

## **ADDENDUM TO ITEM 4**

**Report to Standards Committee**

**30 May 2012**

**The Localism Act 2011 – The Amended Standards Regime**

**Report of the Head of Law and Governance**

### **1. The Code of Conduct**

2. The report in respect of Item 4 on the agenda recommends a North East Region Draft Code of Conduct as the basis for the Code to be adopted by the Council and a draft of the proposed Code is attached as Appendix 3 to the main report. Following further discussions among the monitoring officers of the Tyne and Wear authorities, it is suggested that a slight amendment is made to paragraphs 12 and 14 of the draft Code to provide that members do not have to declare offers of gifts or hospitality that have been declined and that the declaration of such offers only relates to the previous three years. A copy of an amended version of the Code is shown in the annex to this addendum, which members are requested to consider recommending to full Council in place of the version set out in Appendix 3. The amendments are shown in bold for ease of reference. (The opportunity has also been taken to number the bullet points in paragraphs 12 and 17 of the draft Code, again, for ease of reference).

### **3. Disclosure of Interests and Withdrawal From Meetings**

4. Paragraph 7 of the main report also asks the Committee to consider recommending the adoption of a Standing Order to require a member to withdraw from a meeting room, during the consideration of any item in which he or she has a disclosable pecuniary interest.

Should the Committee be minded to recommend this, suggested amendments to the Council Rules of Procedure and the Executive Rules of Procedure, are set out below.

### **Recommendation**

- 4.1 That the draft Code of Conduct annexed to this Addendum be the basis of the new Code of Conduct to be recommended to Council for adoption, in place of the version shown in Appendix 3 of the main report, subject to the Monitoring Officer preparing a final draft to be put to Council after taking into account the Government regulations on DPIs.
- 4.2 That with effect from the implementation of the new regime :-

4.2.1 An additional Rule of Procedure be inserted after Council Rule of Procedure 20 as follows:

*“21. A member must withdraw from the meeting room during the whole of the consideration of any item of business in which he or she has a Disclosable Pecuniary Interest, except where permitted to remain as a result of a dispensation”* and

4.2.2 Rule of Procedure 21 be renumbered to 22 and amended to reflect that the new Rule of Procedure 21 applies to meetings of the Council and committees.

4.2.3 Rule 1.5 of the Executive Procedure Rules be renamed *“Conflicts and Declarations of Interest and Withdrawal From Meetings”* and an additional paragraph (d) be added to 1.5 in the same terms as the Rule of Procedure referred to in paragraph 4.2.1 above.

## ANNEX

### **Draft Code of Conduct (Based on the North East Region Draft Code of Conduct for Members)**

The Council of the City of Sunderland (“the Council”) has adopted the following code which has effect from 1 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

**This means the code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.**

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council but is not one of its elected members

The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

### **General Conduct**

1. You must treat others with respect, including Council officers and other elected members.
2. You must not bully any person (including specifically any Council employee) and you must not intimidate or improperly influence or attempt to intimidate or improperly influence any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.

6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in the annex to this Code.
7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - a) You have the consent of a person authorised to give it; or
  - b) You are required by law to do so; or
  - 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
  - a) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

### **Registration of Interests**

11. Subject to paragraph 13, you must register in the Council's Register of Members' Interests information about your personal interests. In this code of conduct 'your personal interests' means:
  - a) any 'Disclosable Pecuniary Interest' (as defined by regulations made from time to time by the Secretary of State) which you know about and which is held by
    1. you, or
    2. your spouse or civil partner, a person with whom you are living as husband and wife, or a person

with whom you are living as if you were civil partners;

and

b) any other interests held by you as set out in paragraph 12.

(Note: A list of Disclosable Pecuniary Interests as currently defined by regulations is set out in Annex 2)

You must register information about your personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
- any change taking place in your personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

12. The following are personal interests for the purposes of paragraph 11(b):

- a) Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
- b) Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) 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);
- c) Any business which you are involved in carrying on;
- d) Any partnership of which you are a partner;
- e) Any employer for whom you work;
- f) Any contract for goods, services or works between the Council and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
- g) Any person (other than the Council) who has made a payment to you in connection with you carrying out your duties as a Council Member;
- h) Any land in the Council's area in which you have a beneficial interest or a licence to occupy;
- i) Any land owned by the Council of which you are the tenant or licensee;
- j) Any person from whom you have received **within the previous three years** the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.

*[Reminder: The above list will need to be reviewed once regulations defining Disclosable Pecuniary Interests are published]*

13. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

### **Declaration of Interests**

14. Where you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 13, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later. **For the purposes of this paragraph, any offer of a gift or hospitality which has been declined shall not be treated as a personal interest and need not be declared.**
15. Where you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
16. The persons referred to in paragraph 15 are:
  - a) a member of your family;
  - b) any person with whom you have a close association;
  - c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.(Note:
  - a) "A member of your family" means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.

- b) You will have a “ close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them)
17. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered at that meeting, you may not (unless you have a relevant dispensation granted under section 33 of the Localism Act 2011) :
- a) participate (or further participate) in any discussion of the matter at the meeting; or
  - b) participate in any vote (or further vote) taken on the matter at the meeting.
18. If a function of the Council can be discharged by you as a member acting alone and you are aware you have a Disclosable Pecuniary Interest in any matter to be dealt with by you in the course of discharging that function, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).
- (Note: Failure, without reasonable excuse, to comply with paragraph 17 or 18 is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)
19. You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

## **Annex 1 to Code of Conduct**

### **Nolan's Seven Principles of Public Life**

#### **Selflessness**

Holders of public office should take decisions 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 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.

## **Annex 2 to Code of Conduct**

### **Disclosable Pecuniary Interests**



*[To be inserted once regulations defining DPIs are published]*

## **Annex 3 to Code of Conduct**

### **Associated Protocols**

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

Protocol on Member / Employee Relations

Protocol for Members in relation to Development Control Matters.

Protocol on the use of Civic Cars

Protocol for Members in relation to Licensing Matters

Protocol for Members and Voting Co-opted Members – Use of Council Resources and Equipment

Guidance for Members in Relation to the Use of Council ICT Facilities

Protocol for Use of Member Websites

Remote intranet / Internet Access for Members

Protocol in Relation to Members' Business Dealings with the Council