

Draft Approved by Standards and Audit Committee (17/9/20)

Woking Borough Council

Officer Conflicts of Interest Protocol

Adopted [15 October 2020]

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1. Introduction

- 1.1 The Council is a major public authority, active in its local community. As such, it is important that the Council ensures that its Officers do not act, on its behalf, when there is a conflict between an Officer's personal interests and those of the Council.
- 1.2 Provisions relevant to conflicts of interest are contained in the Local Government Act 1972, the Council's Officer Employment Procedure Rules and the Council's Code of Conduct for Employees Policy. This Protocol provides further guidance to Officers on how conflicts of interest are dealt with at the Council.
- 1.3 For the avoidance of doubt, this Protocol does not apply to the roles performed by Officers as Council appointed directors of companies in which the Council has an interest. In these circumstances, an Officer's role is no different to what it would be if the activity was directly managed by a department of the Council.

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2. Existing Requirements

2.1 The Local Government Act 1972

2.2 Section 117 of the Local Government Act 1972 requires Officers to give notice to the Council of any Council contract in which he/she has a pecuniary interest.

2.3 Failure to comply with this obligation is punishable, on conviction, with a fine not exceeding £2,500.

2.4 Officer Employment Rules

2.5 Section 4 of the Officer Employment Rules requires Officers to give notice of interests (pecuniary and non-pecuniary) to the Director of Legal and Democratic Services. The record of these interests is open for inspection by Members of the Council.

2.6 Section 4 of the Officer Employment Rules also requires reports to Council, Executive and Committees to include reference to Officers' interests.

2.7 Code of Conduct for Employees Policy

2.8 Section 8 of the Code of Conduct for Employees Policy requires Officers to consider carefully which outside interests might give rise to a conflict in the performance of their normal duties and which ought to be disclosed to their manager and formally recorded.

2.9 Section 9 of the Code of Conduct for Employees Policy also reinforces the requirement for Officers to comply with the provisions of the Local Government Act 1972 and the Officer Employment Rules.

3. What is a Conflict of Interest?

3.1 For the purposes of this Protocol, a conflict of interest arises when:-

- an Officer's personal interests compromise his/her integrity and/or ability to act in the best interests of the Council in respect of a particular matter, **or**
- a reasonable person, with knowledge of all relevant facts, would consider this to be the case.

3.2 The effect of this definition is that Officers should never do anything that is incapable of being justified to the public.

3.3 A consistent and corporate approach should be adopted in determining whether an Officer has a conflict of interest. If there is a conflict of interest, the Officer should not be involved in the transaction being undertaken by the Council. The following section of this Protocol outlines the procedure that should be followed.

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4. Procedure

- 4.1 Officer interests shall be declared and recorded in accordance with the requirements of the Local Government Act 1972, Officer Employment Rules and Code of Conduct for Employees Policy.
- 4.2 An Officer who has declared an interest may only be involved in a transaction to which the declaration relates if one of the three Statutory Officers of the Council has, following (where practical) consultation with the Leader of the Council (or in his/her absence, the Deputy Leader of the Council), determined that the Officer does not have a conflict of interest. In the event that all three Statutory Officers are absent (or are otherwise unable to act), a Deputy Statutory Officer shall determine whether the Officer has a conflict of interest.
- 4.3 In the event that the Officer declaring an interest is a Statutory Officer, the determination may only be made by a Statutory Officer who does not have the same, or similar, interest.
- 4.4 Full details of Statutory Officers' Determinations shall be included in:-
 - (a) a Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol) maintained by the Monitoring Officer, and
 - (b) the Project Workbook, prepared under the Council's Project Management Framework, for the underlying proposal.

The Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol) and Project Workbook shall be available for inspection by Members of the Council.
- 4.5 The extent to which an Officer has a conflict of interest in respect of a Council transaction shall be reviewed on a three-monthly basis. This review shall, where practical, be undertaken by the Statutory Officer who made the initial determination. The provisions of paragraphs 4.2 and 4.3 of this Protocol shall apply to the review. The outcome of the review shall be recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).
- 4.6 The Monitoring Officer shall undertake a general review of the operation of this Protocol on a three-monthly basis. The Deputy Monitoring Officer will review any actions taken by the Monitoring Officer under this Protocol. The outcome of the review shall be recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).
- 4.7 An annual report shall be submitted to the Executive setting out details of the Statutory Officers' Determinations.

This Protocol was adopted by the Council on [15 October 2020]