufficient. The question of "need to know" must be determined initially by the Director who holds the document(s) in question. Councillors should not seek to obtain information where they have a Disclosable Pecuniary, personal or other pecuniary interest in the matter. In the event of dispute, the matter should be referred to the Council's Monitoring Officer.
- 9.4 For the purposes of this protocol, the term Council documents and information is applied very broadly and relates to that which is produced with Council resources. However, it should not be taken to include political documents / information.

- 9.5 Any information provided to a member must only be used for the purpose for which it was provided i.e. in connection with the proper performance of the councillor's duties.
- 9.6 Members are encouraged to use the Members Enquiry (MEQ) System, which is the most effective way to obtain appropriate information as efficiently as possible. Using the system also ensures that monitoring of service provision can be undertaken.

Meeting Documents

- 9.7 Members in law have a legal right to inspect any Council document, which contains information relating to the business to be transacted at a formal Council body. This right applies irrespective of whether the councillor requesting the information is a member of the body concerned and extends to background papers as well as reports to that meeting. The right does not however automatically apply to Part 2 papers as defined within the Local Government Act 1972 (*as amended*) as exempt and confidential information. According to the law, the member asking for the information would be expected to justify the request in specific terms, demonstrate a "need to know" in order to perform their duties as councillors which is not outweighed by any public interest requiring non disclosure, However in Enfield, the practice is to make Part 2 reports available to all members.

Documents in the possession/control of the Executive

- 9.8 Under the Local Government Act 2000, any relevant document in the possession of (or under the control of) the Executive and which contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by any member of the Council. If the meeting is a private one (*where the relevant notice has been given*) any relevant document will be available for inspection **after** the meeting or immediately, in the case of Executive decisions by individual members or officers, after the decision has been taken. In the case of documents containing exempt or confidential information the requirements in section 9.3 above will apply. In addition Members will not be entitled to access any document (or part of it) that would involve the disclosure of advice provided by a political assistant or adviser.

Scrutiny

- 9.9 In addition, and subject to important exceptions listed below, an Overview and Scrutiny Committee member will be entitled to a copy of a relevant document which:
- (i) is in the possession or under the control of the Executive;
 - (ii) contains material relating to:
 - any business carried out a private or public meeting of the Council or one of its decision making bodies;

- any decision taken by a relevant Cabinet member in accordance with the Executive arrangements; or
 - any decision that has been made by an officer in accordance with the Executive arrangements.
- (iii) The Executive will be required to provide a copy of the document as soon as reasonably practicable and in any case no later than 10 clear days after the Executive has received the request.

Exceptions

9.10 The exceptions are where the information:

- contains exempt or confidential information under the Local Government Act 1972, unless that information is relevant to:
- Any action or decision that the member is reviewing or scrutinising;
- Any review contained in the scrutiny work programme
- would involve the disclosure of advice provided by a political assistant or adviser.

9.11 If the Executive decides that a scrutiny member is not entitled (for the reasons above) to the information requested then it must provide the Overview & Scrutiny Committee with a written statement setting out its reasons for that decision.

10. CONFIDENTIALITY OF INFORMATION AND REPORTS

10.1 The Chief Executive and Directors have a responsibility to ensure that all reports presented to formal Council bodies are only classified as “exempt” where the statutory criteria within the Access to Information Act are met.

10.2 In certain circumstances (known as Part 2 restrictions) the Council may restrict the circulation of documents in accordance with the exemptions within the Access to Information Act and where it is considered by the Chief Executive and the Monitoring Officer that such disclosure could be seriously detrimental to the Council’s interests, its employees or former employees, or that of a third party. The categories of information that might be restricted include:

- Where any disclosure of information would be unlawful
- Personal details of an employee, former employee or other third party
- Details of a contract or property transaction
- Legal or other officer advice in a contentious matter.

10.3 Members are reminded that they are supplied with Part 2 reports in their position of trust and must therefore not disclose that information – confidentiality must be respected. Any unauthorised disclosure of information could be a breach of councillor code of conduct.

- 10.4 The emphasis must be on producing as much information in the public part of the meeting as possible and restricting the “exempt information” to an absolute minimum. Where possible reports should be split between Part 1 (public session) and Part 2 (private session) so that only the minimum information is restricted.
- 10.5 Once a report has been issued as a Part 2 paper, and until such time as the relevant Council body or officer has had the opportunity to decide otherwise, councillors and officers must respect the confidentiality of the information. It is a betrayal of trust to breach such confidences. The wilful disclosure of such information by a member or an officer is likely therefore to be viewed as a breach of their respective codes of conduct.
- 10.6 The Council will respect the rights of members to access documents and information under the ‘need to know’ principle (see paragraph 9 above). However, members do not have an absolute right to every document. They must respect the confidentiality (where appropriate) of particular information in whatever form. To disclose information, knowing it to be confidential, is likely to be deemed a breach of the Councillors’ Code of Conduct.
- 10.7 In such cases, members may inspect the documents but not copy them. Arrangements for such inspection will be made by the Monitoring Officer at the time. The times during which members may inspect such documents will be as flexible as possible.
- 10.9 The Chief Executive and the Monitoring Officer have an overriding duty to ensure compliance with 10.1 to 10.9 above.

11. CORRESPONDENCE

- 11.1 In all cases, the Council’s information governance protocols and obligations under the Data Protection Act 1998 must be observed.
- 11.2 Correspondence between an individual councillor and an officer should not normally be copied elsewhere without the knowledge of both parties.
- 11.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than a member. This is particularly important if the letter creates obligations or gives instructions on behalf of the Council. It may be appropriate in certain circumstances (e.g. representations to Central Government) for a letter to be sent signed by a member (e.g. Leader of the Council), but this should be the exception rather than the rule.

12. RELATIONSHIP BETWEEN THE MAYOR AND OFFICERS

12.1 The Mayor is the first citizen of the Borough. His/her role is to be an ambassador for the authority and to chair the Council meetings. Officers must give every support to the Mayor in the execution of these duties. However, the Mayor does not have any executive powers.

13. Relationship between the Leader of the Council, the Executive and Officers

13.1 Whilst the Leader and individual Cabinet members have executive powers, it is essential that they recognise and acknowledge that officers are required to serve the whole Council. On the other hand, it should be accepted that officers have a duty to implement the policies and decisions of the administration. They will have to give professional advice that might, at times, be unpalatable to the majority or minority group or individual councillors, but is felt to be in the best interests of the Council.

14. RELATIONSHIP BETWEEN OVERVIEW AND SCRUTINY AND EXECUTIVE MEMBERS AND OFFICERS

14.1 The Overview and Scrutiny function has within the Council's Constitution statutory rights with regard to access to information, member and officer attendance at its meetings, its role with Cabinet and conflict resolution direct to full Council. This is necessary to preserve its independence and role.

14.2 However the Overview and Scrutiny Committee has a responsibility to act reasonably and within the Constitution. The Monitoring Officer must be consulted if there are any doubts as to the legality of an Executive decision, or if it is felt that such a decision might be contrary to the Council's policy framework.

14.3 When calling Cabinet members, officers or other witnesses to give evidence at a scrutiny meeting, questions should be appropriate to their role. For example, questions to officers should be confined to matters of fact and explanation of any professional opinion relating to policies and decisions. Officers must however respond to questions in an open, constructive and helpful manner. Any question relating to the justification of the policies or decisions should be directed to the relevant Cabinet member. Furthermore, Scrutiny members should not ask officers questions on issues that they know to be confidential.

14.4 The relevant chair of the scrutiny meeting must ensure that those giving evidence are not questioned in such a manner as could be considered by any reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable behaviour by a member. Chairmen also have a responsibility to ensure that members of the public are

not allowed to disrupt the meeting or act in an aggressive or intimidatory manner.

- 14.5 Any allegations in relation to the above should be referred to the Council's Monitoring Officer or to the Leader of the relevant political group.

15. OTHER PUBLIC MEETINGS

- 15.1 The same rules of behaviour in relation to scrutiny meetings apply to all other public meetings conducted by the Council such as Ward Forums.

Chapter 5.6 – Protocols for Member Appointment Panels

- 1.1 All panel members must have received the Council's Recruitment & Selection training or a refresher session within the last three years.
- 1.2 All panel members must have due regard to the Council's Equality in Employment Policy.
- 1.3 At the first shortlisting meeting, the panel must appoint a Chair and a Deputy Chair. If the Chair is unavailable, the Deputy Chair will act as Chair.
- 1.4 If any panel member of the Panel is unavailable for any panel meetings, including the interviews, an alternative Member with the appropriate training should be sought as a substitute by the relevant Party and fully briefed by Human Resources.
- 1.5 The Executive Search & Select Agency will compile a longlist from which it will invite candidates for initial interview and assessment and will then compile a recommended shortlist.
- 1.6 At the initial shortlist meeting, the Panel will be presented with the recommended shortlist by the Recruitment Consultant representing the Executive Search & Select Agency together with details of the unselected candidates. The Panel will decide on the final shortlist, which may include any candidates that have not been recommended by the agency. Candidates will not be stood down until the final shortlist has been decided. Any candidates that the panel decide to bring forward to shortlist that were not part of the original recommendation will need to complete all selection assessments which will add to time and cost considerations.
- 1.7 The Panel will agree a set of core interview questions prior to the interviews commencing. These questions should reflect the key requirements of the post and the Council's competency framework. These questions should be asked of all candidates. Panel members should follow these up with probing questions tailored to each candidate. Sufficient time should be afforded to enable panel members to ask a number of such probing questions to ascertain the candidate's suitability for the post. To assist this process, the Chief Executive and/or Executive Director (if appropriate) will also be able to ask questions.
- 1.8 The panel will score the candidates' responses to each question using the agreed scoring criteria which will assist members to make a judgement but will not be determinative.

- 1.9 At the end of the interviews, the Chair will allow for a full discussion on the merits of each candidate.
- 1.10 Within the discussion, the panel will seek the views of the Recruitment Consultant representing the Executive Search & Select Agency, the Chief Executive and the Executive Director (if appropriate) before making a final decision.
- 1.11 Members should make every reasonable attempt to achieve a consensus, including consideration of the option to re-advertise the position, before moving to a vote. If this is not possible, decisions will be made in accordance with the Constitution's rules for Committee decision-making.

Chapter 5.7 – Guide to Members participating in Outside Organisations

1. INTRODUCTION

- 1.1 Councillors are often appointed or nominated by the authority to represent it on the management committees of outside bodies, or will be involved in such bodies in their own personal capacity either as ordinary members or as members of the management committee board of trustees, executive committee etc.
- 1.2 The authority generally encourages councillors to be active citizens and to participate in the wider community in this manner. Not only does it enable the authority to participate in partner organisations, but it also means that Councillors bring back to the authority additional knowledge and experience which are of value to the authority. However, if Councillors are to take on such additional roles, it is important that they appreciate the responsibilities which they are taking on, understand how these responsibilities interact with their existing responsibilities to the authority, and recognise and deal with any conflicts of interest which may arise.
- General responsibilities and liabilities of members of managing bodies**
- 1.3 Any member of a managing body has a responsibility to take the task seriously, attend meetings and carry out work for the organisation. Some organisations have rules about attendance such as missing a number of consecutive meetings may lead to loss of the place on the committee. In view of the very considerable demands on councillors' time and energy, it is prudent to check out what is expected before accepting a place and to be clear what commitment can be made right from the start so that the organisation does not have unrealistic expectations.
- 1.4 In participating in outside bodies, Councillors act both as individuals and, in some instances, as representatives of the authority.

Obligations

- It entails acting according to the rules, constitution and framework set by the outside body;
- It entails making independent and personal judgments in line with the duty of care to the outside body;
- It may entail reporting back to the authority, where they have been appointed by the authority;

- It entails behaving ethically and following, as far as applicable, the authority's local Code of Conduct for Members;
- It entails taking an active and informed role in the management of the outside body's affairs.
- Unless appointed specifically to represent the authority, it does not entail following instructions from the authority;
- It does not entail following instructions from a political party to which the Councillor may owe their political loyalty;
- It does not entail avoiding taking part in the outside body's discussions and decisions;
- It does not entail looking at things simply from the Council's perspective;
- It does not entail being there in name only and merely turning up to meetings.

1.5 The role of councillors on outside bodies may give rise to occasional conflicts of interest. If any matter relating to the outside body arises during the councillor's work as a councillor, the councillor or officer will have an interest which they will have to disclose. If the conflict has potential to affect the way that the councillor would vote or act as a councillor they, they should disclose the outside interest and not participate in the consideration of the matter.

1.6 In the unlikely event that there is a major dispute between the Council and the outside body, the councillor could be placed in an untenable situation. It is possible that the councillor may find they is unable adequately to carry out their responsibilities properly, both as a councillor and as a member or director of the outside body. But such circumstances would be rare and should not deflect councillors generally from being prepared to participate in the management and running of outside organisations.

1.7 There is always a potential for conflict between the interests of the authority and the outside body, councillors who are contemplating involvement in an outside interest should consider how that interest will affect their ability to continue to act as a councillor.

2. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR MEMBERS

2.1 Part Three of the Local Government Act 2000 requires each local authority to adopt a Code of Conduct for Members which must contain all the provisions

of the Model Code of Conduct. Each member of the authority, elected or co-opted, is required to sign an undertaking to observe the provisions of the authority's Code of Conduct for Members. The Model Code of Conduct for Members is prescribed by regulations under the Local Government Act 2000 and replaces the old rules in relation to "pecuniary" and "non-pecuniary" interests.

- 2.2 The requirements of the Code of Conduct for Members can be summarized as:
- (a) A requirement to comply with specific rules in respect of the member's conduct;
 - (b) A requirement to notify the authority's Monitoring Officer of membership of or employment by any outside body, which information will then be included in a public register of interests;
 - (c) When any matter affecting such an outside body comes before the authority and the member would in any manner be involved in consideration of that matter, to disclose the member's interest in that outside body and, in cases where a significant conflict of interest arises, to withdraw from taking any part in that consideration.
- 2.3 Where a member fails to register all such interests, fails to disclose such an interest or fails to withdraw when required to do so, any member may make a complaint to the Standards Board for England. If the member is adjudged by a Case Tribunal to have failed to comply with the Code of Conduct, a Case Tribunal can suspend the member in whole or in part for up to one year or can disqualify the member from being a member of any local authority for up to five years.

General Rules of Conduct

- 2.4 The Model Code set out some general rules of conduct which must be observed by members. The most important rules, in the context of outside interests are as follows:
- (i) A member must not disclose information given to him/her in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they is required by law to do so;
 - (ii) A member must not in his/her official capacity, or any other circumstances, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute;
 - (iii) A member must not in his/her official capacity, or any other circumstance, use his/her position as a member improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage;
 - (iv) A member must, when using or authorising the use by others of the

resources of the authority ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.

2. **Registration of Interests**

The Code of Conduct for Members requires every member to notify the Monitoring Officer of any registerable interests which they holds, within one month of election or appointment. Members' declarations of registerable interest are then held in a public register of interest. The member may not act as a member until they has completed that declaration, In addition, the member must notify the Monitoring Officer of any change in his/her registerable interests within 28 days of becoming aware of that change.

Membership of an outside body can be a registerable interest under any of the following headings:

- (a) Any employment or business carried on by him/her;
- (b) The name of the person who employs or has appointed him/her the name of any firm in which they is a partner, and the name of any company for which they is a remunerated director;
- (c) A description of any contract for goods, services or works made between the authority and the member or a firm in which they is a partner, a company of which he is a remunerated director, or a body in which the member has a shareholding with a nominal value exceeding £25,000; or 1/100th of the total issued share capital of that body.
- (d) The address or other description (sufficient to identify the location) of any land in which they has a beneficial interest and which is in the area of the authority;
- (e) The address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which the member is a partner, a company of which they is a remunerated director, or a body of the description specified in subparagraph (d) above;
- (f) The address or other description (sufficient to identify the location) of any land in the authority's area in which they has a license (alone or jointly with others) to occupy for 28 days or longer;
- (g) Membership of or a position of general control or management in any body to which he has been appointed or nominated by the authority as

its representative;

- (h) Membership of or a position of general control or management in any public authority or body exercising functions of a public nature;
- (l) Membership of or a position of general control or management in any company, industrial and provident society, charity, or body directed to charitable purposes;
- (j) Membership of or a position of general control or management in any body whose principal purposes include the influence of public opinion or policy; and
- (k) Membership of or a position of general control or management in any trade union or professional association.

2.4 **Disclosure of Personal Interests**

Whenever a member is present at a meeting at which a matter is under consideration in which they has a personal interest, they must disclose both the existence and the nature of that interest before the start of consideration of that matter, and any executive member who has taken an executive decision on any matter in which they has such a personal interest must ensure that the interest is recorded in the official record of the decision.

A member will have a personal interest in any matter which relates to any registerable interest within paragraph 2.3 above, or where a decision on the matter might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of the member him/herself, a relative or a friend or:

- (a) Any employment or business carried out by such persons;
- (b) Any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) Any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £50,000; or
- (d) Any body listed in sub-paragraphs (g) to (k) of paragraph 2.3 above in which such persons hold a position of general control or management.

For this purpose "relative" means a spouse, partner (a member of a couple who live together), parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding

persons.

2.5 **Prejudicial Interests**

In some instances, the conflict between the interests of the authority and a member's interest may be of such a substantial nature that the member's interest is not only "personal" but also "prejudicial". The test of whether an interest is prejudicial is the "probable bias" test, namely whether 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 the member's judgement of the public interest.

However, there are some exceptions to this rule. So a member who has what would otherwise be a prejudicial interest is given a discretion to regard him/herself as not having a prejudicial interest, but merely a personal interest, in a matter if that matter relates to:

- (a) Another relevant authority of which he is a member;
- (b) Another public authority in which they holds a position of general control or management; or
- (c) A body to which they has been appointed or nominated by the authority as its representative.

Where a member does have a prejudicial interest, they must withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, must not exercise executive functions in relation to that matter, and must not seek improperly to influence a decision about that matter. "Withdraw" in this context means withdrawal from any part of the room, so the member must not observe the consideration of the matter from the public gallery.

"Meeting" means any meeting of the Council, or any of its Committees or Sub-Committees, as well as meetings of the Executive, of any Executive Committee, and of any Joint Committee or Area Committee.

2.6 **Gifts and Hospitality**

Members must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as members of the authority. It is therefore very important to be completely open about any gift or hospitality and report any offer, to avoid the suspicion of misconduct.

Members are required by the Code of Conduct for Members to notify the Monitoring Officer within 28 days of receipt of any gift or hospitality with a value of more than £25.00 whatever the motivation for such a gift.

3. GENERAL ADVICE

- 3.1 Local authorities are often asked to nominate councillors to take part in outside bodies. The range of such external activities is very wide.
- 3.2 Appendix 1 (please refer to pages 16 – 20) is a “ready reference” guide to some of the most common forms of outside body upon which elected members may be asked to serve. It is deliberately neither detailed nor exhaustive, so should be used with care. More detailed guidance on these types of body, along with information on less common organisations, is included in the main body of this document.
- 3.3 If you are asked to allow the authority to put your name forward, you should ask the authority for a clear statement of what will be expected of you. Any organisation which asks the authority for such a nomination should be able to provide this information. If it is unable to provide such information, you should ask whether you want to be a member of such an organisation.
- 3.4 You will probably be agreeing to be a member of that outside body because it is active in an area which is of particular interest to you. But you should be aware that the rules on such outside interests may limit your ability to continue to take an active part in this topic within the authority. You will have to disclose membership of the outside body in your dealings with the authority. Where any conflict of interest arises between the outside body and the authority, it is likely that you will have to withdraw from any consideration by the authority of any matter affecting the outside body, unless the outside body is another public authority, or you are appointed strictly as the representative of the authority. This aspect is dealt with in more detail below.
- 3.5 As a member of an outside body, you will be expected to participate fully in that organisation. If your other commitments mean that you will regularly have to miss meetings of the organisation, or that you have to withdraw from meetings because of conflicts of interest, you will be doing that organisation a disservice, and this may reflect badly on the authority which put your name forward. If you neglect your responsibilities to that outside body it is even possible that you will incur a personal liability. Therefore do not allow your name to be put forward unless you are satisfied that you can participate fully in that organisation.
- 3.6 In almost all circumstances you will owe a duty to act in the best interests of that body. You will have to exercise your own best judgement and you cannot just take instructions from the authority. It is permissible to take account of the authority’s wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.

4. COMPANIES

- 4.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors.
- 4.2 Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1.00 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold, although there may be restrictions requiring the shares to be offered to existing shareholders. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company, or the amount of their guarantee. This can be as little as £1.00.
- 4.3 Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1.00.
- 4.4 Where a company is a trust, it is not permitted to distribute any profit to its shareholders, but must ensure that any such profit is ploughed back into the business. Trust companies are normally limited by guarantee, and this form of company is the most usual form in the public and voluntary sector, particularly where charitable status is sought.
- 4.5 The management of a company is generally the responsibility of a board of directors, elected by the members of the company. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes, even though the company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in the capacity.

4.6 Directors Duties

A Director is an agent of the company. His/her prime duties are as follows:

- (1) A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the Council Tax payers of the London Borough of

Enfield.

- (2) A general duty of care and skill to the company. So long as the Company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary. However if the Company becomes insolvent, the Court may expect that the director brings an appropriate level of skill, competence and experience to the job.
- (3) Like a councillor in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for him/her to take account of the interests of a third party which they represents. In such a case the director must disclose that position and balance the interests of the company and the party represented (in this case the authority). The director cannot vote simply in accordance with the authority's instructions. To do so would be a breach of duty.
- (4) No conflict. There may be actual or potential conflicts between the interests of the company and those of the authority. The councillor or officer cannot waive their statutory responsibilities as a director. So they may have to cease to act as a councillor or officer in relation to the particular matter.
- (5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration. They must obtain the consent of their employing authority if they are to receive any remuneration from a company to which they have been appointed by their employing authority.
- (6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Directors of charities have similar responsibilities to ensure compliance with charities law. Failure to do so may incur fines and persistent default can lead to disqualification as a director.
- (7) To assist and to monitor the conduct of business. Some organisations permit observers to attend their formal meetings. However, companies legislation treats them as shadow directors with similar liabilities as Directors. In circumstances it is prudent to ensure that you are

indemnified by appropriate insurance cover whilst acting in that role.
(see 4.8 below)

4.7 **Directors' Liabilities**

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). A director who knowingly causes the company to act beyond the activities set out in the Memorandum can be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the Members of the company after the event.
- (3) A director may also be liable for breach of trust, if they misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director liability.
- (6) If a company continues to trade despite the fact that the directors know or ought to know that there is no reasonable prospect of the company meeting its liabilities, this is "wrongful trading". Where a director participates in wrongful trading, a Court may require that director to meet any creditor's additional losses resulting from the failure of the company to cease trading as soon as it knew that it could not remain solvent. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position they could be well advised to inform the other directors and seek advice from the company auditors.

- (7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of.....)
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be liable to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

4.8 Indemnities

- (1) Councillors who are directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

4.9 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part Five of the Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the

effective control of the local authority, will be subject to the capital finance regime and special property controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.

- (3) The original concept of controlled influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than **20%** interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) A local authority influenced or controlled company must state this on all business documents.
- (5) Councillors who are directors of outside companies to which they have been nominated by the Council are under the following obligations:
 - (a) that the remuneration they receive from the company should not exceed that received from a local authority and should be declared;
 - (b) to give information to councillors about their activities required by the local authority (save for confidential information); and
 - (c) to cease to be a director immediately upon disqualification as a councillor.

You will be notified by officers if you are appointed to a regulated local authority company.

5. CHARITIES

5.1 To be a charity an organisation must operate for a charitable purpose. There are four such charitable purposes:

- The relief of poverty and human suffering
- The advancement of education
- The advancement of religion
- Another purpose for the benefit of the community

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not

qualify for charitable status.

5.2 To register as a charity the organisation must submit its completed constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

5.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do.

5.4 **Trustees' Duties**

(1) Trustees must take care to act in accordance with the constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.

(2) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.

(3) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.

(4) If charitable income exceed £10,000, the letters, adverts, cheques, etc must bear a statement that the organisation is a registered charity.

(5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

5.5 **Trustees' Personal Liability**

(1) Generally a trustee incurs personal liability if they:-

- Acts outside the scope of the trust deed
- Falls below the required standard of care
- Acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund

- Makes a personal profit from the trust assets

In such circumstances the trustee will incur personal liability for losses incurred.

- (2) If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if they acts in accordance with the advice given.
- (3) Trustees of a trust can be liable personally to third parties unless the trust is also a company, and therefore has a separate legal identity from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should seek an indemnity from their successors. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).
- (4) Trustees may be liable to fines if they do not comply with the duty make returns etc.

5.6 Indemnities

An indemnity can be given from the trust fund provided the trustees has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

6. MANAGEMENT COMMITTEES

6.1 Unincorporated Associations

Groups which are not charitable trusts or companies are “unincorporated associations” and have no separate legal identity from their members. The rules governing the members’ duties and liability will be set out in a constitution which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

- 6.2 Property will have to be held by individuals as the association has no legal existence of its own.

6.3 **Duties**

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

6.4 **Liabilities**

- (1) Generally, the management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.
- (3) Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax, etc.

6.5 **Indemnities**

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

Companies

What is a company?

A company is a corporate body, which has a legal personality separate from its members. This means that the company can enter into contracts, hold property and can participate in legal actions in its own right.

A company may be limited by guarantee or by shares, the main difference between the two is that, a company limited by guarantee has members who agree at the outset to contribute a certain sum to the assets of the company. This is usually a nominal sum only. Companies limited by shares have members or shareholders that purchase shares in the company and have their liability limited to the value of the shares purchased.

Who is responsible for running a company and how is a company created?

A company is made up of members or shareholders and is run by a board of directors. The memorandum of association and articles of association create a company. The contents of the memorandum of association and the articles of association specify what the company may do, what its objectives are, regulate matters such as the convening of meetings and the appointment and removal of directors.

What is the enabling legislation and registration requirements?

The Companies Act 1985 governs the conduct of companies. The Companies Acts have implications on the way company accounts must be kept and an annual return to Companies House must be made. Limited companies are established through registration with the Registrar of Companies at Companies House. The memorandum of association and the articles of association must be lodged with Companies house.

What are the duties and responsibilities of Directors?

Directors look after the affairs of the company, and are in a position of trust. Consequently, the law imposes a number of duties, burdens and responsibilities upon them.

Directors must act in good faith in what they honestly believe to be in the best interests of the company, and not for any collateral purpose. This means that, particularly in the event of a conflict of interest between the company's interests and their own, the directors must always favour the company.

Directors are in a fiduciary position, accordingly they are under a duty not to make a secret profit, directors must control the assets of a company for the companies benefit, not their own, directors must not exceed or abuse their power and must therefore only exercise those powers they have been given in the companies articles of association. A director is required to act with care and skill, they are expected to

exercise the degree of competence, which could reasonably be expected of someone with their degree of knowledge and experience.

A director who has been disqualified from acting for a company will be liable where he continues to act as a director for that company, s/he will be personally liable for any debts incurred by the company during the period s/he illegally acted as director.

Liability for wrongful dealing can arise where a director continues trading when he knows or ought to know that the company is likely to go into insolvent liquidation and s/he fails to take action to reduce the loss of the company's creditors. In these circumstances a director may be required to contribute to the assets of the company during liquidation, although s/he is not directly liable for the debts.

Similarly directors can be held liable for fraudulent trading, where a director carries on the business of a company incurring debt on the company's behalf at a time when s/he knows there is little or no prospect of those debts being paid on time or within a reasonable period.

A director acting in breach of any of the general fiduciary duties as discussed above may face personal financial or criminal liability

Trusts

What is a Trust?

A trust consists of a small group of trustees who manage the money or the property in accordance with the trust deed. There is no membership apart from the trustees. A trust cannot own land or property in its own name, it must be held by the trustees.

Who is responsible for running a trust and how is a trust created?

A trust is managed by the trustees and is set up by a legal document called a trust deed. The trust deed takes effect the moment that it is executed, this occurs when it is signed and dated by those who are setting up the trust in the presence of independent witnesses.

What is the enabling legislation and registration requirements?

If a trust is set up to administer charitable bequest, it could be registered with the Charity Commission as a Charitable Trust.

Provided the aims or purposes of the trust are charitable, if the trust has exclusively charitable purposes and its annual income is £1,000 or more, it should be able to register as a Charity.

What are the duties and responsibilities of trustees?

Trustees become the legal owners of the property or money, which forms the trust (the trust fund) and are under an obligation to administer the trust as set out by the trust deed.

Trustees have fiduciary duties and responsibilities concerning the trust that they are to administer, for instance they must advance the trust purpose and have a duty to know the trust deed. Trustees are required to act with honesty and loyalty, while acting in the best interests of the trust.

Trustees must act with care, skill, prudence and diligence, this standard is measured against the care and skill that the ordinary capable person would use to conduct his/her own affairs. Trustees must be impartial when dealing with the beneficiaries of the trust, to prefer one beneficiary over another may expose the trustee to liability and would be a breach of the fiduciary duties.

Trustees must not profit from the trust property or act gratuitously, there is a duty on trustee to be accountable as to how the trust is administered. Trustees are required to exercise reasonable care in the exercise of their duties and in carrying out the terms of the trust at all times.

A trust is unincorporated, therefore trustees are personally liable for the actions of the trust and will be liable if it runs into debt.

Unincorporated Associations

What is an unincorporated association?

An unincorporated association is a contractual relationship between a group of individuals working together as an organisation. This means that the unincorporated association cannot in its own rights hold property, enter into contracts or take part in legal action. The officer and committee members have to do these things as individuals.

Who is responsible for running an unincorporated association and how is it created?

There are no special formalities involved in the creation of an unincorporated association. The members agree to start the organisation and decide for themselves how to run it. Unincorporated associations normally have a set of rules/constitution drawn up by the members setting out the aims of the organisation and how it will be managed.

What is the enabling legislation and registration requirements?

There is no single body of legislation governing unincorporated associations. Instead, members will have to rely on rights that may arise from a contract setting out the rights of members.

What are the duties and responsibilities of members?

The officers and committee members can be personally liable to meet any debts of the organisation. Therefore if the organisation ends up owing money, the members may have to meet the debts out of their own pockets, this is called unlimited liability.

The duties and responsibilities of members and officers will normally be set out in the rules/constitution.

Industrial & Provident Society (IPS)

What is an IPS?

An IPS may include organisations such as a co-operative society for the mutual benefit of members and also non-profit making organisations for the benefit of the community if they are carrying on an industry business or trade. An IPS has a corporate status.

Who is responsible for running an IPS and how is it created?

The members of the IPS are responsible for the running of the society, and must all have an equal say. However, it is usual for a management committee to be appointed to deal with the detailed running of the IPS.

What is the enabling legislation and registration requirements?

IPS are accountable to the Registrar of Friendly Societies and must be registered with them.

The Industrial and Provident Society Act 1965. permits an IPS to register under the Act with limited liability.

A charitable IPS may also trade, which is a distinct advantages over charitable companies, which generally may not.

What are the duties and responsibilities of members?

An IPS is a incorporate bodies as such members enjoy the benefit of limited liability.

Statutory Authorities(SA)

These are established under statute for particular purposes and operate under their own standing orders.

A SA is often formed by several local authorities working in partnership and comprises member representation from each of the Constituent Councils e.g. North London Waste Authority.

Chapter 5.8 – Guide to Officers – Secondary Employment and Business Interests

The Council requires information about employment or business interests you may have (or intend to have) irrespective of whether it is within this authority or outside and whether it is paid or unpaid, for the following reasons:-

1. The Council needs to comply with its health and safety obligations under the Working Time Regulations regarding the hours that you work and assess any potential risk to your health and safety.
2. The Council needs to ensure that there is no conflict of interest between your work for this authority and your work or business interests elsewhere.
3. The Council needs to ensure that there is no “contractual conflict” e.g. that you could contractually be required to work at the same time for different employers.
4. There is a clause in contracts for HAY graded staff which reads *“You will be required to devote your whole-time service to the work of the Council and shall not engage in any business or take up any other additional appointment without the express consent of the Council”*.

You are required to notify us of any work (whether it is paid or unpaid) or other business interest that you are doing or propose to do in addition to your current post, or (where applicable) the post you have been offered. This may include unpaid positions, remunerated employment, consultancies or advisory positions, directorships or partnerships, significant holdings of shares or other financial securities, positions held as a councillor, governor or trustee, or trade union or pressure group. These are examples. This is not an exhaustive list.

This information will be used to make an assessment of any risk to your health and safety and to assess whether the work undertaken could conflict in any way with your current post / post that you have been offered.

Could you therefore provide the information requested below.

Part 1 To be completed by the Candidate/Employee

FULL NAME:

CURRENT POST HELD / POST OFFERED:

GRADE OF POST:

DEPARTMENT / SERVICE:

**Please
tick**

1. I **do not** undertake any work (paid or unpaid) outside of the hours to be worked within my current post / the post I have been offered

2. I **do** undertake work outside of the hours to be worked within my current post / the post I have been offered

3. I hold a voluntary position, or I have business interests, or I have links with an organization which could conflict with my current post or the post I have been offered

If you have ticked 2 and/or 3 above please provide the following details:

Number of hours worked and working pattern (for example, 2 hours every evening Mon – Friday from 7.00pm – 9.00pm):

Whether the work or business interest is paid or unpaid:

Type / Nature of the work / business interest:

Signed:

Date:

Part 2 To be reviewed and approved by the Line Manager.

Please review the information from ACAS on working hours when considering whether it is appropriate to approve this secondary employment <http://www.acas.org.uk/index.aspx?articleid=1373> Please note there is a clause in contracts for HAY graded staff which reads “You will be required to devote your whole-time service to the work of the Council and shall not engage in any business or take up any other additional appointment without the express consent of the Council”.

Line Manager’s comments:

Line Manager’s Decision:

Name:

Date:

Post Title:

Signed: