

# WEST LONDON WASTE AUTHORITY

## MEMBER CODE OF CONDUCT AND MEMBER COMPLAINTS PROCEDURE

*July 2016.*

### Contents.

1. **Background and Principles.**
2. **General Obligations.**
3. **Effect of Disclosable Pecuniary Interest on Participation.**
4. **Personal Interests.**
5. **Dispensations.**
6. **Registration of Members' Interests.**
7. **Sensitive Interests.**
8. **Gifts and Hospitality.**
9. **Arrangements for Dealing with Member Standards Allegations.**

Appendix 1 – definition of DPIs.

### 1. Background and Principles.

1.1 References in the document to 'Members' includes co-opted Members.

1.2 Members of the West London Waste Authority ('the Authority') have a responsibility to represent the interests of the community in relation to the disposal of waste in west London and work constructively with Authority staff and partner organisations to secure better social, economic and environmental outcomes for all.

1.3 Members will behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the authority.

**SELFLESSNESS.** Act solely in the public interest with no financial or other material benefit for themselves, their family, or their friends.

**INTEGRITY.** Have no 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, choices should be made on merit.

**ACCOUNTABILITY.** Be accountable for decisions and actions to the public and submit to scrutiny where appropriate.

**OPENNESS.** Be as open as possible about decisions and actions. Give reasons for decisions and restrict information only when the wider public interest clearly demands.

**HONESTY.** Declare any private interests relating to public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP.** Promote and support these principles by leadership and example.

## **2. General Obligations**

- 2.1. Members must comply with this Code whenever they are acting in their capacity as Member.
- 2.2. Members will act in accordance with the principles below.
  - 2.2.1. Championing the needs of residents –putting their interests first.
  - 2.2.2. Listening to the interests of all parties, including relevant advice from statutory and other officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
  - 2.2.3. Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents and constituent boroughs.
  - 2.2.4. Contributing to making this Authority’s decision-making processes as open and transparent as possible to enable residents and constituent boroughs to understand the reasoning behind those decisions but restricting access to information when the wider public interest and the law requires it.
  - 2.2.5. Behaving in accordance with legal obligations, alongside any requirements contained within this Authority’s policies, protocols and procedures, including on the use of the Authority’s resources.
  - 2.2.6. Always treating people with respect, including other Members, officers, those from other organisations and members of the public.
  - 2.2.7. Never disclose confidential information gained in the capacity as an Authority Member unless authorised or required to do so by law.
  - 2.2.8. Never use position as a Member improperly to confer advantage on themselves or on any other person.
  - 2.2.9. Never behave in a manner which could bring the Authority into disrepute.

## **3. Effect of Disclosable Pecuniary Interests on Participation**

- 3.1 Disclosable Pecuniary Interest [‘DPI’] is defined at Appendix 1 of this document.
- 3.2 Unless dispensation has been granted, Members may not participate in any discussion of or vote on, any matter in which they have a DPI.
- 3.3 Where a Member present at a meeting is aware that they have a DPI in any matter to be considered, or being considered, then

- 3.3.1 if the interest is not entered on the Council's register of interests the Member must (subject to the provision relating to sensitive interests) disclose the interest to the meeting, and
- 3.3.2 if the interest is not entered on the Council's register of interests and is not the subject of a pending notification the Member must notify the Clerk of that interest before the end of 28 days beginning with the date of disclosure and;
- 3.3.3 subject to any current dispensation, the Member may not
  - 3.3.3.1 participate (or participate further) in any discussion of the matter at the meeting or
  - 3.3.3.2 participate in any vote (or vote further) taken on the matter at the meeting or
  - 3.3.3.3 remain in the room in which the meeting is being held while the item is in progress.

#### **4 Personal Interests**

- 4.1 'Personal interests' are those interests which relate to an item of business in the Authority where:
  - 4.1.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of the Member, or their family member, or a person with whom the Member has a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the Authority's administrative area; or
  - 4.1.2 it relates to or is likely to affect any of the interests listed in Appendix 1 of this Code, but in respect of a family member of the Member (other than the Member's spouse, civil partner or cohabitee) or a person with whom the Member has a close association; and
  - 4.1.3 the interest is not a DPI.
  - 4.1.4 If the Member attends a meeting at which an item of business is to be considered, and the Member has a personal interest in that item, then they must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

#### **5 Dispensations**

- 5.1 In cases where a Member has a DPI, they may still be able to participate and vote at a meeting if they have obtained a dispensation from the Standards Committee in accordance with the provisions set out below.
- 5.2 There are 5 circumstances in respect of which a dispensation may be granted, namely:
  - 5.2.1 that so many Members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business;

5.2.2 that without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

5.2.3 that the standards committee considers that the dispensation is in the interests of persons living in the Authority's area;

5.2.4 that without a dispensation, no Member of the Board would be able to participate in this matter, or

5.2.5 that the authority considers that it is otherwise appropriate to grant a dispensation.

5.3 The Member must make verbal declaration of the existence and nature of any dispensation granted to him or her at or before the consideration of the item of business, or as soon as the interest to which the dispensation relates becomes apparent. In the event of a blanket dispensation granted to all Members on a particular matter, this should be declared by the Chair at the commencement of the meeting.

## **6 Registration of Members' Interests**

6.1 Within 28 days of taking office Members must notify the Authority's Clerk of any DPI. The definition of DPI is at Appendix 1 of this document.

6.2 The interest will be entered into the Member Register of Interests, unless it is a sensitive interest as defined below.

6.3 Entries in the register are not required to be retained where the Member no longer has the interest or where the Member has ceased to be a Member of the authority.

6.4 The Member must inform the Clerk within 28 days of any change of circumstances regarding any existing registration or need for further registration.

## **7 Sensitive Interests**

7.1 Where the Member has a DPI or personal interest and the Clerk considers it is of such a nature that disclosure of the details of the interest could lead to the Member or person connected to the Member being subject to violence or intimidation then:

7.1.1 if the interest is entered in the Authority's register, copies that are made available for inspection and any published version of the register must not include details of the interest but may state that the Member has an interest details of which have been withheld in accordance with this Code.

7.1.2 if by virtue of this Code the Member is required to disclose an interest at a meeting then that requirement shall be amended to only require disclosure that such an interest exists in respect of the matter concerned, but not the terms of that interest.

## **8. Gifts and Hospitality**

- 8.1 It is a criminal offence to receive gifts (or any other advantage) intended to influence official conduct. Acceptance of gifts and hospitality can compromise positions and are open to allegations of corruption.
- 8.2 The general expectation is that Members will decline offers of gifts or hospitality. There may be situations where it is legitimate to accept a gift or hospitality. Examples include:
- Where an offer of moderate hospitality is in the normal course of good business relations.
  - Where gifts or hospitality is of nominal value (e.g. pen, diary, box of chocolates, modest lunch).
- 8.3 Gifts or hospitality with a value over £100 must be declared at the earliest opportunity. Failure to declare gifts or hospitality may result in reference to the Standards Committee.
- 8.4 The Clerk will enter the gift or hospitality into a register that will be open to inspection by the Public.

## **9 Arrangements for Dealing with Standards' Allegations**

- 9.1 The following arrangements constitute the Authority's adopted procedure for dealing with complaints that a Member has failed to comply with the Authority's Code of Conduct.
- 9.2 A Standards Committee will be convened as and when necessary. The Committee will consist of 3 Members of the Authority by invitation of the Clerk. The invitation to the committee will be on a rotational basis, subject to any considerations of conflict. In addition the Authority will also appoint two Independent Persons in accordance with the provisions of the Localism Act 2011 one of whom will be invited to the Standards Committee meetings as and when convened. The independent person will attend in an advisory and non voting capacity.
- 9.3 The Chair of the Committee will be appointed by the Members of the Standards Committee.
- 9.4 The terms of reference for the Committee will be:-
- 9.4.1 The promotion and maintenance of high standards of conduct by the Members of the Authority, through:
- 9.4.1.1 Assisting the Clerk in publicising and educating on application of the Code of Conduct;
- 9.4.1.2 Advising and supporting the Clerk in relation to investigations and allegations as requested.
- 9.4.1.3 To deal with any ancillary matters relating to Standards and Conduct including replying to consultations, training etc.
- 9.4.2 To hear and determine standards complaints made against the Authority's Members.
- 9.4.3 To impose such sanctions as it thinks fit in accordance with paragraph 9.15 below in relation to matters found to be breaches of the Code.

- 9.4.4 To hear and determine applications for dispensations.
- 9.5 A complaint must be made in writing in the first instance to the Authority's Clerk and addressed for the personal attention of Hugh Peart, Civic Centre, c/o Harrow Council, PO Box 2, Civic Centre, Station Road, Harrow, HA1 2UH. Complaints may only be submitted by individuals, and not by organisations.
- 9.6 The Clerk will consider the complaint taking in to account the criteria set out in Section 10 below before making a decision. That decision can include the deferral of the matter for a period of up to 6 weeks where the complaint coincides with an election.
- 9.7 Should the Clerk be minded to investigate the complaint he/she will in the first instance, refer the complaint to the subject, who will respond within 28 days to confirm whether they agree with the complaint (and any action they have taken to resolve the issue) or that they disagree with the complaint, setting out their reasons why.
- 9.8 If the Clerk, after consultation with the Independent Person, then decides not to refer the complaint for investigation or for some other action (e.g. seeking mediation or an apology), they will provide a summary of the reasons for his / her decision to both parties.
- 9.9 If the Clerk decides that the complaint warrants investigation, the Clerk may if he or she considers appropriate appoint a person independent of the Authority, to investigate and to report back to him/her. The Clerk will then consider the conclusion of the investigator's report.
- 9.10 If the conclusion of the investigation is that there has been no breach of the Code and the Clerk considers that that is a reasonable conclusion then he/she, after consulting the Independent Person, will write to the complainant and the Member concerned to inform them that there will be no further action.
- 9.11 If the investigation or information available to the Clerk indicates that there is evidence of a breach of the Code then the Clerk will consult the Independent Person and make a decision either to:-
- 9.11.1 resolve the matter without the need for a hearing or
- 9.11.2 to request the Chair of the Standards Committee to convene a meeting to hear the matter.
- 9.12 The procedure at the hearing will be in accordance with standing orders adopted by the Authority. All 3 Members must be present for the meeting to be quorate. The Independent Person will attend in a non voting and advisory capacity. The Chair shall be responsible for maintaining order and the effective conduct of business at meetings of the Committee. Meetings shall be convened by the Clerk, following consultation with the Chair. Members of the press and public may attend the committee unless the Chair determines that it should be heard in private, but in any event there shall be no public speaking.
- 9.13 The Committee shall, whenever possible, come to a consensus view. Where this is not possible, voting shall be on a simple majority by a show of hands.

- 9.14 If the hearing concludes that there has been no breach of the Code then the matter is resolved. There is no provision for appeal or review of that decision by the Authority or any other person.
- 9.15 If the hearing concludes that there has been a breach of the Code the Committee will consider whether and what sanction it might be appropriate to impose on the Member found to be in default. These are as follows:-
- 9.15.1 Report the outcome of the hearing to the Authority (or Constituent Borough) for information.
  - 9.15.2 Recommend to the Constituent Borough that the Member be removed from any or all Committees of the Authority
  - 9.15.3 Instruct the Clerk to (or recommend the Authority) arrange training for the Member.
  - 9.15.4 Censure or reprimand.
- 9.16 There is no appeal against either the finding or the sanction imposed by the Standards Committee as part of this procedure.

## **10 Criteria for the receipt and assessment of complaints**

- 10.1 Complaints in writing about alleged breaches of the Code of Conduct will be received and considered by the Clerk.
- 10.2 In the event that there is a conflict of interest or other circumstances where it would not be appropriate for the Clerk to consider the complaint, for example where the Clerk has advised the Member who is the subject of the complaint about the matter complained of, then the Clerk will nominate a suitably qualified colleague to consider the matter on his/her behalf.
- 10.3 In relation to any complaint the Clerk should be satisfied that
- 10.3.1.1 it is a complaint in relation to the conduct of one or more named Members of Authority
  - 10.3.1.2 the relevant Member was in office at the time of the alleged conduct
  - 10.3.1.3 that, if proved, the Member, acting in his or her capacity as a Member of the Authority, would have failed to behave consistently with one or more of the requirements set out in the Code.
- 10.4 The Clerk may take the following into account in deciding whether to investigate the complaint
- 10.4.1.1 is the matter serious enough to warrant the time and expense of further investigation;
  - 10.4.1.2 does the complaint appear to be politically motivated;
  - 10.4.1.3 does the complaint appear to be malicious, vexatious or otherwise an abuse of the process;

- 10.4.1.4 Is the complaint in respect of a decision of a body, rather than the conduct of a Member;
  - 10.4.1.5 is it about something that happened so long ago that there would be little benefit in taking action now;
  - 10.4.1.6 is the outcome including the availability of any likely sanction sought by the complainant one that the Authority is empowered to deliver;
  - 10.4.1.7 if proven, would a finding of breach of the Code assist the Authority in its duty to promote and maintain high standards of conduct;
  - 10.4.1.8 had the Member acted on the advice of an officer or the Independent Person in relation to the conduct complained of;
  - 10.4.1.9 did the conduct arise from lack of experience or training;
  - 10.4.1.10 had the Member apologised for the conduct or was he or she willing to apologise; and
  - 10.4.1.11 is the subject matter of the complaint being dealt with through any other complaints, legal or regulatory process.
- 10.4.2 The Clerk will consult the Independent Person (and may consult the Chair of the Standards Committee) on any or all of the above and will take their views into account in reaching a decision whether to investigate.

10.5 The Clerk may determine for any one or more of the above reasons (or in consultation with the Independent Person for another reason) that an investigation is not required. The Clerk may instead request that some other action, such as the Member making an apology, be taken. Should the Member refuse to take such action the Clerk may still proceed to an investigation if he/she, in consultation with the Independent Person, thinks it is appropriate.

## **Appendix 1.**

### **Definition of Disclosable Pecuniary Interest.**

Note that the interest may be that of the Member or the Member's partner (spouse, civil partner or cohabitee).

'Relevant person' means the Member or the Member's partner (spouse, civil partner or cohabitee)

'Authority' means the West London Waste Authority.

#### **1. Employment, office, trade, profession or vocation.**

Any employment, office, trade, profession or vocation carried on for profit or gain.

#### **2. Sponsorship.**

Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a Member, or towards the election expenses of a Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

### 3. Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

### 4. Land

Any beneficial interest in land which is within the area of the Authority.

### 5. Licences

Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.

### 6. Corporate tenancies

Any tenancy where (to the Member's knowledge)—

- (a) the landlord is the Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

### 7. Securities

Any beneficial interest in securities of a body where—

- a) that body (to the Member's knowledge) has a place of business or land in the area of the Authority; and
- b) either
  - I. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - II. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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