GMCA STANDARDS COMMITTEE

Date: 3 November 2016
Subject: Code of Conduct Review
Report of: Liz Treacy, GMCA Monitoring Officer

PURPOSE OF REPORT

The report is intended to provide an overview of the GMCA’s Code of Conduct and to brief the Standards Committee on the review of the Code that will form part of the refresh of the GMCA Constitution.

RECOMMENDATIONS:

The Standards Committee is asked to:

1. Note the contents of the report.

2. Recommend to the GMCA that the Code of Conduct for Members be updated as detailed in paragraph 3.3.

CONTACT OFFICERS:

Liz Treacy, Monitoring Officer, GMCA 0161 234 3087 l.treacy@manchester.gov.uk

Poornima Karkera, Group Manager, Democratic Services (Legal) Group, Manchester City Council 0161 234 3719 p.karkera@manchester.gov.uk

Stephen Hollard, (Acting) Principal Solicitor, Democratic Services (Legal) Group, Manchester City Council 0161 234 3336 s.hollard@manchester.gov.uk
**BACKGROUND PAPERS:**

GMCA Constitution

Arrangements for Dealing with Complaints that GMCA Members have failed to comply with the GMCA’s Code of Conduct for Members

The Monitoring Officer’s 27 July 2012 report to the GMCA: “Localism Act 2011 – New GMCA Code of Conduct for Members and Arrangements to deal with Complaints”

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<td>Does this report relate to a major strategic decision, as set out in the GMCA Constitution (paragraph 14.2) or in the process (paragraph 13.1 AGMA Constitution) agreed by the AGMA Executive Board:</td>
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1. INTRODUCTION

1.1 Under the Localism Act 2011 ("the 2011 Act") the GMCA is under a statutory duty to promote and maintain high standards of conduct by the Members and co-opted Members of the authority. It is also obliged to adopt a code dealing with the conduct that is expected of Members and co-opted Members of the GMCA when they are acting in their official GMCA capacities. Such a code has to be consistent with the seven “Nolan principles” of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership, and include provision that the GMCA considers appropriate in respect of the registration, and disclosure, of:

- pecuniary interests; and
- interests other than pecuniary interests.

1.2 On 27 July 2012 the GMCA adopted a Code of Conduct for Members ("the Code", which is set out at Appendix 1) that met the requirements of the 2011 Act. In common with the approach taken by the Constituent Councils, the GMCA did not radically depart from the previous code of conduct that had been in place under the old standards regime, as it was considered that the old code was reasonably well understood and that there was therefore little purpose in making major alterations to it.

2. SUMMARY OF THE PROVISIONS OF THE GMCA’S CODE OF CONDUCT FOR MEMBERS

2.1 The following paragraphs of this section provide a broad summary of key aspects of the Code. Detailed advice on the content of the Code is available to Members from the Monitoring Officer.

2.2 The Preamble – This sets out the general principles upon which the Code is based. While the preamble itself does not form part of the substantive provisions of the Code, the principles set out within the preamble are intended to serve as a guide to the fundamental approach Members should take in respect of their conduct.

2.3 Part 1, General Provisions – This part of the Code sets out interpretive provisions as well as the general conduct obligations applying to Members. While the GMCA has yet to receive a complaint concerning a breach of the Code, experience of complaints made to other local authorities suggests that complaints from members of the public concerning member conduct generally allege conduct that could potentially come within the scope of these general provisions rather than that of the later provisions of the Code addressing “interests”.

2.4 Part 2, Disclosable Pecuniary Interests – This part of the Code reflects the statutory position, under the 2011 Act and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in respect of disclosable pecuniary interests. It defines those interests and
advises Members of their statutory obligation under the 2011 Act in relation to non-participation where a Member is present at a meeting where they have a disclosable pecuniary interest in any matter that is being considered and that a failure to comply with the requirements of the Code in relation to disclosable pecuniary interests may constitute a criminal offence. Notification requirements in respect of disclosable pecuniary interests are also addressed.

2.5 **Part 3, Other Interests** – This part of the Code deals with interests other than disclosable pecuniary interests that the GMCA has decided should also come within the scope of the Code. The two types of interest dealt with here are personal interests and prejudicial interests. The Code sets out the notification requirements and participation implications for these other interests.

2.6 **Part 4, General Matters Relating to Parts 2 and 3** – This part deals with certain matters relating to the registration of interests and to the granting of dispensations where a Member has a disclosable pecuniary interest or prejudicial interest.

3. **REVIEW OF THE GMCA CODE OF CONDUCT**

3.1 As part of the refresh of the GMCA Constitution, the Code will be reviewed to identify whether any changes are required or desirable. Any proposals for change will need to recognise the statutory requirements pertaining to the Code, reflect the particular statutory position in respect of disclosable pecuniary interests, and take account of the fact that the Code as currently drafted reflects a general consensus among Constituent Councils and the GMCA as to the approach to be taken with respect to codes of conduct following the introduction of the new standards regime under the 2011 Act.

3.2 At the current time the need for only one amendment (of a technical nature) to the Code has been identified. This concerns the effect of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. With effect from 12 March 2015, this made (most) offences that were punishable on summary conviction with a fine of, or up to, scale 5 (£5000) punishable instead with an unlimited fine.

3.3 Currently the Code refers (at paragraph 10.2) to the penalty for offences under s.34 of the Localism Act 2011 as follows:

"The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years".

The Committee is asked to recommend to the GMCA that this be amended to read:
"The criminal penalties available to a court are to impose an unlimited fine and disqualification from being a councillor for up to 5 years."

3.4 The Monitoring Officer will report back to the Committee at a later date concerning the review of the Code, identifying any further possible changes to the Code that the Committee may wish to recommend to the GMCA.

3.5 The Monitoring Officer also proposes to review the *Arrangements for Dealing with Complaints that GMCA Members have failed to comply with the GMCA’s Code of Conduct for Members* (“the Arrangements”) and associated procedures. The Monitoring Officer will report back to the Committee concerning this review at a later date. Any proposed changes to the Arrangements would require GMCA approval.

4. **RECOMMENDATIONS**

4.1 Recommendations can be found at the beginning of this report.
APPENDIX 1 – GMCA’S CODE OF CONDUCT FOR MEMBERS

Pre-amble to Code of Conduct for GMCA Members

1. Introduction

The GMCA is determined to provide excellent local government for the people of the Greater Manchester City Region. It promotes and maintains high standards of conduct by Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

2.1 General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

2.5 Accountability
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

2.6 **Openness**

Members should be as open as possible about their actions and those of the GMCA, and should be prepared to give reasons for those actions.

2.7 **Personal Judgement**

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

2.8 **Respect for Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the GMCA’s statutory officers, and its other employees.

2.9 **Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

2.10 **Stewardship**

Members should do whatever they are able to do to ensure that the GMCA uses its resources prudently and in accordance with the law.

2.11 **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

3. **Training**

3.1 Each Member must attend training on the GMCA’s Code of Conduct/ethical standards.
THE GMCA CODE OF CONDUCT

Part 1 General provisions

1. Introduction and interpretation

1.1 This Code applies to you as a Member of the Greater Manchester Combined Authority (“the GMCA”).

1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the GMCA. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years. In this Code - “meeting” means any meeting of:

(a) the GMCA; and

(b) any of the GMCA’s Committees or Sub-Committees, Joint Committees or Joint Sub-Committees;

1.3 “Member” includes a Member and a Substitute Member of the GMCA as defined at Schedule 1 of The Greater Manchester Combined Authority Order 2011 and an Appointed Member.

2. Scope

2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a Member of the GMCA and references to your official capacity are construed accordingly.

2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.

2.3 Where you act as a representative of the GMCA on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1 You must not:

(a) do anything which may knowingly cause the GMCA to breach the Equality Act 2010;

(b) bully or be abusive to any person;
(c) intimidate or attempt to intimidate any person who is or is likely to be:

(i) a complainant,
(ii) a witness, or
(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with the GMCA’s Code of Conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the GMCA.

4. You must not:

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the consent of a person authorised to give it;
(ii) you are required by law to do so;
(iii) 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
(iv) the disclosure is:

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the GMCA; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the GMCA into disrepute.

6. You:

(a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
(b) must, when using or authorising the use by others of the resources of the GMCA:

(i) act in accordance with the GMCA's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by

(a) The GMCA’s Chief Finance Officer; or

(b) The GMCA’s Monitoring Officer,

where that officer is acting pursuant to his or her personal statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the GMCA.

Part 2 - Disclosable pecuniary interests

8. Notification of disclosable pecuniary interests

8.1 Within 28 days of becoming a Member, you must notify the GMCA’s Monitoring Officer of any ‘disclosable pecuniary interests’.

8.2 If you are an existing Member of the GMCA on 27 July 2012 GMCA Procedure Rule 18 requires you to notify the GMCA’s Monitoring Officer of disclosable pecuniary interests within 2 months of the adoption of the GMCA Code.

8.3 A ‘disclosable pecuniary interest’ is an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in the table below.

8.4 “Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
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<td>Employment, office, trade,</td>
<td>Any employment, office, trade, profession or vocation carried on for profit or gain</td>
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<td>Sponsorship</td>
<td>Any payment or provision of any other financial benefit (other than from the GMCA) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992 (a).</td>
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| Contracts                       | Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the GMCA -  
(a) under which goods or services are to be provided or works are to be executed: and  
(b) which has not been fully discharged.                                                                                                           |
| Land                            | Any beneficial interest in land which is within the area of the GMCA                                                                                                                                     |
| Licences                        | Any licence (alone or jointly with others) to occupy land in the area of the GMCA for a month or longer.                                                                                            |
| Corporate Tenancies             | Any tenancy where (to your knowledge) -  
(a) the landlord is the GMCA: and  
(b) the tenant is a body in which you or your partner has a beneficial interest.                                                                          |
### Securities

Any beneficial interest in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of the GMCA; and

(b) either -

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

8.5 For the purposes of the above

(a) "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.

(b) "director" includes a member of the committee of management of a **registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union.**

(c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and

(d) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9 **Non participation in case of disclosable pecuniary interest**

9.1 If you are present at a meeting of the GMCA, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the GMCA,
and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You must not participate in any discussion of the matter at the meeting.

2. You must not participate in any vote taken on the matter at the meeting.

3. If the interest is not registered, you must disclose the interest to the meeting.

4. If the interest is registered you are also required by GMCA Procedure Rule 18 to disclose the interest to the meeting.

5. If the interest is not registered and is not the subject of a pending notification, you must notify the GMCA’s Monitoring Officer of the interest within 28 days.

6. You are also required by GMCA Procedure Rule 18A to withdraw from the room of the meeting while the matter is being considered.

10 Offences

10.1 It is a criminal offence to

* Fail to notify the GMCA’s Monitoring Officer of any disclosable pecuniary interest within 28 days of appointment as a Member of the GMCA;

* Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the GMCA’s Register;

* Fail to notify the GMCA’s Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the GMCA Register that you have disclosed to a meeting;

* Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;

* Knowingly or recklessly provide information that is false or misleading in notifying the GMCA’s Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.
10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Part 3 - Other interests

11 Notification of personal interests

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must -

(a) within 2 months of this Code being adopted by the GMCA in the case of existing Members as on 27 July 2012; or

(b) your appointment as a Member of the GMCA (where that is later), notify the GMCA’s Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

11.2 You have a personal interest in any business of the GMCA where it relates to or is likely to affect -

(a) any body of which you are in a position of general control or management and to which you are appointed or nominated by the GMCA;

(b) any body -

(i) exercising functions of a public nature;

(ii) directed to 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 in a position of general control or management;

(c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

12 Disclosure of interests

12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of the GMCA, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the GMCA at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the
commencement of that consideration, or when the interest becomes apparent.

12.2 You also have a personal interest in any business of the GMCA where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward(s), affected by the decision;

12.3 In paragraph 12.2, a relevant person is -

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in paragraph 11.2(a) or (b).

12.4 Where you have a personal interest in any business of the GMCA which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

12.5 Where you have a personal interest in any business of the GMCA of the type mentioned in paragraph 11.2(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in the GMCA’s Register of Members’ Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

12.7 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

13 Non participation in case of prejudicial interest

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13.1 Where you have a personal interest in any business of the GMCA you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business -

(a) affects your financial position or the financial position of a person or body described in paragraph 12.3; or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of the GMCA —

(a) You must not participate in any discussion of the matter at the meeting.

(b) You must not participate in any vote taken on the matter at the meeting.

(c) If the interest is not registered, you must disclose the interest to the meeting.

(d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

(e) You are also required by GMCA Procedure Rule 18A to withdraw from the room of the meeting while the matter is being considered.

13.3 Where you have a prejudicial interest in any business of the GMCA, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the GMCA in respect of—

(a) school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
(b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and

(c) any ceremonial honour given to Members.

14 Interests arising in relation to Overview and Scrutiny Committees

In any business before an Overview and Scrutiny Committee of the GMCA (or of a Sub-Committee of such a Committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by the GMCA or another of the GMCA’s Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and

(b) at the time the decision was made or action was taken, you were a Member of the GMCA, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

you may attend the meeting of the Overview and Scrutiny Committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.

Part 4 - General Matters relating to Parts 2 and 3

15 Register of interests

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the GMCA’s Monitoring Officer will be included in the GMCA’s Register of interests. A copy of the Register will be available for public inspection and will be published on the GMCA’s website.

16 Sensitive interests

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the GMCA’s Monitoring Officer agrees. In these circumstances, if the interest is entered on the GMCA’s Register of interests, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

16 Dispensations
The GMCA may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.