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Code of Conduct for Commission Members

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Code of Conduct for Commission Members

Foreword

1. *This Code sets out requirements for the conduct of the members of the Commission for Local Administration in England (the Commission). The Code is based on a model Code of Best Practice for Board Members of Public Bodies issued by the Cabinet Office in June 2011.*
2. *The members of the Commission are the two Local Commissioners (the Local Government and Social Care Ombudsman (LGSCO) and the Parliamentary Commissioner (the Parliamentary and Health Service Ombudsman (PHSO)). The LGSCO is required to observe the code as part of the terms and conditions of their appointment; this applies both when discharging their duties as a member of the Commission and their individual duties relating to the consideration of complaints about bodies in their jurisdiction. Any breach of the code by the LGSCO will be viewed as a breach of the terms and conditions of their appointment.*
3. *The PHSO has voluntarily agreed to observe the Commission's code when discharging their duties as a member of the Commission.*
4. *The Commission also requires other individuals (independent advisory members) involved with its governance to be bound by the Code (e.g. the members of its Audit and Risk Assurance Committee and Remuneration Committee) as a condition of their appointment.*
5. *The procedure for considering allegations about breaches of the Code is set out at Appendix 1.*

Key Principles of Public Life

6. The key principles upon which this Code of Conduct is based are the Seven Principles of Public Life.¹ These are:

Selflessness

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations that might, or might be perceived to, influence you in the performance of your official duties.

¹ Standards in Public Life: First Report of the Committee on Standards in Public Life. Volume 1: Report. CM 2850-I.

Objectivity

In carrying out public business, including awarding contracts and recommending individuals for rewards and benefits, you should make choices on merit.

Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate for your office.

Openness

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You should promote and support these principles by leadership and example.

7. These principles should inform your actions and decisions as a *Commission* member.

General Conduct

Use of Public Funds

8. You have a duty to ensure the safeguarding of public funds² and the proper custody of assets which have been publicly funded.
9. You must carry out your fiduciary obligations responsibly – that is, take appropriate measures to ensure that the *Commission* uses resources efficiently, economically and effectively, avoiding waste and extravagance. It will always be an improper use of public funds for public bodies to employ consultants or other companies to lobby Parliament, Government or political parties.
10. *The corporate responsibilities of Commission members are set out in more detail in the Framework Document.*³

Allowances

11. You must comply with the rules set by the Commission regarding remuneration, allowances and expenses which will be taxed and paid through our payroll system.

² This should be taken to include all forms of receipts from fees, charges and other sources.

³ *Framework Document between the Department for Communities and Local Government and the Commission for Local Administration in England.*

Gifts and Hospitality

12. You must not accept any gifts, hospitality or benefits of any kind which might, or might reasonably appear to, compromise your personal judgement or integrity or place you under an improper obligation.
13. You must never canvass or seek gifts or hospitality.
14. You must comply with the rules set by the Commission on the acceptance of gifts and hospitality in so far as any gift offered (whether accepted or not) which is not of a trivial nature should be notified to the Committee & Governance Clerk. Where a gift or hospitality is accepted, this is recorded in the Gifts and Hospitality register in line with the rules set by the Commission.
15. You are responsible for your decisions on the acceptance of gifts or hospitality and for ensuring that any gifts or hospitality accepted can stand up to public scrutiny and do not bring the *Commission* into disrepute. The Secretary can be sought for advice if required.

Use of Official Resources

16. You must not misuse official resources⁴ for personal gain or for political purposes. Use of such resources must be in line with the *Commission's* rules on their usage.

Use of Official Information

17. You must not misuse information gained in the course of your public service for personal gain or for political purpose.⁵
18. You must not disclose any information which is confidential in nature or which is provided in confidence without authority. This duty continues to apply after your period in office has ended. .

Political Activity

19. In your public role, you should be, and be seen to be, politically impartial. You should not occupy a paid party political post or hold a particularly sensitive or high-profile role in a political party. You should abstain from all controversial political activity and comply with Cabinet Office rules on attendance at Party Conferences⁶.
20. On matters directly related to the work of the Commission, you should not make political statements or engage in any other political activity.

⁴ This includes facilities, equipment, stationery, telephony and other services.

⁵ Commission members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation.

⁶ www.cabinetoffice.gov.uk/content/public-bodies-and-appointments

21. In your official capacity, you should be even-handed in all dealings with political parties.
22. Subject to the above, you may engage in political activity but should, at all times, remain conscious of your responsibilities as a *Commission* member or independent advisory member and exercise proper discretion. You should inform the Chair and the *sponsor* Department before undertaking any significant political activity.

Employment and Appointments

23. If you wish to take up new employment or appointments during your term of office, you must inform the Chair. Generally, it would not be acceptable for a Commission member to be a member of a governing body which is within the jurisdiction of the LGSCO.
24. At any time during the term of the appointment, either side may give three months' notice of termination. On leaving office, you must comply with the rules of the *Commission and sponsor Department*, if there are any, on the acceptance of future employment or appointments.

Conflict of Interests

25. You must ensure that no conflict arises, or could reasonably be perceived to arise, between your public duties and your private interests – financial or otherwise. Generally, it would not be acceptable for a Commission member or independent advisory member, to be a member of a governing body which is within the jurisdiction of the LGSCO.
26. You must comply with the rules of the *Commission* on handling conflicts of interests. As a minimum, these will require you to declare publicly any personal or business interests which may, or may be perceived to, influence your judgements in performing your functions and conflict with your public duties.⁷ The rules will also require you to remove yourself from the discussion or determination of matters in which you have an interest.
27. It is your responsibility to ensure that you are familiar with the *Commission's* rules on handling conflicts of interests and that you comply with these rules. You must also ensure that your entry in the Commission's register of members' interests is accurate and up-to-date. Interests should include your own non-pecuniary interests and interests of family members and persons living in the same household which may have any interest in any of the activities of the LGSCO, and in particular, bodies in jurisdiction (*A separate guidance note on this subject is attached as Appendix 2.*)

⁷ In general, all financial interests should be declared. When considering what non-financial interests should be declared, you should ask yourself whether a member of the public, acting reasonably, would consider that the interest in question might influence your words, actions or decisions.

Responsibilities as a Member/Independent Advisory Member of the Commission

28. You should play a full and active role in the work of the *Commission*. You should fulfil your duties and responsibilities responsibly and, at all times, act in good faith and in the best interests of the *Commission*. An annual performance appraisal with the Chair will inform the continued appointment as a member/independent advisory member of the Commission.
29. You should deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability. You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests.
30. You must comply with any statutory or administrative requirements relating to your *appointment to the Commission*.
31. You should respect the principle of collective decision-making and corporate responsibility. This means that, once the *Commission* has made a decision, you should support that decision.
32. You must not use, or attempt to use, the opportunity of public service to promote your personal interests or those of any connected person, firm, business or other organisation.

Responsibilities towards Employees

33. You will treat any staff employed by the *Commission* with courtesy and respect. It is expected that employees will show you the same consideration in return.
34. You will not ask or encourage employees to act in any way which would conflict with their own Code of Conduct.

Procedure for considering allegations about breaches of the Code

1. *Allegations that there has been a breach of the Code should normally be made to the Chair (or to the Chair of the Audit and Risk Assurance Committee (ARAC) where the allegation concerns the conduct of the Chair). Allegations can also be made to another member of the Commission/independent advisory member or to the Secretary.*
2. *The allegation will, in the first instance, be considered by the Chair (or if the allegation concerns the Chair, by the Chair of ARAC). They may conclude that the allegation is trivial and that no further action should be taken; alternatively they may conclude that the allegation warrants further investigation.*
3. *Where an allegation concerns the conduct of a member of the Commission, the Chair (or the Chair of ARAC, if the allegation concerns the Chair) should notify their conclusion to the Secretary of State, who may direct that an alternative course of action is taken concerning the allegation.*
4. *Unless the Secretary of State directs otherwise, an allegation warranting further investigation shall be considered by a special sub-committee of the Commission. This sub-committee will comprise at least three persons and will not include the person(s) who is the subject of the allegation. It will normally include the Chair of the Commission (or the Chair of ARAC, if the allegation concerns the conduct of the Chair).*
5. *The sub-committee will have delegated power to act on behalf of the Commission. It will decide the most appropriate way of investigating the allegation taking into account the principles of natural justice and, where the allegation has been made by a member of staff, the Commission's Whistleblowing Policy. It will be advised by the Secretary and it will have the authority to obtain external advice and services in connection with the conduct of the investigation.*
6. *The sub-committee may conclude that no breach of the code has occurred and so no further action in connection with the allegation is required. Alternatively, if it concludes that in its opinion a breach has occurred, it may make recommendations for action to remedy the breach. It will report its conclusions to the Commission.*
7. *When the complaint relates to the conduct of a Local Commissioner, the sub-committee will report its conclusions to the Secretary of State who will decide what further action should be taken.*

Appendix 2

Declaration and Register of Interests

Notes of Guidance

Introduction

1. This Guidance is provided in accordance with paragraph 27 of the Code of Conduct for Commission and independent advisory members.
2. The Committee & Governance Clerk, on behalf of the Secretary¹, will be responsible for setting up and maintaining the Register of Interests.

Declaration of interests

3. Each Commission member² will make an initial declaration of interest by completing the standard form, annexed to these notes, and giving it to the Committee & Governance Clerk. Each newly appointed Commission and independent advisory member will be given a copy of these Notes of Guidance and similarly required to make an initial declaration of interest.
4. Commission and independent advisory members will notify the Committee & Governance Clerk, using the standard form, of any additions to or changes to their initial declaration of interest as soon as possible and at least within one month of any such change.
5. Each year, the Committee & Governance Clerk, on behalf of the Secretary, will ask members' to complete an annual return of declaration of interests. They will send to each member a copy of their declaration of interests form and will ask them to complete another form.

Completing the form

6. The following general points should be noted by Commission members:
 - a) interests may be both financial (pecuniary) and non-financial (non-pecuniary) in nature, and includes interests of the members' immediate family (related party interest)
 - b) all significant and relevant interests should be declared;
 - c) a useful test of the need for an interest to be declared is whether members of the public knowing the facts of the situation might reasonably think it should be; and

¹ Secretary

² The term 'Commission member' should be interpreted as applying to all individuals required to declare and register an interest.

- d) when members are in doubt, they should seek advice from the Secretary, who will in turn consult the Chair where necessary. **The presumption should always be in favour of declaring interests.**
7. It will be helpful to public understanding if any organisations named in the Declaration also have a brief note of their key activity (eg Company Y (house-builder)).

Making the Register available to the public

9. The Secretary will ensure that the Register is open to inspection by the public in the main office of the Commission, and copies of members' declaration of interest forms are published on the LGSCO website in accordance with the Commission's Publication Scheme. The availability will be publicised in the annual report.
10. Any such requests from members of the public should be passed to the Secretary or Committee & Governance Clerk.

Interests to be entered in the Register

11. The following are interests that Commission members are required to declare for the Register (the list is not exhaustive) and members are encouraged to list any interest that might present a conflict to their responsibilities as a Commission member:
- a) Bodies of which the Commission and independent advisory member is or was (within the previous 10 years) a paid employee.
 - b) Non-profit making organisations (eg charities, housing associations) of which the member is a trustee, or on the committee of management or other controlling body and which might have significant official dealings with the member individually or the Commission collectively.
 - c) Any land or property in which a member has an interest and which is relevant to the Commission's and LGSCOs activities. The name of the local authority in which the land or property is situated is sufficient.
 - d) Any company or organisation in which the Commission member or his or her immediate family:
 - i) has/have a controlling interest, or
 - ii) is/are a director or partner, or
 - iii) has/have shares or securities with a nominal value of more than £25,000 or one hundredth of the total issued share capital,and which could be involved in the supply of goods or services to, or have business dealings with, the Commission.
 - e) Any body within the jurisdiction of the Local Government and Social Care Ombudsman for England of which a Commission or independent advisory

member's immediate family is an *elected member, is on the management board or is an employee.*

'Immediate family' is defined as the Commission member's spouse or partner, parents, children (adult and minor), brothers, sisters and the personal partners of any of these.

Relevant interests and conflicts of interest

12. The Register will contain information on each member's significant and relevant financial and non-financial interests (ie those interests which could lead to a potential conflict of interest – see paragraph 7). The need to declare a potential conflict of interest goes wider however than the declarations required for the Register. In particular, it may include interests through family connections, personal friendships and business associations, including debtor/creditor relationships.
13. A conflict of interest may arise in a variety of circumstances spanning the work of the Commission and the LGSCO. These may include decisions on:
 - a) complaints made under the Local Government Act 1974 (*or other legislation related the LGOs jurisdiction*);
 - b) land or property transactions with the Commission;
 - c) supply of goods or services to the Commission (including consultancy, furniture, IT equipment etc).
14. Members should avoid situations in which conflicts of interest could arise and are required to declare any related parties transactions between the LGSCO and themselves or close family members.
15. When a member knows or suspects that a conflict of interest will arise he or she should immediately write to the Secretary and Committee & Governance Clerk explaining the position (with a copy to the Chair). Should a member become aware of a possible conflict during the course of a Commission or other meeting he or she should declare it without delay (for formal record in the minutes).
16. Where a member has declared a significant and relevant interest he or she should not take part in any deliberation or decision of the Commission with respect to the matter. The member should withdraw from the room during any consideration of the matter at a meeting.
17. *Where the conflict of interest relates to a Local Commissioner and the investigation of a complaint, they shall take no part in the consideration of that complaint and the complaint will be dealt with by the other Local Commissioner. In cases where the conflict of interest is very significant (e.g. if there is a potential for significant financial*

gain) the Local Commissioner considering the complaint may request another public sector ombudsman to investigate the matter.

Annex

Declaration of interest

Type of interest ¹	Description ²
1. Bodies of which you are or were (within previous 10 years) a paid employee.	
2. Any non-profit making organisations of which you are a trustee etc. ³	
3. Any land or property in which you have an interest, relevant to Commission's and LGSCO activities (name of local authority sufficient).	
4. Any company or organisation in which you or your immediate family have interests referred to in paragraph 11(d) of the Code of Conduct.	
5. Any body within the LGSCOs jurisdiction of which your immediate family is an <i>elected member/board member or employee</i> .	
6. Any matters that might affect 'accountability', such as changes to your financial or legal status, including bankruptcy, driving bans, or anything else which is not consistent with the highest levels of personal conduct.	
7. Any transactions that have taken place between the LGSCO and yourself or close family members.	
8. Any relevant interests and conflicts of interests. ⁴	

Name: Date:

Signed:

Notes:

1. Before completing the declaration please refer to Appendix 1, paragraph 11 of the Code of Conduct for Commission and Independent Advisory Members' ("Code of Conduct") for details.
2. If no interest to declare, please enter 'none'.
3. Please include a brief note of the key activity or transaction of any organisation named.
4. Any other interest that you consider may present a potential conflict of interest. Please refer to Appendix 1, paragraphs 12 to 17 of the Code of Conduct.
5. **Please inform the Chairman of any changes to your financial or legal status within 10 working days of such a change.**