



# Public Document Pack

## Cambridge City Council

### **Joint meeting of Civic Affairs and Standards Committee**

**To:** Councillors Ashton, Benstead, Boyce, Dryden, Herbert, Marchant-Daisley, McPherson, Pitt, Rosenstiel, Smart, Swanson and Tucker

**Alternates:** Councillor Brierley and Councillor Pogonowski

Independent Members – Dr Clark, Mr Dasgupta and Mr Williams

**Date:** Wednesday, 27 June 2012

**Time:** 6.00 pm

**Venue:** Committee Room 1 & 2 - Guildhall

**Contact:** **Direct Dial:**

**1 Apologies**

**2 Declarations of Interest**

### **Standards, Code of Conduct and the Localism Act**

**3 Notification and Declaration of Interests**

**4 Adoption of a Code of Conduct**

**5 Appointment of an "Independent Person"**

**6 Considering Complaints and Governance Arrangements**  
To follow

## Information for the Public

QR Codes  
(for use with Smart  
Phones)

**Location** The meeting is in the Guildhall on the Market Square (CB2 3QJ).

Between 9 a.m. and 5 p.m. the building is accessible via Peas Hill, Guildhall Street and the Market Square entrances.

After 5 p.m. access is via the Peas Hill entrance.

All the meeting rooms (Committee Room 1, Committee 2 and the Council Chamber) are on the first floor, and are accessible via lifts or stairs.

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- For questions and/or statements regarding items NOT on the published agenda, the deadline is 10 a.m. the day before the meeting.

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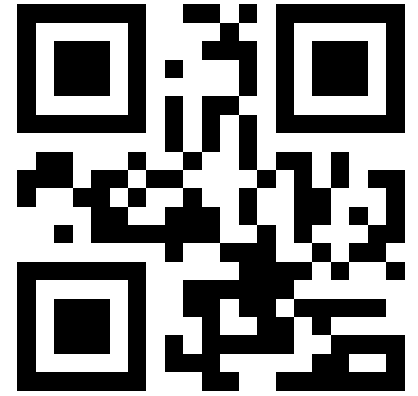
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## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Legal Services/Monitoring Officer

TO: Standards Committee

27/6/2012

WARDS: None directly affected

### **LOCALISM ACT 2011: NOTIFICATION AND DECLARATION OF MEMBERS' INTERESTS**

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#### **1 INTRODUCTION**

- 1.1 The Localism Act paved the way for fundamental changes to the registration and declaration of interests by councillors. From 1 July 2012, the current regime of “personal” and “prejudicial” interests is revoked.
- 1.2 From 1 July 2012, the only mandatory provision is for the registration and, in some cases, declaration of “disclosable pecuniary interests”. These were defined in a statutory instrument (“The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”) on 8 June. This has not allowed much time for preparation and briefing.
- 1.3 The changes in the regime are significant. Key points include:
- Failure to notify or disclose a “disclosable pecuniary interest” is a criminal offence punishable by a fine and/or disqualification.
  - The definition of a “disclosable pecuniary interest” includes interests held by councillors and their “partner” – i.e. spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
  - There is no longer a test of whether an interest is “prejudicial”. If a member has a “disclosable pecuniary interest” in a matter, they may not participate unless they obtain a dispensation. Members are likely to be precluded from participation in a wider range of matters than under the previous regime.

1.4 The proposed revised Code of Conduct for the City Council envisages wider declaration of interests in line with the requirements of the former model Code adopted by the Council.

## 2. RECOMMENDATIONS

2.1 That, pending the appointment of an “Independent Person”, the Monitoring Officer is authorised to determine applications for dispensations to speak and or vote from members with declarable pecuniary or other Code of Conduct interests, subject to the Monitoring Officer first consulting the Chair and Labour spokesperson for Civic Affairs.

2.2 That the Monitoring Officer shall consult the Independent Person, when appointed, before determining applications for dispensations, in place of the Chair and Labour Spokesperson for Civic Affairs.

2.3 That Civic Affairs Committee keeps this arrangement under review.

## 3. WHAT IS A DISCLOSABLE PECUNIARY INTEREST?

3.1 A ‘disclosable pecuniary interest’ is an interest of a councillor or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners) within the following descriptions, with “M” being a councillor and “relevant person” being either the councillor or their partner:

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vocation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour</i>

*Relations (Consolidation) Act 1992.*

<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.</i>
<i>Securities</i>	<i>Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i>

## **4. WHAT OBLIGATIONS ARISE IF A MEMBER HAS A DISCLOSABLE PERSONAL INTEREST?**

### **Registration**

- 4.1 A member or co-opted member of the Council must, within 28 days of taking office, notify the monitoring officer of any disclosable pecuniary interests which they have and of any disclosable pecuniary interests, of which they are aware, that their partner has.
- 4.2 The Monitoring Officer is obliged to maintain a register of these interests. The register must be made available for public inspection and must be published on the Council's website.
- 4.3 There is no legal obligation to keep the register up to date and there are no transitional arrangements requiring current members to notify the Monitoring Officer of disclosable pecuniary interests.

### **Declaration**

- 4.4 If a member (or co-opted member) is present at a meeting of the Council (or of a committee, subcommittee etc) and they have a disclosable pecuniary interest (of which they are aware) in any matter to be considered at the meeting, the following provisions apply.
- 4.5 If the disclosable pecuniary interest is entered in the register, the member does not need to declare it.
- 4.6 If the disclosable pecuniary interest is not entered in the register, the member must disclose it at the meeting and notify the Monitoring Officer of the interest within 28 days.
- 4.7 A member with a disclosable pecuniary interest may not participate in the discussion of the matter and may not vote. There is no longer a test as to whether the interest is "prejudicial". However, it may be possible to seek a dispensation to speak and/or to vote.

### **Sensitive interests**

- 4.8 If a member has an interest the nature of which is such that the member and the Monitoring Officer consider that disclosure of the details could lead to a person being subject to violence or intimidation, details may be excluded from inspection and publication. At a meeting the member will not be required to disclose the interest but only the fact that they have an interest.



## **Dispensations**

- 4.9 A member may be granted a dispensation to speak and/or vote if the Council:
- Considers that without a dispensation the number of persons prohibited from participating would be so greater proportion of the decision-making body as to impede the transaction of the business;
  - Considers that without a dispensation the representation of different political groups on the body transacting the business would be so upset is to alter the likely outcome of any vote relating to the business;
  - Considers that granting the dispensation is in the interests of persons living in the authority's area;
  - Considers that, without the dispensation, each member of the Executive would be prohibited from participating in the business;
  - Considers that it is otherwise appropriate to grant a dispensation.
- 4.10 Dispensations maybe granted for a specific period, which may not exceed four years.
- 4.11 A decision whether to grant a dispensation may be delegated to a committee, to a subcommittee or to an officer.

## **Criminal offences**

- 4.12 If a member (or co-opted member) fails, without reasonable excuse, to comply with the registration or disclosure obligations, or participates or votes in contravention of these provisions, they may be liable to prosecution. Conviction is punishable by a fine not exceeding £5000. They may also be disqualified from holding office for a period of up to 5 years.

## **5. PRACTICAL ISSUES WITH THE NEW REGIME**

- 5.1 It is difficult to see how the new regime is better than the previous regime and, in some respects, it is worse. The following points need to be noted and/or considered.

- 5.2 Members will note that, whilst there is mandatory registration and declaration of a more limited range of interests, the interests of partners now need to be declared and published. There is also now no statutory bar to participation and voting on matters which affect family members, other than partners, and which would, at present, be prejudicial interests.
- 5.3 The "Cambridgeshire Code of Contact" being recommended for adoption reintroduces the wider range of declarable interests. This will continue to promote transparency and will also capture a range of important interests that do not count as declarable pecuniary interests; e.g. an interest arising from a planning application submitted by a son or daughter.
- 5.4 The new regime does not make a distinction between interests that are registrable and declarable, but which do not bar participation and voting, and interests which are "prejudicial". In effect, all declarable pecuniary interests are treated as prejudicial, with participation and voting prohibited and, in fact, a criminal offence.
- 5.5 As explained in paragraphs 4.9 to 4.11, it is possible to seek a dispensation to speak and/or vote on a matter in which a member has a declarable pecuniary interest. Under the previous regime, applications for dispensations were the responsibility of the Standards Committee. It is now possible for the Council to delegate responsibility to a committee, to a sub-committee or to an officer. No applications for dispensations were made under the previous regime. However, given the abolition of the "prejudicial" test, and the close political balance on the Council, dispensations could well be sought frequently.
- 5.6 One difficulty with considering dispensations is that members may not appreciate that a meeting will be considering something in which they have a declarable pecuniary interest until shortly before the meeting. This could be achieved by delegating authority to the Monitoring Officer, in consultation with the Independent Person (when appointed) to grant dispensations. Pending the appointment of the Independent Person, it is recommended that the Monitoring Officer consults the Chair and Labour Spokesperson before determining an applications for a dispensation. This might be one area in which a quick fix is needed followed by more careful thought.
- 5.7 There is no legal requirement for someone with a "disclosable pecuniary interest" to leave the meeting when the matter in which they have an interest is considered. Nonetheless, the Monitoring

Officer suggests that this remains good practice and the proposed Code of Conduct preserves the provision under the previous Code requiring withdrawal.

5.8 There is also no requirement to keep the register of declarable pecuniary interests up to date. A requirement to update is only triggered after the initial registration (following election) if an interest is declared at a meeting. The proposed Code of Conduct goes further than the legal minimum in requiring members to keep their registration up to date throughout their term of office.

5.9 It will be necessary to provide briefing for all members to ensure that they are aware of their new responsibilities with regard to disclosable pecuniary interests.

#### 5.10 **CONSULTATIONS**

The late publication of regulations defining disclosable pecuniary interests has not permitted consultation. There is a need to put arrangements into place without delay but it is possible to review and amend provisions with regard to members' interests.

#### 6. **OPTIONS**

These are set out in the body of the report.

#### 7. **IMPLICATIONS**

(a) **Financial Implications** None

(b) **Staffing Implications** None, although there will be some additional work for officers.

(c) **Equal Opportunities Implications** An equality impact assessment has not been conducted as there is unlikely to be a differential impact on groups with protected characteristics.

(d) **Environmental Implications.** Nil

(e) **Community Safety** Nil

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

Localism Act 2011.

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

To inspect these documents contact Simon Pugh, Head of Legal Services and Monitoring Officer. Tel (01223) 457401, email [simon.pugh@cambridge.gov.uk](mailto:simon.pugh@cambridge.gov.uk).

The author and contact officer for queries on the report is Simon Pugh, Head of Legal Services and Monitoring Officer.

Report file:

Date originated: 22 June 2012

Date of last revision: 22 June 2012

DRAFT

### Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**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 material 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.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

DRAFT

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## Appendix 1

### CODE OF CONDUCT OF CAMBRIDGESHIRE LOCAL AUTHORITIES

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:

- i. **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.
- ii. **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.
- iii. **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.
- iv. **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.
- v. **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.
- vi. **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.
- vii. **Leadership** Holders of public office should promote and support these principles by leadership and example.

### PART 1 GENERAL PROVISIONS

#### 1. INTRODUCTION AND INTERPRETATION

- 1.1. This Code applies to **you** as a member of CambridgeCity Council ("CCC")
- 1.2. The term "**the Authority**" used in this Code refers to Cambridge City Council.
- 1.3. "**Member**" means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. In this code –  
"Meeting" means any meeting of
  - (a) The Authority;
  - (b) The executive of the Authority;
  - (b)(c) Any of the Authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

~~(b)(d)~~ Any of the Authority's advisory groups and executive boards, working parties and panels.

1.6. In this Code "relevant authority" has the meaning given to it by section 27(6) of the Localism Act 2011.

## 2. SCOPE

2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority.

2.2. 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;
- (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. GENERAL OBLIGATIONS

### 3.1. You must treat others with respect.

3.2. You must not:

(a) do anything which may cause the Authority to breach the equality enactments;

~~(a)(b)~~ bully any person

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

(i) a complainant;

(ii) a witness; or

~~(ii)(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;

~~(d)(e)~~ conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

### 4. You must not:

4.1. 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:

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

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

~~(b)(c)~~ 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

~~(b)(d)~~ the disclosure is:

(i) reasonable and in the public interest; and

~~(i)(ii)~~ made in good faith and in compliance with the reasonable requirements of the authority.

4.2. prevent another person from gaining access to information to which that person is entitled by law.



**5. You must not:**

- 5.1. 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;

**6. You must:**

- 6.1. when using or authorising the use by others of the resources of your authority:
- (a) act in accordance with your authority's reasonable requirements;
  - (b) ensure that such resources are not used improperly or for party political purposes;
- 6.2. have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

**PART 2  
INTERESTS**

**7. DISCLOSABLE PECUNIARY INTERESTS**

- 7.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.
- 7.2. 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; or
    - (ii) a person with whom you are living as husband and wife; or
    - (ii)(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.

**8. REGISTRATION OF DISCLOSABLE PECUNIARY INTERESTS AND PERSONAL INTERESTS**

- 8.1. Subject to paragraph 10 below (sensitive interests), 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 and / or Personal Interests you have at that time.
- 8.2. Subject to paragraph 10 below (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest / Personal Interests or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change, pursuant to sub-paragraph 8.1 above.

**9. DISCLOSABLE PECUNIARY INTERESTS IN MATTERS CONSIDERED AT MEETINGS OR BY A SINGLE MEMBER**

- 9.1. 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,
- (a) if the interest is not entered in the Authority's register of members' interests, you must, subject to sub-paragraph 11.1 below, disclose to the meeting the fact that you have a Disclosable Pecuniary or Personal Interest in that matter. If you have not already done so, you must also notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and
  - (b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer – (i) apart from making representations, giving evidence or answering questions prior to the commencement of the debate on that matter, participate, or participate further, in any discussion of

the matter at the meeting; or (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

### **Single member action**

9.2. If you are empowered to discharge functions of the Authority acting alone, and are 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).

## **10. SENSITIVE INTERESTS**

10.1. Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal 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 9.1 above.

## **11. PERSONAL INTERESTS**

11.1. You have a personal interest in any business of your 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 your authority;
  - (ii) any body—
    - (aa) exercising functions of a public nature; or
    - (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 your 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 your 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 £50;
  - (ix) any land in your authority's area in which you have a beneficial interest;

- (x) any land where the landlord is your 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;
  - (b) or 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 other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 11.2. In sub-paragraph 11.1(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;
  - ~~(b)(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
  - ~~(b)(d)~~ any body of a type described in sub-paragraph 11.1(a)(i) or (ii).

### **PART 3 RELATED DOCUMENTS**

- 12. The procedures that apply in relation to any alleged breach of this Code are attached at Appendix 1.
- 13. The Authority's Planning Code of Good Practice is attached at Appendix 2.
- 14. The Authority's Protocol on Member / Officer Relations is attached as Appendix 3
- 15. The procedures under which registration and declaration of interests are to be made are attached at Appendix 4.
- 16. The Gifts, Hospitality and Sponsorship Policy: Guidance for Members is attached at Appendix 5.

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## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Legal Services and Monitoring Officer

TO: Civic Affairs Committee

27/6/2012

WARDS: None directly affected

### **ADOPTION OF A NEW CODE OF CONDUCT FOR COUNCILLORS**

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#### **1 INTRODUCTION**

- 1.1 The Localism Act 2011 introduces a new standards regime. The existing statutory Code of Conduct for Members will be repealed on 30 June 2012. Each local authority must adopt its own Code of Conduct to take effect "on or after 1st July 2012". The purpose of this report is to formally consider three draft Codes and to seek a recommendation from the Committee for adoption of a Code by the Council at its meeting on 19 July 2012.

#### **2. RECOMMENDATIONS**

- 2.1 That the Standards Committee consider all three draft Codes of Conduct and recommend the "Cambridgeshire" model code (Appendix 1) to the Council for adoption.

#### **3. BACKGROUND**

- 3.1 The Council is required to put procedures in place in order to comply with the provisions of the Localism Act 2011, which places a statutory duty upon the Council to promote and maintain high standards of conduct amongst its own elected members and any co-opted members.
- 3.2 Strong ethical governance is critical to the Corporate Governance of the Authority and supports the Council's decision making processes across the organisation as a whole. It is important for the corporate governance of the Authority that the Council has the highest standards of conduct from its elected members and that the public has confidence that any complaints procedure is robust and

transparent. If the Council fails to adopt a code of conduct which is fit for purpose or to establish an appropriate procedure for complaints to be effectively dealt with then there are risks to the Council from a reputational management viewpoint and also to the integrity of the Councils corporate governance and decision making process. Equally the Council must ensure frivolous or tit for tat complaints are discouraged if the process is not to fall into disrepute.

3.3 Any local code must be consistent with the Nolan principles of:

- (a) Selflessness
- (b) Integrity
- (c) Objectivity
- (d) Accountability
- (e) Openness
- (f) Honesty
- (g) Leadership

3.4 With the objective of achieving a common way forward across the Cambridgeshire authorities so that all councillors at all three tiers of local government were subject to the same code and in the absence of any published national model code at the time, all the Monitoring Officers in the county have drafted a Cambridgeshire Code. This code draws on guidance obtained through national networks such as the Association of Council Secretaries and Solicitors (ACSeS), and is based on the first section of the current Code of Conduct. A copy of the Cambridgeshire Code, adapted for Cambridge, is attached as Appendix 1. (There are minor differences in the ways in which Cambridgeshire Councils have adopted the basic model to suit local needs.)

3.5 On 11 April 2012, DCLG published an "illustrative text" for a Code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity. A copy of the DCLG Code is attached as Appendix 2. It provides an example of what a local authority's Code of Conduct for the new standards arrangement might look like.

3.6 Shortly afterwards, following discussions with Members, Officers and professional bodies, the Local Government Association (LGA), SOLACE and ACSeS published their own draft Code. A copy of the LGA Code is attached at Appendix 3.

3.7 On 8th June 2012 Regulations were issued by the Department of Communities and Local Government (DCLG) outlining what

'Disclosable Pecuniary Interests' (DPIs) Members will have to declare. No opportunity was given to comment on a draft before publication. These have been included in an updated Cambridgeshire Code. There may be other, non-pecuniary interests which each Council will wish to specify.

3.8 Monitoring Officers within Cambridgeshire are recommending the adoption of the Cambridgeshire model set out in Appendix 1.

#### 4. COMPARISON BETWEEN THE CODES

##### 4.1 Code 1 – The Cambridgeshire Code

<b>Pros</b>	<b>Cons</b>
This model is being recommended to all other councils in Cambridgeshire.	Previous regime “top down”, centrally imposed
A common approach will give consistency across the tiers of local government in Cambridgeshire	Not innovative
Members familiar with it	Any other declarable interests will need to be defined
Members have been trained on it	Longer than Codes 2 and 3
Guidance on it available	Wording may be seen as prescriptive
Common Code across Cambridgeshire will make it easier to monitor and enforce	
principles – selflessness, integrity, objectivity, accountability, openness, honesty, leadership	
Also includes provisions on respect, confidentiality, bullying and intimidation, abiding by the equalities legislation and disrepute (all part of the current code)	
Will promote and maintain high standards of conduct	

## 4.2 Code 2 - DCLG Code

<b>Pros</b>	<b>Cons</b>
Light touch Code	Regulations about DPIs (declarable pecuniary interests) not built in
Endorsed by DCLG	Any other declarable interests will need to be defined
Will promote and maintain high standards of conduct	Members will need to familiarise themselves with it
Based on seven Nolan principles	No guidance on it
Shorter than Codes 1 and 3	Does not include respect, bullying, etc.
Outcome based	
Less prescriptive	

## 4.2 Code 3 – LGA Code

<b>Pros</b>	<b>Cons</b>
Light touch Code	Regulations required about DPIs are not built in <ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>
Endorsed by LGA with input from SOLACE & ACSeS	Any other declarable interests will need to be defined
Will promote and maintain high standards of conduct	Longer than Code 2
Based on seven Nolan principles	Wording open to wide Interpretation - what is meant by championing the needs of local residents'?
Shorter than Code 1	No guidance on it
Outcome based	
Less prescriptive	
Includes respect and stewardship	

## 5. CONSULTATIONS



Codes 1 and 3 were reviewed by members at a briefing meeting on 4 April. Code 2 was not available at that time.

## 6. **OPTIONS**

The Council must adopt a Code of Conduct based on the seven Nolan principles set out in paragraph 3.3. But, subject to this, it is open for the Council to decide what form a code should take. It can choose from the three codes annexed to this report or it can devise a code of its own. The Council needs to adopt a code on 19 July. If members believe that further work is needed, then it would be possible to adopt a revised code at a future meeting.

## 7. **IMPLICATIONS**

- (a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equal Opportunities Implications** – An EQIA has not been conducted in respect of this report as there is no obvious differential impact on groups with protected characteristics.
- (d) **Environmental Implications** – Nil.
- (e) **Community Safety** - None

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

To inspect these documents contact Simon Pugh, Head of Legal Services.  
Tel: (01223) 457401. Email: [simon.pugh@cambridge.gov.uk](mailto:simon.pugh@cambridge.gov.uk)

The author and contact officer for queries on the report is Simon Pugh, Head of Legal Services.

Report file:

Date originated: 22 June 2012  
Date of last revision: 22 June 2012

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**Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

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

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

**Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

## Agenda Item

### CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Legal Services and Monitoring Officer

TO: Civic Affairs Committee

27/6/2012

WARDS: None directly affected

### **LOCALISM ACT 2011: APPOINTMENT OF AN INDEPENDENT PERSON**

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#### **1 INTRODUCTION**

- 1.1 The purpose of this report is to update the Committee on the need to appoint one or more “independent persons” in connection with the revised standards regime introduced by the Localism Act 2011, and the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order made on 8 June 2012.

#### **2. RECOMMENDATIONS**

- 2.1 That the Council seeks to appoint one Independent Person and one deputy.
- 2.2 That the Independent Person is paid an annual allowance of £1,000 and that the Deputy is paid an annual allowance of £500.
- 2.3 That the appointments are made for a three year term but with appointments subject to annual ratification at the Annual Meeting of the Council.
- 2.4 That the Committee endorses the selection criteria and role description annexed to this report.
- 2.5 That the Committee appoints a member panel to recommend appointments to the Council
- 2.6 That the Monitoring Officer is authorised to take such reasonable steps as he considers necessary to implement these recommendations.

### 3. BACKGROUND

3.1 The Council needs to appoint one or more “Independent Persons” to play a role in connection with the determination of complaints against councillors and to retain an independent element to the promotion and regulation of standards.

3.2 Independent persons need to be appointed by advertisement and application. Their appointment needs to be confirmed by the full Council.

3.3 Initially the legislation provided that current external members of the Standards Committee would be ineligible for appointment. However, transitional arrangements published by statutory instrument on 8 June provide that current external members may be appointed if the appointment is made before 1 July 2013.

3.4 These are functions of the Independent Person:

- The IP must be consulted and their views taken into account before the Council makes a decision on any allegation it has decided to investigate.
- The IP may be consulted by the Council in other circumstances related to “standards” issues; e.g. at the point at which a complaint is received, or more generally regarding ethical issues.
- The IP may be consulted by a member of the authority against whom an allegation has been made.

3.5 This last role could give rise to a conflict of interest if, for instance, the Monitoring Officer has already consulted, or needs to consult, the Independent Person. This is one reason for appointing a deputy. The other reason is that this will provide resilience should the Independent Person be absent or unwell. It also adds to the external scrutiny of standards arrangements.

3.6 Monitoring Officers for Cambridgeshire Councils have explored the scope for making joint appointments of Independent Persons. However, they have concluded that it is simpler for each council to make its own appointments but with a common approach to the role and to the skills and competences needed.

## **4. APPOINTMENT PROCESS**

### **4.1 Advertisement.**

Advertisement on the Council's website would be adequate for legal purposes. Members are asked for their views on whether the appointment should be advertised more widely.

### **4.2 Role and Skills and Competences**

A proposed description of these is set out in the appendix to this report.

### **4.3 Allowance**

Monitoring Officers for Cambridgeshire authorities are proposing a common approach to allowances, making provision for an allowance of £1,000 for the principal Independent Person and of £500 for their deputy. This compares with allowances of £1,113 and £278 for the Chair and Deputy of the Standards Committee. (NB: Although these allowances have been made available to external members of the Standards Committee, they have not been claimed.)

### **4.4 Appointment**

The appointment needs to be confirmed by full Council but it is suggested that Civic Affairs appoints a small member panel to consider applications and to make recommendations.

### **4.5 Delegation**

At its meeting on 1 February, Civic Affairs Committee resolved:

“The Monitoring Officer, after consultation with the Chair of this Committee, the Standards Committee, and group spokespersons, is given delegated powers to devise and implement a procedure for recruiting one or more “Independent Persons”, including setting up a member panel to make a recommendation for appointment to the Council.”

A more limited form of delegation is now recommended for the Monitoring Officer to take such reasonable steps as he considers necessary to implement the other recommendations to the Committee.

## 5 CONSULTATIONS

The Democratic Services Manager has been consulted. A report outlining the role of the Independent Person was brought to Civic Affairs Committee on 1 February 2012.

## 6. IMPLICATIONS

- (a) **Financial Implications** The suggested allowances for the Independent Person and deputy amount to £1,500. The current (albeit unclaimed) provision for Chair and Deputy of the Standards Committee is £1,391. The difference can be met from existing budgets. There will be a cost if members wish to place press advertisements for the roles.
- (b) **Staffing Implications** None
- (c) **Equal Opportunities Implications** Applications will be considered in accordance with the City Council's HR procedures to ensure fairness and avoid direct or indirect discrimination. Because of this, no equality impact assessment has been conducted.
- (d) **Environmental Implications** Nil
- (e) **Community Safety** Nil

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

Recruitment Pack for Appointment of Independent Person (Newark and Sherwood District Council)

Localism Act 2011

Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012.

To inspect these documents contact Simon Pugh, Head of Legal Services and Monitoring Officer. Tel (01223) 457401, email [simon.pugh@cambridge.gov.uk](mailto:simon.pugh@cambridge.gov.uk).

The author and contact officer for queries on the report is Simon Pugh, Head of Legal Services and Monitoring Officer.



## Appendix

### ROLE OF INDEPENDENT PERSON

#### ROLE DESCRIPTION

Responsible to: The Council

Liaison with: Monitoring Officer, members of the Civic Affairs Committee, officers and members of the City Council and key stakeholders within the community.

1. To assist the Council in promoting high standards of conduct by elected and co-opted members of Cambridge City Council and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To be consulted by the Council through the Monitoring Officer and/or the Civic Affairs Committee before it makes a decision on an investigated allegation and to be available to attend meetings of the Hearing Panel of the Standards Committee for this purpose.
3. To be available for consultation by the Monitoring Officer and/or the Civic Affairs Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
4. To be available for consultation by any elected member who is the subject of a standards complaint.
5. To develop a sound understanding of the ethical framework as it operates within Cambridge City Council.
6. To participate in training events to develop skills, knowledge and experience and in networks developed for Independent Persons operating outside the City Council's area.
7. To attend training events organised and promoted by the Council's Civic Affairs Committee.
8. To act as advocate and ambassador for the Council in promoting ethical behaviour.

## SKILLS AND COMPETENCIES

The Independent Person will have:

- a keen interest in standards in public life.
- a wish to serve the local community and uphold local democracy.
- the ability to be objective, independent and impartial.
- sound decision making skills
- leadership qualities, particularly in respect of exercising sound judgement.

The Independent Person will:

- be a person in whose impartiality and integrity the public can have confidence.
- understand and comply with confidentiality requirements.
- have a demonstrable interest in local issues.
- have an awareness of the importance of ethical behaviours.
- be a good communicator.

Desirable additional criteria are:

- working knowledge/experience of local government or other public service and/or of large complex organisations and awareness of and sensitivity to the political process.
- knowledge and understanding of judicial/quasi judicial or complaints processes.

You should demonstrate in your application how you meet the above criteria as this will assist the short-listing process.

Means of assessment will be by application form and by interview.

NOTE: You will be required to be contactable during normal working hours by telephone or by email and to be available to attend hearings which may be held in the day time and at relatively short notice.

## Eligibility for Appointment

A person cannot be appointed as an Independent Person if they are or were within a period of 5 years prior to the appointment:

- a member, co-opted member or officer of the authority, or a relative or close friend.

However, by virtue of transitional arrangements, external members of the Council's Standards Committee are eligible to apply for the role.

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