

# Subject: The Authority's Proposed New Code of Conduct for Members

Report Number: 8

**Report to: Assembly (Mayor's Question Time)**

**Date: 12<sup>th</sup> September 2007**

**Report of: Head of Legal and Procurement**

## 1. Recommendation

- 1.1 To agree to adopt a new Members' Code of Conduct for the Authority, as recommended by the Authority's Standards Committee on 5<sup>th</sup> September 2007, and attached as Appendix 1 (Appendix 1 to follow under the cover of a supplementary agenda).

## 2. Background

- 2.1 The Government has produced a new Model Code of Conduct for Local Authority Members ("the new Model Code"). This contains mandatory and non-mandatory provisions, and applies to the members and co-opted members of the Greater London Authority ("the Authority").
- 2.2 The Authority is permitted to adopt its own local Code of Conduct. This must include every mandatory item of the new Model Code, but it can also include *additional requirements*. The mandatory provisions of the new Model Code will apply as from 1 October 2007.
- 2.3 Much of the new Model Code simply reproduces provisions that are already contained in the existing Model Code of Conduct (introduced in 2001) and the existing GLA local Code of Conduct that was adopted by the Authority on 7 March 2002. There are, however, a number of new mandatory changes.
- 2.4 The Authority's Standards Committee has noted these mandatory changes and has, with the exception of Part 4 of the Authority's existing Code, agreed what non-mandatory changes should remain in, or be added to, the Authority's proposed new Code.
- 2.5 Part 4 of the Authority's existing Code contains wholly non-mandatory provisions, which were adopted by the Authority in 2002. On 5<sup>th</sup> September 2007, Standards Committee is due to consider amending Part 4 and will then be asked to agree a final version of a proposed new Code of Conduct for the Authority and recommend that this be approved by the Mayor and the Assembly.
- 2.6 Due to print deadlines, this report has been prepared before Standards Committee's meeting. Accordingly, once the Standards Committee has agreed a final version of a proposed new Code, this

will be circulated under the cover of a supplementary agenda as Appendix 1 to this report. An Appendix 2 to this report, which explains the new proposed Code, will also be circulated under that supplementary agenda.

- 2.7 The Mayor will be asked to agree to adopt the proposed Code of Conduct by way of a Mayoral Approval Form.
- 2.8 Under the Local Government Act 2000 sections 51 and 83(15), and the Authority's Standing Order 11.2 (A), approval of the Code of Conduct is a function to be exercised jointly by the Mayor and the Assembly.
- 2.9 If either the Mayor or Assembly fail to agree the Code and the Authority therefore does not adopt its own local Code of Conduct by 1st October 2007, the mandatory provisions of the Model Code will apply as of that date.

### **3. Legal Implications**

- 3.1 Under the Local Government Act 2000 s 51(4), the Authority's Code of Conduct (a) must incorporate any mandatory provisions of the Model Code (b) may incorporate any optional provisions of the Model Code, and (c) may include other provisions which are consistent with the Model Code.
- 3.2 Part 4 of the Authority's proposed Code of Conduct deals with matters that are neither mandatory provisions, nor optional provisions of the Model Code. Accordingly, as per the Local Government Act 2000 s 51(4) (c), only provisions that are consistent with the Model Code may be lawfully included in Part 4.
- 3.3 Members will not be required to sign a new declaration of acceptance of office once the new Code is approved. Section 52(2) of the Local Government Act 2000 and the Local Elections (Declaration of Acceptance of Office) Order 2001 provide that Members are bound by whichever Code is in force at the Authority. This Standards Board for England have also confirmed that Members do not need to sign a new declaration (however Members should note that all Members elected or re-elected to the Authority in May 2008 will be required to sign a new declaration of acceptance of office).

### **4. Financial Implications**

- 4.1 None arising from this report.

#### **Background Documents:**

The Local Authorities (Model Code of Conduct) Order 2007 SI 2007/1158

The GLA's existing Code of Conduct for Members

Report number 7 to, and minutes of, Standards Committee meeting on 6th June 2007

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## **APPENDIX 1**

### **CODE OF CONDUCT OF THE GREATER LONDON AUTHORITY**

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#### **PART 1**

#### **GENERAL PROVISIONS**

##### **Introduction and interpretation**

**1.** —(1) This Code applies to **you** as a member of the Greater London Authority (“the Authority”).

"Member" means the Mayor of London, the Deputy Mayor, members of the London Assembly and includes: a co-opted member and an appointed member; a co-opted member of a committee or sub-committee or advisory committee or advisory sub-committee of the Assembly. In this Code, the term co-opted member has the meaning given to it by section 49 of the Local Government Act 2000, and the Independent Members of the Standards Committee shall be regarded as co-opted members of the Authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State, which are as follows:

##### **Selflessness**

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

##### **Honesty and Integrity**

You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

##### **Objectivity**

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

##### **Accountability**

You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

**Openness**

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

**Personal Judgement**

You may take account of the views of others, including their political groups, but should reach your own conclusions on the issues before you and act in accordance with those conclusions.

**Respect for Others**

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 impartiality and integrity of the authority's statutory officers, and its other employees.

**Duty to Uphold the Law**

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**

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

**Leadership**

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

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

"meeting" means

(a) any meeting of the Assembly;

(b) any meeting of any of the Assembly's committees, sub-committees, joint committees, joint sub-committees, advisory committees or advisory sub-committees;

(c) any meeting of the Standards Committee;

(d) any occasion at which the Mayor or Deputy Mayor or a member of the Assembly exercises executive functions in respect of any matter

*(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.*

## **Scope**

**2.** —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you —

(a) conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of the Authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of the Authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

(6) In this Code “relevant authority” has the meaning given to it by section 49 of the Local Government Act 2000. It also includes any “functional body” as defined in section 424 of the Greater London Authority Act 1999.

### **General obligations**

**3.** —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause the Authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person

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

(i) a complainant,

(ii) a witness, or

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

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority; or

(e) provide or offer to provide a reference for any candidate for employment or promotion with the Authority

*(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.*

**4.** You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

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

**6.** You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

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

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7.** —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **PART 2**

### **INTERESTS**

#### **Personal interests**

**8.** —(1) You have a personal interest in any business of the Authority where either—

(a) it relates to or is likely to affect —

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in the Authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in the Authority's area in which you have a



beneficial interest;

(x) any land where the landlord is the Authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the Authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

*(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;*

*(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or*

*(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.*

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

**9.** —(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of the Authority and you attend a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of the

Authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Where the Mayor or Deputy Mayor makes any decision which affects a matter in which he or she has a personal interest (within the meaning of paragraph 8 above) that must be disclosed in accordance with paragraph 9(1) and in accordance with any relevant procedure of the Authority.

### **Prejudicial interest generally**

**10.** —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the Authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of the Authority in respect of—

(i) housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

**11 (1)** You also have a prejudicial interest in any business before a scrutiny committee or sub-committee of the Assembly where:

(a) that business relates to a decision made, or action taken, by another of the Assembly's committees, subcommittees, joint committee or sub-committee of which you are a member or any matter for which the member has been appointed as a representative of or adviser to the Mayor; and

(b) At the time the decision was made or action was taken, you were a member of the committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

11 (2) However sub-paragraph (1) does not apply where you attend the meeting of the scrutiny or sub-committee of the Assembly for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

### **Effect of prejudicial interests on participation**

**12.** —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the Authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the Authority's Standards Committee; and

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of the Authority, you may attend a meeting (including a meeting of a scrutiny committee or

scrutiny sub-committee of the Assembly) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **PART 3**

#### **REGISTRATION OF MEMBERS' INTERESTS**

##### **Registration of members' interests**

**13.** —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to the Authority; or

(b) your election or appointment to office (where that is later),

register in the Authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the Authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the Authority's monitoring officer.

##### **Sensitive information**

**14.** —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and the Authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

# Subject: Future Standards Regime at the GLA

**Report to: London Assembly (Annual Meeting)**

**Report of: Monitoring Officer**

**Date: 11 May 2012**

**This report will be considered in public**

## 1. Summary

- 1.1 The Assembly is asked to take decisions in relation the continuation of the current Standards regime for the period up until the regime is abolished, expected to be 30 June 2012, and in relation to the establishment of a new Standards regime, expected to take effect on 1 July 2012.

## 2. Recommendations

**The Assembly is recommended to:**

- 2.1 **Re-establish, noting that this is a matter for joint decision with the Mayor, and as currently required by law, the Authority's Standards Committee on the same basis that it is currently constituted, namely with 5 Assembly Members, the Mayor or statutory Deputy Mayor and 6 Independent Members, for the period up until the regime is abolished, expected to be 30 June 2012;**
- 2.2 **Consider whether to appoint Assembly Members to the Committee on a broadly proportional basis, noting that, irrespective of any decision in relation to the strict application of proportionality rules made under Item 7 of the agenda, political proportionality rules may not be formally applied to this Committee;**
- 2.3 **Note the Standards Committee's proposed terms of reference, as set out at Appendix B;**
- 2.4 **Agree, noting that this is a matter for joint decision with the Mayor, to adopt a new Code of Conduct for elected and co-opted Members of the Greater London Authority (as attached at Appendix C) and associated complaints guidance (as attached at Appendix C1) to take effect from when relevant provisions of the Localism Act 2011 come into effect, expected to be 1 July 2012;**
- 2.5 **Note the following documents, which have been appended to the proposed new Code of Conduct for elected and co-opted Members of the Greater London Authority: guidance from the Monitoring Officer regarding expected conduct by Assembly Members appointed to relevant positions by the Mayor of London (as set out at Appendix C2); the Authority's Planning Code of Conduct and Protocols (as set out at Appendix C3 and as formally agreed by the Assembly and Head of Paid Service in March and April 2012 respectively, and currently awaiting formal approval by the Mayor); and the procedure for complaints**

**made against the Mayor's Office for Policing and Crime (as set out at Appendix C4 and as formally agreed by the Assembly's Police and Crime Committee in January 2012);**

- 2.6 Agree, noting that this is a matter for joint decision with the Mayor, the proposed criteria set out at Appendix C5 to the new Code of Conduct for elected and co-opted Members of the Greater London Authority in relation to granting dispensations to GLA Members who have a disclosable pecuniary interest in any business of the Authority, and agree, noting that this is a matter for joint decision with the Mayor, that once the relevant regulations have been issued by the Government, that Appendix be amended to include the prescribed categories for disclosable pecuniary interests;**
- 2.7 Agree, noting that this is a matter for joint decision with the Mayor, that, with effect from when the relevant provisions of the Localism Act 2011 come into effect, expected to be 1 July 2012, the operation of the Code of Conduct for elected Members be the responsibility of the Authority's Monitoring Officer, who will exercise this function in accordance with the associated complaints guidance (as attached at Appendix C1) and will seek advice from the Independent Person(s) appointed in accordance with Section 28(7) of the Localism Act as necessary;**
- 2.8 Approve, noting that this is a matter for joint decision with the Mayor, a process for the recruitment of the Independent Person(s) charged under Section 28(7) of the Localism Act with assisting in the discharge of complaints-handling procedures under the new Standards regime, as set out at paragraphs 4.25 – 4.29 below;**
- 2.9 Agree, noting that this is a matter for joint decision with the Mayor, that Independent Person(s) be paid an allowance of £125 for attendance at any formal meeting and/or on each occasion on which they are asked to provide written views to the Monitoring Officer in relation to a formal complaint under investigation;**
- 2.10 Agree, noting that this is a matter for joint decision with the Mayor, that the Authority's Expenses and Benefits framework be applied to the Independent Person(s) (so that they can claim incidental expenses as necessary and noting that it is proposed that the Expenses and Benefits Framework be revised to delegate the ability to approve individual expenses claims under that policy to the Monitoring Officer).**

### **3. Background**

- 3.1** The Government envisages that the remaining local elements of the current Standards regime, including statutory standards committees with the power to suspend councillors, will be abolished on 30 June 2012, in accordance with the provisions of the Localism Act 2011.
- 3.2** Until abolition, the establishment of a Standards Committee remains a mandatory requirement upon the Authority, in accordance with Section 53 of the Local Government Act 2000.
- 3.3** When the relevant provisions of the Localism Act 2011 come into effect, expected to be from 1 July onwards, all standards matters – including consideration and determination of outstanding complaints made during the period the existing standards regime was operating - will be the

responsibility of local authorities, to be handled under new arrangements. In summary, the new requirements are:

- A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority;
- A relevant authority *must*, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity; this Code must be consistent with the 7 principles of public life and must include appropriate provisions in respect of the registration in its register, and disclosure, of (a) pecuniary interests, and (b) interests other than pecuniary interests;
- A relevant authority may revise its existing code of conduct, or adopt a code of conduct to replace its existing code of conduct and *must* have in place arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made;
- Arrangements must be put in place for the appointment by the authority of at least one independent person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate;
- The GLA is a relevant authority and its Code and related procedures are to be agreed by the Mayor of London and London Assembly acting jointly and the Mayor and the London Assembly, acting jointly, may arrange for any of the Standards functions to be exercised on their behalf by a member of staff or by a committee.

3.4 The Mayor, Assembly and the Authority's Standards Committee have all previously agreed in principle that the future Standards regime at the GLA should be one in which the Monitoring Officer (rather than any Standards Committee) implements, under delegated authority, the provisions of a Code of Conduct as agreed jointly by the Mayor and London Assembly. In addition, they have also agreed in principle that: the current Code of Conduct for the GLA's elected members should, without significant revision, form the basis of the new Code; that there should, however, be a robust filtering process for complaints against GLA Members under any new regime (to ensure that only valid and substantive complaints were dealt with under the full investigation process); and that the work undertaken by the current Standards sub-committees in interpreting the Code would be useful in terms of the preparation of criteria under which complaints were filtered.

3.5 The London Assembly is therefore now asked to agree (noting that these matters require a joint decision with the Mayor):

- To re-establish the GLA's Standards Committee on the same basis that it has previously been established, for the period up until the existing regime is abolished, expected to be 30 June 2012;
- Formally to approve a Code of Conduct and associated complaints procedure (that will come into effect when the relevant provisions of the Localism Act 2011 are commenced, expected to be 1 July 2012) and agree that, once the relevant regulations have been issued by the Government, the prescribed categories for pecuniary interests will be appended to the Code;
- Formally agree that, with effect when the relevant provisions of the Localism Act 2011 are commenced, expected to be from 1 July 2012, the operation of the Code of Conduct for elected Members be the responsibility of the Authority's Monitoring Officer, who will seek advice from the Independent Person(s) appointed in accordance with Section 28(7) of the Localism Act 2011 as necessary; and

- To approve a process for the recruitment of the independent person(s) to assist in the discharge of complaints-handling procedures under the new regime, and the payment of allowances to the Independent Person(s).

3.6 The Mayor will be asked to confirm his agreement via a Mayoral Decision form.

## 4. Issues for Consideration

### Re-establishment of the Standards Committee

- 4.1 Until 30 June, the Standards Committee has responsibility for handling allegations that a Member has breached the Authority's Code of Conduct. In law the Standards Committee is a committee of the whole Authority and not an ordinary committee of the Assembly, and both the Assembly and the Mayor are therefore required to approve the establishment of the Committee.
- 4.2 Regulation 4(1)(a) of the Standards Committee (England) Regulations 2008 states that: "An authority must ensure that at least 25% of the members of its standards committee are independent members". In the 2011/12 year, the Standards Committee was constituted with 12 Members: 5 Assembly Members (2 Conservative AMs, 2 Labour AMs and 1 Liberal Democrat AM), 6 Independent Members and the statutory Deputy Mayor of London.
- 4.3 The Mayor has the right to sit on the Committee. The Mayor has previously exercised this right, but from July 2009 to April 2011 delegated this role on the Committee to the statutory Deputy Mayor.
- 4.4 The local assessment regime currently requires the Standards Committee to establish at least two sub-committees comprised of different Members but with at least 3 Members on each sub-committee, and being constituted with 12 Members gives the Committee sufficient flexibility to operate the regime. It is therefore recommended that the Standards Committee continues to be constituted with 12 Members (noting, however, that there is currently one Independent Member vacancy, further details of which are set out in the report regarding the appointment of Members to committees at Item 9 of the agenda).
- 4.5 Section 53(10) of the Local Government Act 2000 states: "A Standards Committee of a relevant authority in England ...is not to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies." There is, therefore, no statutory requirement upon the Mayor and Assembly to allocate seats on the Standards Committee on a proportional basis. There is, however, nothing to prevent the Assembly and the Mayor from allocating seats on this basis (and the Assembly has traditionally appointed Members to the Committee on a broadly proportional basis). Advice in relation to the allocation of seats to the Committee on a broadly proportional basis will be tabled as **Appendix A**.
- 4.6 The appointment of Assembly Members to the Committee is dealt with at Item 9 of the agenda.
- 4.7 In accordance with Standing Order 12.2D, the Standards Committee will be asked to approve its own terms of reference at its first meeting of the 2012/13 Assembly Year. The Committee's draft terms of reference are set out at **Appendix B**, for noting.



- 4.8 As previously reported to the Assembly's Business Management and Administration Committee (BMAC), the Standards Committee, noting that the current Standards regime will shortly come to an end, has previously indicated that it is not minded to meet again except or unless required to do so in order to exercise statutory functions in relation to complaints.
- 4.9 The Standards Committee therefore requested that any business which would usually be considered by the Standards Committee, both for the period up until the new Standards regime takes effect and for the period following the disestablishment of the Standards, be reallocated to an appropriate committee. In particular, the Committee recommended that reports in relation to expenses incurred by elected Members and senior staff be presented to the Assembly's Audit Panel for consideration.
- 4.10 As agreed by BMAC at its meeting on 29 February 2012, it is therefore proposed that Audit Panel receives regular reports in relation to recent gifts / hospitality declarations and expenses claimed by elected Members, mayoral advisors and senior staff and an annual report on the complaints which the Monitoring Officer has dealt with.
- 4.11 These matters would fall within the terms of reference of the Audit Panel as agreed for the 2011/12 year.

#### **Proposed new Standards regime, Code of Conduct and Complaints Procedure**

- 4.12 A draft proposed new Code of Conduct and related draft complaints guidance are set out at **Appendix C** and **Appendix C1** respectively, for formal approval and adoption.
- 4.13 In accordance with the procedure set out in the draft complaints guidance and further to previous discussions with the Mayor and the Assembly regarding the proposed mechanism for the handling of complaints under the new Standards regime, the Assembly is also asked formally to agree that, with effect from when the relevant provisions of the Localism Act 2011 are commenced, expected to be 1 July 2012, the operation of the Code will be the responsibility of the Authority's Monitoring Officer, who will exercise that function in accordance with the associated complaints guidance (set out at Appendix C1), seeking advice from Independent Person(s) appointed in accordance with Section 28(7) of the Localism Act as necessary.
- 4.14 Both the proposed new Code and the draft guidance have previously been submitted to the Standards Committee and the Assembly's Business Management and Administration Committee (BMAC) for consideration, and comments made by those Committees have been reflected in the attached drafts.
- 4.15 In particular, further to the initial views expressed by BMAC at its meeting on 29 February 2012:
- The attached guidance (Appendix C1) proposes that, under the new regime, a Decision Notice in relation to a complaint regarding a Member will only be published at the end of the process, when a final determination has been made on a complaint. This approach seeks to ensure that all individuals involved in any complaint are provided with the protection of privacy and confidentiality until such time as a finding is made – at which point a Notice, setting out full details of the allegations, the person involved and the Monitoring Officer's decision and reasoning, would be published. In this way, transparency

requirements can still be met with individuals' identity and reputations protected until such time as full details are published at the end of the process;

- As referred to in the attached draft Code (Appendix C), it is proposed that authority be given to the Authority's Monitoring Officer to grant dispensations to GLA Members who have a disclosable pecuniary interest in any business of the Authority, to allow them to speak only, or to speak and vote, on that item of business (noting that this role has previously been undertaken by the Standards Committee). The conditions for granting such a dispensation are set out at Appendix C5.

- 4.16 The Government has issued an illustrative Code of Conduct, and this is attached at **Appendix D** for information. In addition, the Local Government Association has produced a template Code of Conduct, which may be accessed here: [http://www.local.gov.uk/web/guest/first/-/journal\\_content/56/10161/3591318/NEWS-TEMPLATE](http://www.local.gov.uk/web/guest/first/-/journal_content/56/10161/3591318/NEWS-TEMPLATE)
- 4.17 Government regulations which prescribe categories of pecuniary interest are currently awaited, and the Assembly is asked to agree that these categories be appended to the Code of Conduct once the regulations have been issued.

*Advice from Counsel*

- 4.18 As reported to the 29 February 2012 BMAC meeting, Counsel's advice has been sought on the Authority's proposed new Code and it has been confirmed that, in general terms, that the Code and associated regime will be in compliance with the new statutory regime (as brought about by the Localism Act 2011).
- 4.19 Further to queries raised by Assembly Members, specific advice was sought as to whether the Authority could restrict the ability of an Assembly Member who has been appointed to discharge executive mayoral functions (for example in respect of the Mayor's Office for Policing and Crime, by virtue of having been appointed a the statutory Deputy Mayor for Policing) to participate in consideration of and voting upon matters related to those executive functions. QC has advised that "it would be inappropriate to seek to regulate the position by a Code of Conduct made under s28 of the Localism Act" – as there is no clear basis in law for applying such restrictions to a Member's ability to act as an Assembly Member, regardless of any other roles they may be undertaking.
- 4.20 Further, QC advised that having general provisions within a Code of Conduct that seek, for example, to require Members with dual roles to "consider whether [they] are properly able to...approach the matter with a genuinely open mind" are not appropriate either, as they "flag up a problem without providing any useful answer." This is because the Code should properly contain only such provisions that allow action to follow were those clauses to be breached (ie requirements that Members, including the Mayor, must or must not conduct themselves in specified ways) – and it would be difficult, if not impossible, to determine whether a Member had fully "consider(ed) whether [they] are properly able to approach a matter with a genuinely open mind" and so on.
- 4.21 As reflected in the attached draft Code, these matters (relating to the conduct of an Assembly Member who is appointed to discharge executive functions on behalf of the Mayor) are no longer set down within the formal Code of Conduct but will instead be addressed through formal guidance issued by the Monitoring Officer. This guidance is appended to the attached draft

Code. In this way, the Authority can set out its requirements as to how such situations should be approached (that would be in line with the principles of public life) but in such a way as to recognise the statutory position.

- 4.22 The advice from QC also considered (and as discussed in a meeting of the full London Assembly in January 2012), the issue of whether an Assembly Member who has, as Deputy Mayor for Policing, executive responsibilities as regards the MOPC can participate fully in the Assembly's consideration of the Mayor's annual budget proposals for the GLA Group. QC advised that:

*"...the participation of the Deputy Mayor in the budget setting process is governed by the current code and in particular by paragraph 10(1) and paragraph 12. The result is not straightforward. For the reasons set out above, it can be strongly argued that the participation of the Deputy Mayor in the budget setting process is a deliberate feature of the overall statutory scheme, and that accordingly the notional member of the public referred to in paragraph 10(1) could not reasonably regard the Deputy Mayor's role as likely to prejudice his "judgment of the public interest". However, the converse is strongly arguable. It is for Mr Malthouse at the end of the day to form his own view on the matter; but he might wish to consider whether it is prudent to be cautious at this stage."*

- 4.23 It was noted, at the Assembly meeting on 25 January 2012, that Kit Malthouse AM had declared a personal (but not prejudicial) interest in the business before the meeting arising from his MOPC-related responsibilities. The Assembly noted also that Mr Malthouse did not intend to participate on matters directly connected to the draft 2012-13 budget for the MOPC but would otherwise participate in full – and it accepted the declaration and the approach taken by the Member. This was all in accordance with the advice from the QC.

### **Independent Persons – role and appointment process**

- 4.24 In accordance with the Localism Act 2011, arrangements must be put in place for the appointment by the Authority of at least one Independent Person whose views must be sought and taken into account by the Authority before it makes its decision on an allegation against an elected Member that it has decided to investigate. The Independent Person's views may be sought by a member or co-opted member of the Authority if that person's behavior is the subject of an allegation, and may also be sought by in relation to an allegation it has not yet decided to investigate.
- 4.25 The Assembly is therefore now asked to agree (jointly with the Mayor) that that position now be advertised and a recruitment process, involving a formal application form procedure, be undertaken. Further information regarding the role to be discharged by the Independent Person(s) is set out at Paragraphs 4.5 and 4.6 of Appendix C1 (the revised draft guidance document).
- 4.26 It is proposed that the Monitoring Officer will consider the application forms received and will convene a Selection Panel to interview shortlisted. (The Panel would receive all applications forms by way of background information.)
- 4.27 It is intended that the Selection Panel would be composed of a Mayoral and Assembly representative, supported by the Monitoring Officer.

- 4.28 It is proposed that the Authority should look to appoint two Independent Persons (potentially up to three, if the calibre of candidates warrants it), to ensure that there is resilience within the system. The Panel would recommend the list of nominees to the Mayor and Assembly for appointment in June 2012.
- 4.29 The Monitoring Officer is investigating the possibility of undertaking joint recruitment activity in this regard with the London Fire and Emergency Planning Authority (which, as the other local authority within the GLA Group, is required to make the same arrangements).
- 4.30 It has previously been confirmed that the Localism Act 2011 prevents relevant authorities (including the GLA) from appointing people currently appointed as Independent Standards Members to the new role of "Independent Person" under the new Standards regime. The Government has, however, now stated that for a period of one year it will relax that prohibition to allow authorities to appoint, should it so wish, current Independent Members to serve as Independent Persons.
- 4.31 The Authority, therefore, will now have the option to appoint (under transitional provisions, that have not yet been issued) current Independent Standards Members, should they apply for these roles.

#### **Attendance allowance for Independent Persons**

- 4.32 Independent Members appointed under the current Standards regime receive an attendance allowance of £125 per meeting. It is suggested that the Independent Persons be paid a similar allowance for attendance at any formal meeting and/or on each occasion on which they are asked to provide written views to the Monitoring Officer in relation to a formal complaint under investigation. (It is not, however, proposed that an allowance be paid for times when they may be consulted by a Member or complainant.)
- 4.33 The Mayor and Assembly are additionally asked to agree that the Expenses and Benefits framework will apply to these persons (so that they can claim incidental expenses as necessary), with the ability to approve individual expenses claims under that policy then being delegated to the Monitoring Officer.

### **5. Legal Implications**

- 5.1 The Assembly has the power to do what is recommended in this report. Other relevant legal implications are included within the report.
- 5.2 In addition, as a committee of the Authority as a whole, the Standards Committee may not exercise any of the Assembly's formal powers under sections 61 to 64 of the Act.

### **6. Financial Implications**

- 6.1 The attendance allowances paid to Independent Standards Members (£125 per meeting) are contained within existing resources and any proposals to pay similar allowances to Independent

Persons under the new regime could also be met from within existing resources. Otherwise, there are no direct financial implications arising from the proposals for consideration contained within this report.

- 6.2 The proposed allowances paid to Independent Persons will be met from part of the overall £20,000 budget in the Standards Cost Centre within the Corporate Management Team Directorate.

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**List of appendices to this report:**

**Appendix A** – Advice in relation to the proportional allocation of seats on the Standards Committee (to be tabled)

**Appendix B** – Standards Committee’s proposed Terms of Reference

**Appendix C** – Draft Code of Conduct

**Appendix C1** Draft Code of Conduct Complaints Guidance/Procedure

**Appendix C2** – Guidance from the Monitoring Officer re expected conduct by Assembly Members appointed to relevant positions by the Mayor of London

**Appendix C3** – The Authority’s Planning Code of Conduct & Protocols

**Appendix C4** – Procedure for complaints made against the Mayor’s Office for Policing and Crime

**Appendix C5** – Procedure for registration and declaration of interests, gifts and hospitality

**Appendix D** – Illustrative Code of Conduct issued by the Department for Communities and Local Government

<b>Local Government (Access to Information) Act 1985</b>
List of Background Papers: None.
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## CODE OF CONDUCT OF THE GREATER LONDON AUTHORITY

### PART 1

#### GENERAL PROVISIONS

##### Introduction and interpretation

**1.** —(1) This Code applies to **you** as a member of the Greater London Authority (“the GLA”)

(2) Where **you** are a member of the Mayor’s Office for Policing and Crime (“MOPC”), this Code applies to you as a member of the MOPC.

(3) The term “the Authority” used in this Code covers both the GLA and the MOPC.

“Member” means the Mayor of London, the Deputy Mayor of London, the Deputy Mayor for Policing, Members of the London Assembly and any independent person appointed by the Authority to assist with the discharge of the ethical standards functions.

(3) You should read this Code together with the principles of public life, which are as follows:

##### Selflessness

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

##### Integrity

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

##### Objectivity

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

##### Accountability

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

##### Openness

Holders of public office should be as open as possible about all the decisions and

actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

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

### **Leadership**

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

(4) It is your responsibility to comply with the provisions of this Code.

### **Scope**

**2.** — (1) You must comply with this Code whenever you act in your capacity as a member of the Authority.

(2) Where you act as a representative of the Authority —

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

(3) In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011. It also includes any “functional body” as defined in section 424 of the Greater London Authority Act 1999 (as amended).

### **General obligations**

**3.** — (1) You must treat others with respect.

(2) You must not —

- (a) do anything which may cause the Authority to breach the Equality Act 2010. ;
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or is likely to be —
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority; or

(e) provide or offer to provide a reference for any candidate for employment or promotion with the Authority.

(3) In relation to police authorities and the Mayor's Office for Policing and Crime (MOPC) for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4. You must not —**

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where —

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is —

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

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

**6. You —**

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority —

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

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and



(c) must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

**7.** —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **PART 2**

### **INTERESTS**

#### **Pecuniary Interests**

**8.** —(1) You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State and either:

(a) it is an interest of yours, or

(b) it is an interest of:

(i) your spouse or civil partner;

(ii) a person with whom you are living as husband and wife, or

(iii) a person with whom you are living as if you were civil partners and you are aware that that other person has the interest.

#### **Registration of pecuniary interests**

**9**(1) You must, within 28 days of:

(a) this Code being adopted or applied by the Authority; or

(b) your election or appointment (where that is later),

notify the Authority's Monitoring Officer in writing of any disclosable pecuniary interests you have at that time, and whether or not you consider that any of these interests should be treated as sensitive interests (as defined in paragraph 11 below).

(2) You must, within 28 days of becoming aware of any new pecuniary interest or any change to any pecuniary interest notified to the Monitoring Officer under sub-paragraph (1), notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change, and whether or not you consider that these should be treated as sensitive interests (as defined in paragraph 11 below).

## **Pecuniary interests in matters considered at meetings or by a single member**

### *Meetings*

**10(1)** In this Code, “meeting” means:

- (a) any meeting of the London Assembly or any formal meeting held by the Mayor in connection with the exercise of functions of the Authority;
- (b) any meeting of the Assembly’s committees, sub-committee, joint committees, joint sub-committee, advisory committees or advisory sub-committee.

(2) If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, you must - subject to paragraph 11 below (sensitive interests) -disclose that interest to the meeting, and may not – unless you have obtained a dispensation from the Authority Monitoring Officer – (i) participate, or participate further, in any discussion of the matter at the meeting; or (ii) participate in any vote, or further vote, taken on the matter at the meeting.

(3) Subject to the Authority’s Standing Orders, you may or may not be excluded from a meeting while any discussion or vote takes place that you are not permitted to participate in, as a result of sub-paragraph (2) above.

### *Single member action*

(4) If you are empowered to discharge functions of the Authority acting alone, and have and aware that you have a disclosable pecuniary interest in any matter dealt with, or being dealt with, by you in the course of discharging that function, you must not take any steps, or any further steps, in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by you).

## **Sensitive interests**

**11.** —(1) Where you consider (and the Authority’s Monitoring Officer agrees) that the nature of a disclosable pecuniary interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a “sensitive interest” for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 10(2) above.

## **PART 3**

### **RELATED DOCUMENTS**

13. The procedures attached at Appendix 1 apply in relation to any alleged breach of this Code.

14. Formal guidance from the Monitoring Officer in respect of expected conduct by Assembly members appointed to relevant positions by the Mayor of London is attached at Appendix 2.

15. The Authority's Planning Code of Conduct is attached at Appendix 3.

16. The procedures under which complaints made against the Mayor's Office for Policing and Crime are attached at Appendix 4.

17. The procedures under which registration and declaration of interests, gifts and hospitality are to be made are attached at Appendix 5.