

STANDARDS COMMITTEE

Report Title	Compliance with the Member Code of Conduct		
Key Decision			Item No. 6
Ward			
Contributors	Kath Nicholson, Monitoring Officer		
Class	Part 1	Date: 9 November 2016	

1. Summary

This report deals with the way in which Members address the need to comply with the Lewisham Member Code of Conduct and seeks the Committee's views about whether any amendment to practice is required or further information brought to the Committee's attention.

2. Purpose

The purpose of this report is to give information about the extent of compliance with the Lewisham Member Code of Conduct and to seek from the Committee any views about how practice in Lewisham could be improved.

3. Recommendations

- 3.1 To consider the information set out in this report and to consider whether to make any recommendations to the Council in respect of the effectiveness of the Member Code of Conduct.

4. Background

- 4.1 On June 28th 2012 the Council adopted a new Code of Conduct to comply with the requirements of the Localism Act 2011 in relation to the Council's ethical framework. The adoption of the Code was to not only ensure compliance with the new law but to maintain the Council's long held commitment to the highest standards of behaviour in local government and to promote public confidence in local governance.

4.2 The Lewisham Member Code of Conduct has appended to it a number of protocols:

- Member and Officer relations
- Member Use of IT
- Planning and Lobbying
- Code on Publicity

These protocols do not form part of the Code, but may be of assistance in deciding whether there has been a breach of the Code's main provisions.

5. **Assessment of Current Practice**

Officers have looked at elements of practice by Lewisham members to establish whether practice fits the requirements of the Code.

5.1 A statutory requirement to undertake to comply with the Member Code of Conduct

- (i) On election in May 2014 all members of the Council, (including those who are co-opted members) have signed a declaration that they undertake to comply with the Member Code of Conduct. These declarations are held by the Monitoring Officer, and are in an appropriate format and are held with the members Declaration of Acceptance of Office. Members elected at by elections have also undertaken to comply with the Code.

5.2 Declarations of Interest

- i) The model Code of Conduct introduced by the Coalition Government sets minimum standards. The Council has adopted a local Code which requires members to declare the following interests:
- a) disclosable pecuniary interests
 - b) other registerable interests
 - c) any other interest where that member is of the view that a reasonable member of the public in possession of all the facts would think the member's judgement is so significant that it would be likely to impair the member's judgement of the public interest.

Members must also take no part in consideration of the matter and withdraw from the room before it is considered if the interest is a disclosable pecuniary interest or where it is a registerable interest or other significant interest where that member is of the view that a reasonable member of the public in possession of all

the facts would think the member's judgement is so significant that it would be likely to impair the member's judgement of the public interest.

ii) An assessment has been conducted of the number of declarations that have been made since 1st October 2015. The focus has been meetings of the Mayor and Cabinet (including Mayor and Cabinet (Contracts)) and the Planning Committees. The emphasis has been placed on these meetings as they are the major decision making fora. All declarations of interest are minuted by the committee clerk in attendance and a review of the minutes shows the following results:

October 2015 – September 2016		
	Declaration (personal interest)	Withdrew (disclosable pecuniary/ registerable/ other significant interest)
Mayor & Cabinet	6	6
M&C (Contracts)	2	0
Planning Committees	12	1
Council	35	3

iii) It is apparent that there is a clear awareness that members must consider whether to declare and withdraw, as the incidence of such practice shows.

As previously considered and agreed by this Committee a notice now appears at the front of each agenda which details the circumstances in which a personal interest can arise. Members have commented that they find this notice to be a helpful reminder and concise summary of their responsibilities on declaring interests.

5.3 Advice on Ethical Issues

i) Some of the declarations/withdrawals referred to in paragraph 5.2 above followed a request for advice from the Monitoring

Officer, or her representative. However, several were made without even an approach, as the member concerned was of the view that an interest existed without the need for such advice.

- ii) Where possible, if Code of Conduct issues arise, Monitoring Officer advice is incorporated into reports.
- iii) The number of declarations demonstrates that members are aware of Code of Conduct issues.

5.4 Dispensation

There have been no applications for dispensation.

5.5 The Members' Register of Interests

Section 30 of the Localism Act 2011 requires members or co-opted members to notify the monitoring officer of any disclosable pecuniary interest of them or a spouse or civil partner they live with. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify what is a pecuniary interest. The need to register any of the following interests in the Members' Register of Interests is also a key feature of the Member Code of Conduct.

(a) Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on by a relevant person* for profit or gain.

(b) Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the 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.

(c) Contracts

Any contract which is made between a relevant person* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities** of which body corporate they have 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.

(d) Land

Any beneficial interest in land which is within the borough.

(e) Licences

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

(f) Corporate tenancies

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

(a) the landlord is the Council; and

(b) the tenant is a body in which the relevant person* is a firm in which they are a partner, or a body corporate in which they are a director or in the securities** of which body corporate they have a beneficial interest.

(g) 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 borough; 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.

A "relevant person" is:-

(i) the Member, their spouse, or civil partner;

(ii) a person with whom the member is living as husband and wife; or

(iii) a person with whom the member is living as if they were civil partners.

"Securities" means shares, debentures, debenture stock, loan stock, 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

There are entries for all members and an annual reminder is also sent to all members about the need to keep this up to date. All members have submitted a completed Declaration of Interest which now includes a section requesting information in relation to gifts and hospitality.

Individual returns are now available on the Council website.
www.lewisham.gov.uk

5.6 Hospitality & Gifts

Under the Member Code of Conduct members are required to provide details of any gift or hospitality over the value of £25 and the source of such gift or hospitality that they receive as a member. The Code requires that within 28 days of receiving any gift or hospitality over the value of £25 that they notify the Monitoring Officer of the existence and nature of the gift or hospitality.

For the purpose of this review relevant entries for the previous year in the relevant section of the Register of Interests have been perused in an attempt to establish recent and current compliance with the requirements of the Code of Conduct. The Register has been completed by all whether by indicating hospitality received or by completing the section with "None" . This tends to indicate that members have a clear recognition of their need to make relevant entries and it was highlighted in the training by the Head of Law.

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6. Complaints of breach of the Member Code of Conduct

6.1 Complaints of breach must be made to the Monitoring Officer, and there is a dedicated email address for this to be done. This is widely publicised on the Council's website where there is a direct link alongside the Complaints Procedure. The address is monitoring.officer@lewisham.gov.uk.

6.2 Perhaps the most telling indicator of the extent of compliance with the Member Code of Conduct is the number of complaints of breach made to the Council. Under changes introduced by the Localism Act 2011 the procedure for investigation of allegations of complaints of breach of the Code of Conduct is a matter for local discretion. The Council adopted a revised Procedure for Handling Complaints at its meeting on the 28th June 2012, which is a much simpler procedure than that previously in place and allows for informal resolution where appropriate

6.3 Since the consideration of the last report on the compliance with the Member Code of Conduct in October last year there have been three complaints raised against members.

6.4 Councillor A

A complaint was made that Councillor A had misused his position as councillor to obtain information from council records about the

complainant, thereby breaching privacy requirements. The Monitoring Officer responded to the complainant expressing that it appeared that the complaint was being dealt with by professional bodies and the courts, where his complaints had also been raised. The Monitoring Officer asked for further and better particulars of the complaint as the initial referral was lacking in clarity. An incomplete response was received so the Monitoring Officer offered a meeting to discuss the complaint, but the complainant has not responded.

Councillor B

A referral was made to the Monitoring Officer by two local residents about the poor attendance of a ward member at Assembly meetings and Council meetings and her lack of response when she did attend. The complainants requested the Monitoring Officer to investigate whether this amounted to a breach of the Code of Conduct. The Monitoring Officer took the view in the course of her initial assessment under the Code that the complaint was not a suitable matter for further investigation, instead being a matter for the ballot box.

Councillor C

Complaints have been received from a firm of solicitors that the Chair of a Mayor & Cabinet meeting on 7th September 2016 breached the Member Code of Conduct by making comments on Twitter about the Chair of Millwall Football Club in 2014 and 2016. Complaints also related to the conduct of this councillor at that Mayor & Cabinet meeting. These complaints were that the Chair had breached the Code in three respects; by not allowing one speaker to offer an explanation; by terminating debate when a question was asked in relation to offshore companies; and allowing a developer's representative to speak though she had not asked to do so, thereby allowing her to introduce new information.

The Monitoring Officer, in accordance with the Procedure for Handling Complaints of breach of the Member Code of Conduct conducted an initial assessment with the assistance of Leading Counsel. Having conducted initial enquiries, the Monitoring Officer reached the conclusion that the complaint did not reach the initial assessment threshold for further investigation. The complainant and councillor have been informed.

7. Whistleblowing Complaints

If there were complaints of alleged breaches of the Code of Conduct by members, it may be that they would arise through the Council's whistleblowing policy, which is well embedded. This Committee has received annual reports on whistleblowing cases. As is evident from those reports none of the complaints have referred to members. Had they done so, the Monitoring Officer would have advised the

complainant of their right to refer the matter to her for possible consideration by the Standards Committee.

9. Legal Implications

The ethical framework under which the measures set out in this report have been established are provided in the Localism Act 2011 and Regulations made under it.

10. Financial Implications

There are no specific implications arising.

11. Crime and Disorder Implications

The Code of Conduct deals with the promotion of the highest standards of behaviour, and the prevention of breaches of the Member Code of Conduct which may well amount to criminal behaviour.

13. Human Rights Act Implications

There are no specific implications arising.

14. Equal Opportunities Implications

There are no specific implications arising.

15. Environmental Implications

There are no specific implications arising.

16. Conclusion

The Member Code of Conduct appears to be well embedded in Lewisham. Evidence seems to suggest a high level of compliance. Members of the Standards Committee are asked for their views on this data, and to make any further comments they consider appropriate to improve practice.

For further information about this report please contact Kath Nicholson, Head of Law on 020 8314 7648.