

The Member/Officer Charter and Members' Code of Conduct

Presented by Michael Cogher,
Comptroller and City Solicitor, Deputy Chief Executive
2nd October 2023

Question ?

- Does the Corporation promote and maintain high standards of conduct by Members/Co-opted Members?

Statutory duties

‘A relevant authority must promote and maintain high standards of conduct by Members and Co-opted Members of the authority’ – S.27(1) Localism Act 2011

‘relevant authority means
the Common Council of the City of London
in it’s capacity as a local authority or police
authority – S.27 (6)(h)’

Member/Officer Charter

- Guide to the appropriate working relationships between members and officers across all Corporate functions
- Viewed in conjunction with Members' and Employees' Codes of Conduct (but not part of them)
- May therefore be relevant in Standards or Disciplinary matters

Overarching Principles

- Good administration and effective decision making dependent upon successful member/officer working relationships
- Such relationships founded on mutual trust, respect and an understanding of roles and responsibilities
- In addition to avoiding actual impropriety members and officers should also seek to avoid the appearance/suspicion of improper conduct

Role of Members

- Determining policy and strategic direction
- Monitoring performance in implementing policy & delivery of services
- Representing the Corporation externally
- Representing the constituents and stakeholders
- It is not the role of members to involve themselves in the detail of day to day management of the Corporation's services
- An individual member cannot exercise lawful authority. Decisions may only be taken by the Court, Committee or Sub-committee or officer exercising delegated powers

Role of Officers

- To provide important advice guidance and information to members
- Implement promptly and efficiently the Corporation's policies
- To manage the provision of services and the discharge of statutory functions
- Officers must recognise the right of members to determine policy and not act to undermine that right

Role of Chairman/women/person

Chairpersons have a key leadership role within the Corporation. In discharging their traditional role of ensuring effective and efficient consideration of Committee business, including maintaining order, they have a crucial role in creating a positive and inclusive committee environment which allows robust debate, challenge and scrutiny to take place in a respectful and courteous manner, where neither Members nor Officers are exposed to bullying, undermining or other inappropriate conduct.

Inappropriate conduct towards another participant whether, Member, Officer or a Third Party, at a committee meeting is not consistent with good governance, committee management, and the Corporation's Values. Such behaviour can often best be resolved there and then by the appropriate intervention of the Chair/Chairman and such action should be supported by the Committee. Prompt action in such cases is likely to prevent the souring of relationships and escalation to formal procedures and creates a supportive environment. This responsibility extends to the business of the committee outside formal meetings e.g. at informal meetings and in correspondence. The Chair has a common law duty and power to maintain order at meetings.

Expectations of Members

- Working Partnership
- Understanding of and support for respective roles, workloads and pressures
- Leadership and policy direction
- Respect, dignity and courtesy
- Integrity, mutual support & confidentiality
- Not to be bullied or subjected to undue pressure (members having regard to the seniority of the officer in question)
- That they will not use their relationship with officers to advance their personal interests or influence decisions improperly
- Compliance at all times with the relevant Code of Conduct.

The Standards Regime

- History
- Localism Act 2011
- Principles of Public Life and General Conduct
- Interests & Hospitality

History

- Local Government Act 1972
- Local Government & Housing Act 1989
- Local Government Act 2000
(New Ethical Framework Mark I)
- New Ethical Framework Mark II (2005)
- Localism Act 2011
- Committee on standards in public life report on Local Government Ethical Standards (Jan 2019)
- Lord Lisvane's Governance Review (2020)
- Local Government Association Model Code (2020)
- Government's response to committee's report (March 2022)

Localism Act 2011

New Ethical Framework & Standards Board Regime abolished

New light touch 'localist' regime introduced

No Model Code but statutory obligation to register/declare DPI's

Criminal sanctions for failure to comply with rules on DPI's

Other breaches dealt with by local non-statutory measures e.g.

censure, removal from Committees or of privileges

DCLG and LGA produced 'Indicative codes'

Localism Act 2011

- Statutory Duty to promote and maintain high standards of conduct of Members and Co-Opted Members
- LA must adopt a code dealing with the conduct expected of Members
- Code must be consistent with the “principles of public life”
- Must include provisions LA considers appropriate for the registration of pecuniary interests and any other interests it considers appropriate
- Must have in place arrangements under which allegations can be investigated and determined (no express statutory sanctions)
- Must appoint at least one ‘independent person’ whose views must be sought and taken into account before it takes its decision on an allegation

Corporation Position

- Conventional Standards Committee operated from 2012 -2021
- From 2021 the Corporation established an independent standards panel to deal with complaints. Final decision in relation to sanctions are referred to Court of Common Council.
- Review of the Code and policy rests with the Policy and Resources Committee (Member Development and Standards Sub) and Court of Common Council (CoCo)

Decision Making

- Conduct arrangements are a local authority function.
- Can be discharged only by CoCo, Committee/Sub Committee, Officer, another local authority/Joint Committee
- Independent Panel xxxx advisory
- Determination of breach/sanction – CoCo, other decision delegated to the Town Clerk

Code of Conduct

- Conduct governed by principles of:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- The Principles of Public Life.

Notable Code of Conduct Provisions (1)

Paragraph 1 - sets out and explains the Principles of Public Life

Paragraph 2 - General Conduct

Paragraphs 3 to 7 - Registration and Interests

Paragraphs 8 to 10 - Registration and Hospitality

Paragraphs 11 to 15 - Interests and Participation

General conduct

- c)** Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Corporation or the good governance of the Corporation in a proper manner.

- d)** Exercising independent judgement and not compromising your position by allowing individuals or organisations to improperly influence you in the performance of your official duties by means of any financial or other obligations.

- e)** 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.

- h)** Restricting access to information when the wider public interest or the law requires it, and not disclosing confidential information, unless you are entitled to by law –refer to the Monitoring Officer if you are unsure.

i) Behaving in accordance with all of the Corporation's legal obligations, alongside any requirements contained within the Corporation's policies, protocols or procedures, including on the use of the Corporation's resources.

j) Ensuring that, when using or authorising the use by others of the resources of the Corporation, such resources are not used improperly for political purposes (including party political purposes) and having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

k) Valuing your colleagues and officers of the Corporation and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance.

l) Always treating people with respect, including the organisations and constituents that you engage with and those that you work alongside, and not bullying, harassing (including sexually harassing), intimidating or attempting to intimidate any person. (See Appendix 1 for definitions of bullying and harassment.)

m) Not doing anything which could reasonably be regarded as bringing your office or authority into disrepute.

n) Upholding the Corporation's obligations under the Equality Act 2010 by promoting equality, and not discriminating unlawfully against any person on the grounds of race, gender, disability, religion or belief, sexual orientation or age. The Corporation has adopted the International Holocaust Remembrance Alliance definition of antisemitism (see Appendix 2).

Disclosable Pecuniary Interests (1) (DPI)

- Members must within 28 days of becoming a member notify MO of any disclosable pecuniary interests
- Where re-elected only interests not already registered need be registered
- No rolling requirement under the Act to update subject to interests arising at meetings but Code requires register to be kept up to date.
- Town Clerk operates an annual reminder system

Disclosable Pecuniary Interests (2)

- Set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Interests of yours
- Interests of your spouse/civil partner of which you are aware

Disclosable Pecuniary Interests (3)

- Employment, office, trade profession or vocation (for profit/gain)
- Sponsorship for being a member
- Contracts with the Corporation (you or body in which you have beneficial interest)
- Beneficial interest in land in the City
- Licences to occupy land in the City
- Corporate tenancies (Corporation the landlord/you have a beneficial interest in the tenant)
- Securities (place of business/land in the City and nominal value of £25,000 plus or 1/100th issued share capital)

Rules on DPI's at Meetings

- Apply where you are at a meeting of the Corporation and have a DPI in any matter being considered
- And are aware of the interest
- If not registered, then you must disclose to meeting
- Notify MO of DPI within 28 days of disclosure
- You may not participate in any discussion
- May not vote
- Only need to leave the room where the Principles of Public Life would require it.

The Problem

- Act does not give additional assistance in judging whether “a member has a DPI in any matter to be considered or being considered of the meeting”.
- Test: would a reasonable member of the public with knowledge of the facts consider that you would be likely to be influenced by the interest.

Non-Pecuniary Interests

- a) Management board or similar organ of any charity or body directed to a charitable purpose (e.g. trustee or director) but excluding any charity or other such body administered by the Corporation
- b) Club or Society active in the City of London or which relates to any functions of the Corporation
- c) Fraternal or Sororal Societies
- d) Livery Company, City Company without Livery, Guild or Company seeking Livery
- e) Political Party
- f) (Organisation, one of whose principal purposes includes the influence of public opinion or policy, and which is likely to seek to affect the policy of the Corporation or which may have an impact on its services or stakeholders
- g) Professional Association
- h) Trade Association
- i) Trade Union
- j) (Management board or similar organ of any organisation not falling within paragraph 3 or sub-paragraphs (a)-(i) above.

Hospitality

- You must also notify the Corporation's Monitoring Officer (via the Town Clerk) of any gift or hospitality received by you as a Member with a value of £100 or more, or multiple gifts and/or instances of hospitality with a cumulative value of £200 or more when received from a single donor within a rolling twelve month period. Such notification must be made within 28 days of receipt, or within 28 days of reaching the cumulative threshold, as appropriate.
- Special provision shall be made for the Lord Mayor and other holders of special offices in relation to the registration of gifts and hospitality to be set out in Guidance to be issued by the Standards Committee.
- Entries shall be retained in the register of gifts and hospitality for three years – older entries will be removed.

Failure to Comply with the Code

- Criminal sanctions in relation to DPI (fine of up to £5,000/xxxxxxx)
- Standards Panel investigation
- Power of censure, removal of privileges
- Appointing body may remove from committee or sub-committee
- In certain circumstances a decision may be subject to judicial review or investigation by ombudsman

Sensitive Interests & Dispensations

- Interests the disclosure of which may subject a member to violence or intimidation may be redacted by MO
- Standards Committee may grant dispensation from the restrictions on speaking and voting where appropriate upon a written application

Statutory Grounds for Dispensation

- Number of persons prohibited from participation such as proportion to impede business of the body.
- The Corporation considers it in the interest of residents in the area
- The Corporation considers it otherwise appropriate to grant a dispensation
- Statutory discretion!

Complaints Procedure

- Informal resolution encouraged Member/Officer Charter and Pre-Complaint Protocol
- Assessment Panel
- Hearing Panel
- Appeal Panel
- Finding of breach and sanctions must be approved by Court of Common Council

Pre-Complaint Protocol

- Where an elected member wishes to complain about another elected member and has indicated on their complaint form that they have complied with the pre-complaint protocol, the Monitoring Officer will seek confirmation in writing from the Chief Commoner, or the Aldermanic chairs as appropriate, that they have been contacted by the complainant and that efforts to resolve the concern have been unsuccessful. No further action will be taken in relation to the complaint and the time limits set out in the following provisions of this complaints procedure will not begin to run until confirmation has been received.
- Where an elected member wishes to complain about another elected member and has indicated on their complaint form that they have not complied with the pre-complaint protocol, the Assessment Panel will consider any explanation for this that has been included on the complaint form as a preliminary matter. The Assessment Panel will only proceed to assess the complaint in accordance with the following provisions of this complaints procedure where there are exceptional circumstances to justify this course of action.

Possible sanctions

- Censure ('a severe expression of disapproval')
- Withdrawal of Corporation hospitality
- Recommending removal from a particular committee or committees
- Other action

