



# **Conflict of Interest**

## **Policy**

**November 2012**

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# The Policy

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## Aims and Objectives

This policy operates in conjunction with the Code of Conduct for employees and the Disciplinary Procedure. It sets out the Council's policy in relation to the declaration of interests of Council employees and the Council's expectations of employees where a conflict of interest or a potential conflict of interest arises. The purpose of the policy is to protect the Council and employees against conflicts of interest and allegations of impropriety.

## Definitions

In this policy a "relevant person" means a spouse, partner, friend, relative, business or business associate.

"Partner" means a civil partner or the other member of a couple consisting of two people who are not married to each other but are living together as a couple.

"Friend" means someone who you know well and whom you regard with liking, affection or loyalty. A closer relationship is implied than that of mere acquaintance or work colleague.

"Relative" means a parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, cousin, step-child/sibling/parent, mother/father/son/daughter/brother/sister-in-law and all of the aforementioned include adoptive relationships and relationships of the full blood or half blood and including the relatives of the employee's partner. For these purposes, relative also includes a guardian or special guardian or ward.

"Business" means any company, partnership or other business arrangement in which the employee has an interest, whether in the form of shares, dividends, bonds, or otherwise and where the value of that interest exceeds 5% of the value of the business. Business also includes any business in which the employee is employed. "Business Interest" and "business relationship" shall be construed accordingly.

"Business Associate" means a person with whom the employee has a business relationship.

## **Legal Context**

A contract of employment constitutes a legally binding contract between the employee and the employer and, as such, carries with it a range of rights and obligations on the part of both the employer and the employee. The contract includes a duty on the employee not to act in a way that is contrary to the interests of the employer and not to allow their own personal interests or those of their friends, family or business associates (hereinafter referred to as a “Relevant Person”) to conflict with those of his employer. If there is or is likely to be a conflict then the employee will inform the employer so that reasonable steps can be taken to protect the Council’s interests and to protect the employee from criticism or challenge. The Council is entitled to put in place a series of precautionary measures to ensure that conflicts or potential conflicts of interest are notified to the Council at an early stage.

The Bribery Act 2010, and the Local Government Act 1972 are relevant.

The Bribery Act 2010, makes it an offence for an employee to give advantage to someone in return for favours in relation to the Council’s business.

Section 117 of the Local Government Act 1972 requires that employees notify the authority in writing of any direct or indirect financial interests which they have in any Council contracts, or proposed contracts, of which they become aware. Breach of Section 117 is a criminal offence subject to a fine.

## **Who is and isn’t covered by the policy**

This policy applies to all employees of the Council.

## The Policy

1. Employees must ensure that their interests outside the Council do not conflict with their responsibilities at work. They must also ensure that these interests could not be reasonably considered as conflicting with their responsibilities at work. Where such an actual or apparent conflict of interest occurs, or is about to occur, the employee will take all reasonable steps to prevent that conflict from arising or continuing. These reasonable steps may include resigning from such external positions or roles or employment. In any event the employee will be required to discuss the issue with their manager forthwith and complete or update their Declaration of Interest Form (see below).
2. The Council will be entitled to require employees who have a conflict of interest to take such steps as the Council considers reasonable to avoid that conflict or to prevent it from continuing and these reasonable steps may include requiring the employee to resign or relinquish the other positions or roles or employment.
3. The Council will require any employee who has a business interest in a business or partnership to whom the Council intends to award a contract for works, supplies or services to take any steps required by the Council to avoid any conflict or potential conflict of interest from arising or to prevent any impact or potential impact on the Council's reputation or on service delivery or management of services, staff, resources or performance or the ability of the employee to perform their job. These steps may include requiring the employee to resign from the Council's employ or relinquish any employment or interest in the said business. The Council can in its absolute discretion decide not to award any contract if its requirements are not complied with or may cease to use the services of the service provider if it so wishes. Legal advice should be taken prior to making any such decision.

## The Procedure

1. All employees are required to complete Parts 1, 2 and 3 of the Declaration of Interests form found at Appendix A.
2. Parts 1 and 2 employees must give their personal details and details of any other employment held within or outside of the Council.
3. Part 3 employees must declare whether they (or their spouse or partner or any business or company owned by them or their spouse or partner) own land, buildings or other property within or outside the borough which they lease or rent (or intend to lease or rent) or are about to sell that property to the Council or to BHP.

Employees will also need to complete this section to state whether they (or their spouse or partner) have a contract or agreement (or are about to enter into a contract or agreement) with the Council or BHP.

**Employees shall also register any such interests belonging to their spouse or partner and any business owned by them or their spouse or partner and any such interest belonging to any other Relevant Person if known to them.**

4. Employees are required to consider whether the other parts of the Declaration of Interest Form apply to them and, if so, to complete it as required.
5. Employees should complete the form accurately and honestly and return it to their line manager as soon as possible after taking up employment with the Council or taking up a new position with the Council.
6. The completed forms shall be retained on the employee's personnel file in a departmental database by the relevant officer responsible for maintaining that register of employee interests within that service area or corporate area.
7. Measures should be put in place to ensure confidentiality is maintained at all times. Access to the Register by third parties will only be permitted subject to the approval of the Service Area Director where a legitimate reason for the request is given and/or where the person making the request has the lawful power to so inspect the Register. In addition, the Service Area Director, the Director of Finance and Corporate Services, Assistant Director (Human Resources), the Borough Solicitor or an investigator/auditor/lawyer from the Council's Audit & Investigations Unit or Legal Service will have an automatic right of access to inspect the register of interests for legitimate purposes.
8. Employees are required to discuss with their manager as and when they arise any external interest(s) which is or could potentially be in conflict with their responsibilities at work or with the Council's overall interests.
9. Certain employees are required to seek written permission from their manager prior to engaging in any other business or taking up additional employment, position or work (paid or unpaid) whether such work or position or business

would conflict with the Council's interests or not. This requirement to obtain prior permission applies to the following staff:

- All staff who work over 20 hours per week
- Staff who work 20 hours per week or less but who are on grade PO1 or above

Permission will normally be withheld where there would or could be a conflict of interest or an adverse impact on the service provided by the employee to the Council. Managers may wish to grant permission subject to reasonable conditions. If permission is given the details of the other business, involvement, employment or work which has been so authorised and any conditions imposed by the manager shall be included in the relevant part of the Declaration of Interest Form. Any such permission and any conditions attached to it may only be given if endorsed by the relevant service area or corporate director.

10. If a manager wishes to withdraw permission at any time then he or she must refer the matter to the relevant service area or corporate director who will consider the recommendation from the manager. No permission may be withdrawn without seeking advice from HR and/or Legal as there may be contractual implications from such a decision.

## Manager's responsibilities

Managers should ensure that:

- 1 All employees complete Parts 1 and 2 of the Declaration of Interests form and all other parts of the form that may be relevant to them.
- 2 The completed form is assessed by them and any possible conflicts which are revealed are discussed with the employee or prospective employee to determine whether any steps are required to remove, limit or otherwise mitigate the impact of the conflict of interest. This paragraph applies to direct and indirect interests and "indirect interests" means the interests of a relevant person.
- 3 A copy of the form will be kept on the departmental database. Any correspondence or notes or minutes of meetings relating to the declaration of interests shall also be kept as a record on that database.
- 4 When the manager becomes aware of any change in the employee's circumstances or business or other interests such that the employee may need to update their Declaration of Interest form that the manager ensures that the employee updates their Declaration of Interest form within 28 days of such change occurring.
- 5 Employees review and, if necessary, update their declaration of interest form every two years.
- 6 Where possible employees do not maintain outside interests which are to the detriment of their work with the Council or which actually or apparently conflict with their employment with the Council.
- 7 When an employee is assigned a new task or role, the manager considers whether this could create a conflict of interest in the light of information known to the Council on the employee's Declaration of Interests and other employment form or otherwise and shall make suitable enquiries to assess whether this is the case.
- 8 They take appropriate disciplinary action where it is discovered that an employee has acted improperly and has failed to declare relevant information or has given false or misleading information.
- 9 Where it is discovered that an employee or relevant person has benefited from a decision that the employee has made concerning a contract or any other issue in which the employee had an interest then the matter should normally be treated by the manager as a disciplinary offence in accordance with the Council's Disciplinary Procedure and the Employee Code of Conduct.
10. If a close personal relationship develops between the manager and an employee, or between any other manager and an employee, the manager draws the relationship to the attention of the next senior manager in the team or department which senior manager will then
  - meet the parties to discuss –



- any actions that can be taken by the employees voluntarily to avoid repercussions e.g. looking for redeployment opportunities, seeking other employment outside the Council. (an appropriate time deadline should be set)
  - actions that can be taken by the manager e.g. alternative supervision/line management arrangements for issues involving a potential conflict of interest (matters related to pay, job opportunity and disciplinary/sickness/capability issues).
  - consider the operational difficulties that may arise as a result of the relationship and how these might be managed e.g. in relation to finance and procurement rules as well as other matters.
  - consider if it is appropriate to communicate such agreed adjustments to other colleagues in the team/workplace to manage any concerns.
  - consider what action should be taken where neither party are prepared nor able to agree the course of action to resolve the matter, eg disciplinary action.
11. The Declarations of Interest forms of former employees are held by the department for a minimum of 2 years after an employee leaves the Council's employ.

## Employee's responsibilities

- 1 All employees have a duty to discuss with their manager any external interests of themselves or a relevant person which could be in actual or apparent conflict with the Council's interests or with their duties working for the Council as soon as they become aware of this. Where an actual conflict is discovered, employees will be required to avoid or cease to continue that interest and may be required to resign from their external interest or their employment with the Council. Completion of a Declaration of Interests form does not in itself represent the approval by the Council of an employee's relationships or interests.
2. When an employee is assigned a new task or role, the employee should consider whether this could create a conflict of interest in the light of external interests. Similarly, where the employees personal circumstances change or their other employment or business or other interests change they need to discuss this changes with their manager and make adjustments to their Declaration of Interest form if necessary.
3. Where the employee is aware that a relative wishes to involve themselves in a contractual relationship with the Council, this should be declared to the Unit Manager.

Employees shall:

4. If they work over 20 hours per week for the Council, or if they work 20 hours per week or less but are on grade PO1 or above, not engage in any other work or business or appointments (paid or unpaid) unless they have prior written consent from their manager and the relevant service area or corporate director.
5. Not participate in or seek to influence any decision concerning the interests, services, property or other contracts of themselves or a relevant person. This includes, by way of example but not limited to, the payment of benefits, placement of clients in accommodation, the making of recommendations to customers to use a particular landlord or service provider, the procurement and/or letting of private accommodation and the awarding of planning permission or other consents, permissions, licenses or authorisations.
6. Not involve themselves in the appointment (including contracting via an agency, self employment or consultancy), discipline, grievance, redundancy or other processes relating to a relevant person
7. Not involve themselves in any investigation or inquiry relating to a relevant person unless authorised to do so by the employees manager or required to do so by law or by any Council appointed investigator or lawyer.
- 8 Declare to their manager any personal relationship which develops with another manager or person who is or seeking to become or may become the employees manager through a promotion or recruitment process.
8. Not pursue their public and private interests in a manner which is likely to bring the Council into disrepute.
9. Comply with the local standards of conduct or instructions set out or given by the service area director or service unit.

12. Update their Declaration of Interest form within 28 days of a change in their interests occurring and shall complete a new form (where you are required to complete a form) every two year.

**Employees should note that criminal sanctions may apply where an abuse of position has occurred or where an employee or a relevant person has gained a pecuniary advantage. Employees should note that contravention of any of the above could lead to disciplinary action being taken against them.**

### **Links to other policies**

Code of Conduct for Employees  
The Disciplinary Policy and Procedure

## **APPENDIX A**

### **LONDON BOROUGH OF BRENT**

#### **Declaration of Interests Form**

**Name .....**

The public is entitled to demand conduct of the highest standard from employees of the Council. Council employees have an obligation to avoid conflicts between their private interests and their duty to the Council, particularly where this could react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

This declaration of interests by each employee enables the Council and its employees to avoid unjustified suspicions about individuals' influences and motives. It also provides a publicly recognised system for better maintaining proper standards of conduct and ensuring that there is no impropriety in the Council's internal and external dealings.

The forms will be held in confidence on the employees personnel file, accessible only by appropriately authorised officers. A summary of all employee interests is also held, confidentially, by your head of service.

#### **Instructions**

**Please print clearly in black ink/type as this form may be photocopied**

**Parts 1, 2 and 3 must be completed by all employees.**

**Other parts of the form must be completed by all relevant employees – please see below for guidance on who is covered.**

**Failure to complete this form or complete it accurately may result in disciplinary action being taken against you. If you are unsure how to complete the form please speak to your manager.**

In this form a "relevant person" means a spouse, partner, friend, relative, business or business associate.

## Part 1. – Personal details

Forename: .....

Middle Names: .....

Surname: .....

Date of Birth: .....

Are you known by any other name(s)?

If so please declare it here: .....

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Home address: .....

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Details of any temporary address:

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Job Title: .....

Service Area: .....

Service Director/Manager:.....

## Part 2 - Secondary employment

Other than your employment with the Council, do you have any other employment, self employment, company directorship or do you operate any other business or work in any other capacity either voluntarily or for financial gain?

Yes / No

If yes please provide details i.e. name and address of employer/business, nature of business etc.

Name of employer/business.....

Address of employer/business:

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Nature of business.....

.....

Nature of your employment  
or involvement in the business .....

Number of hours worked per week .....

The work is                      Paid    ☐                      Unpaid    ☐

Salary (or equivalent) if it exceeds £50k per annum: .....

In cases where an employee works more than 20 hours per week for the Council or works 20 hours per week or less but is on grade PO1 or above then the employees manager **and** service area or corporate director is required to approve any other employment or positions. The manager should indicate here whether such approval has been given and by whom and whether the approval is subject to any conditions.

.....

**If approval has been granted then you must notify your manager of any variations in these arrangements including changes in hours, company name, location, etc**

## Part 3 – Property transactions and contracts with the Council

### Property

Please specify below any land, buildings or other property owned by you, your spouse or partner or any business or company owned by you or your spouse or partner within or outside the borough which you or they lease or rent (or intend to lease or rent) to the Council or Brent Housing Partnership and any property you are about to sell to the Council or BHP.

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Please specify below any land, building or other property owned by any other Relevant Person within or outside the borough which you know is leased or rented (or is intended to be leased or rented to the Council or Brent Housing Partnership and any property they are about to sell to the Council or BHP.

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### Contracts

Please specify here any contract or agreement you or your spouse, partner or any business or company owned by you or your spouse or partner have entered into or are about to enter into within the Council or Brent Housing Partnership.

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Please specify here any contract or agreement which you know has been entered into between any other Relevant Person and the Council or Brent Housing Partnership or which you know is about to be entered into.

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#### Part 4 – Other Property and contracts (specified officers)

This part of the form only applies to employees who are responsible for:

- making decisions about the infrastructure or development of the Borough
- assessing claims or grant applications in respect of properties in the Borough
- collecting monies from property owners or leaseholders in the Borough
- determining applications for planning permission or building control approvals or alcohol and entertainment licenses or any other permissions, consent, licences, approvals, notices or similar decisions
- carrying out functions which may affect property values in the borough
- enforcement duties or who carry out investigations in relation to properties in the borough.

By way of further guidance, employees who work in the following areas are likely to fall into the above categories:

- Regeneration
- Transportation
- Building Control
- Planning
- PHIU
- Property and Asset Management
- Affordable Housing Development Unit
- Private Housing Services
- South Kilburn NDC
- Revenue and Benefits (including CAPITA staff responsible for collection of Council Tax and National Non-Domestic Rates).
- One Stop Shop

This Part also applies to chief officers, deputy chief officers, assistant directors, unit directors and any other person who manages or is otherwise responsible for any of the above-mentioned categories of staff

Please specify here whether you or your spouse or partner or any business or company owned by you or your spouse or partner have any beneficial interest in any property in the borough, including any leasehold or freehold interest, owned either solely or jointly, and whether directly or via company ownership and, if so, please give the address(s).

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.....  
.....

Please specify here whether you are aware of any other Relevant Person has any beneficial interest in any property in the borough, including any leasehold or freehold

interest, owned either solely or jointly, and whether directly or via company ownership and, if so, please give the address(s).

## Part 5 – Business ownership (specified officers)

This part of the form only applies to the following categories of staff i.e. those who are responsible for:

- any procurement or purchasing decision, including staff who make recommendations as to the use of any particular supplier of goods, services or works.
- any action or decisions regarding enforcement action or income collection in relation to businesses in the Borough.

This Part also applies to chief officers, deputy chief officers, assistant directors, unit directors and any other person who manages or is otherwise responsible for any of the above-mentioned categories of staff.

Do you, your partner or spouse or any business or company owned by you, your spouse or partner have any beneficial interest including directorship, shareholding (over 5%), profit share arrangement or ownership, in any limited or non-limited company, partnership, small business or trade providing services, goods or works.

Yes / No

If so please list the entities, including name, trading name, full address and nature of business and the nature of your/ your partner etc interest in them

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.....

Are you aware of any beneficial interest including directorship, shareholding (over 5%), profit share arrangement or ownership held by any other Relevant Person in any limited or non-limited company, partnership, small business or trade providing services, goods or works.

Yes / No

If so please list the entities, including name, trading name, full address and nature of business and the nature of your/ your partner etc interest in them

## Part 6 - Recruitment

For all officers involved in recruitment of staff, including selection of agency workers, please answer the following question:

Are you a member of a select society such as the freemasons, mechanics, buffaloes, catenians, knights of St Columba, soroptimist club.

Yes / No

Please detail any memberships below including the name and meeting place of the branch / chapter etc.

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## Part 7 - Charities / Voluntary Organisations / Clubs

For all officers involved in awarding grants, permissions or relief to Charitable or Voluntary organisations or Clubs within Brent and chief officers, deputy chief officers, assistant directors, service unit managers and any other person who manages or is otherwise responsible for any of the above mentioned categories of staff, please answer the following question:

Are you a member of a charity, voluntary organisation or club within Brent which may benefit from a grant, permission or relief provided by the Council?

Yes / No

If yes, please provide details of the organisation, its address and your position.

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## Part 8 - Schools

For officers involved in any decision making concerning the allocation of resources, either capital or revenue to Brent schools, please answer the following questions:

Are you a member of a governing body or PTA at a school in Brent or have a child who attends a Brent School.

Yes / No

If yes, which one, and what is your position.

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.....  
.....

### Declaration

**I declare that to the best of my knowledge and belief the answers on this form are truthful, accurate and complete. I understand that giving false information on this form or failing to give the information or failing to give it accurately or failing to update it within 28 days of a change occurring may result in disciplinary action being taken against me.**

**I undertake to inform my Service Manager of any changes to my personal interests within 28 days of that change taking place.**

**Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**When completed, please return this form to your Service Manager**

### Service Manager Declaration

**I have reviewed this form. In my opinion there are / are no interests which would appear to be in conflict with the responsibilities of the post. If there are such interests these have been discussed and appropriate action has been taken and is recorded accordingly on the personnel file**

**Signed** ..... **Name** .....

**Date** .....