

# Part 5

## Section 5.6 – Conflicts of Interest Protocol: Loans or Grants to Businesses

### 1. Purpose

- 1.1. The Combined Authority has adopted an overarching Conflicts of Interest Policy which is set out in Part 5 of the Constitution, and which provides an overview of how conflicts of interest are managed by reference to other procedures and requirements including the Members' Code of Conduct and this Conflicts of Interest Protocol: Loans or grants to businesses.
- 1.2. The Members' Code of Conduct in Part 5 of the Constitution and the Code of Conduct adopted by the LEP addresses how members are required to register and declare pecuniary and other interests at formal meetings where members take decisions.
- 1.3. This **Conflicts of Interest Protocol: loans or grants to businesses** sets out the process which the Combined Authority follows to demonstrate that applications from businesses for loans or grants are dealt with in an impartial, fair, and transparent way, including where they are considered by officers. It provides an additional safeguard (for the Combined Authority and for applicants) to minimise the risk of reputational damage from any perception of undue influence.
- 1.4. The process requires additional scrutiny of any application where a potential conflict of interest arises.

### 2. Scope

- 2.1 This protocol should be followed where an application for a loan or grant is made by any business (including a company, social enterprise or a sole trader) to the Combined Authority<sup>1</sup>.
- 2.2 The protocol applies to:
  - the Mayor and any other Combined Authority Member
  - any voting Co-optee on a committee of the Combined Authority,
  - any member of the LEP Board, including any LEP Board Group<sup>2</sup>
  - any non-voting Member

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<sup>1</sup> Including any grant or application under the following funding streams or programmes: Access Innovation, Apprenticeship Grants for Employers, Business Growth Programme, Cycling and Walking Fund, Digital Inward Investment Fund, Growing Places Fund, Resource Efficiency Fund, Strategic Business Growth and Strategic Inward Investment Fund.

<sup>2</sup> As referenced in Article 10.

- 2.3. It applies to both local authority and private sector representatives, and their substitutes.

### 3. General

- 3.1. This protocol supplements the Conflicts of Interest Policy. It does not replace or alter any requirement of the Members' Code of Conduct, nor any other procedure which addresses conflicts of interest.

Where any conflict of interest arises outside of those specifically required to be registered or declared under the Members' Code of Conduct, a procedure referred to in the Conflict of Interest Policy or this protocol, a Member should declare their interests **erring on the side of caution**, in line with the Nolan Principles.

### 4. Setting Policies and Strategies Relating to Loans and Grants

- 4.1 Members must follow the Members' Code of Conduct which sets out requirements for registering and declaring interests at meetings. The Code restricts Members' involvement in decision making at formal meetings of the Combined Authority and committees where a conflict of interest arises.
- 4.2 However, to secure the input of suitable expertise and a range of representative views into the decision-making process, appropriate involvement in matters in which Members may have an interest<sup>3</sup> is facilitated by exceptions and dispensations granted under the Code.

Members are not generally precluded from participating in or voting on developing or setting any overarching policy or strategy, including setting criteria against which any application for a loan or grant will be assessed. However, **this is subject to exceptions** such as where a direct financial interest arises.

At any meeting where an item relates to a **change of criteria** for any loan or grant programme in respect of which a Member (or a business in which they have registered an interest) has applied for a loan or grant during the previous 24 months (successfully or otherwise), the Member should declare the application. Any such declaration should be noted in the minutes of the meeting, but the member may nevertheless participate and vote in the decision, unless otherwise precluded by the Code or the application is still to be determined. A Member may, however, choose not to participate or vote in the item if they are aware that any proposed change in criteria may affect an application which they (or the business in which they have registered an interest) intend to make for the loan or grant.

Members should check with the Monitoring Officer if they are unsure whether they may participate or vote in relation to any particular item.

<sup>3</sup> For example, where they are appointed because of their expertise in a particular sector.

## 5. Members to Notify Businesses of Their Involvement with the Combined Authority

5.1 Any Member who (to comply with a Code of Conduct) has registered an interest in a business, **including any interest of their spouse or civil partner**, must:

- **notify that business of their involvement** with the Combined Authority,
- **ask the business to declare their involvement** as a conflict of interest when applying for any relevant loan or grant, and
- **make arrangements for the business to notify them** on any occasion when the business applies for a relevant loan or grant.

## 6. Applying for a Loan or Grant – Applicant Business

6.1 The application form for a loan or grant to businesses will ask the applicant to declare whether:

- the applicant, any Director, Trustee or employee of the business, or
- their spouse or civil partner<sup>4</sup> is:
  - a) a member of the LEP Board,
  - b) a Combined Authority Member, or
  - c) a voting Co-optee on any committee appointed by the Combined Authority, or
  - d) a non-voting member

A business should be advised of any such potential conflict of interest by the relevant Member, under paragraph 5 above. Nevertheless, each business should take such additional steps as are reasonably practicable to ensure that any declaration is full and accurate.

## 7. Members' Actions Where a Conflict of Interest Arises

7.1 A Member must also:

- a) **notify the Monitoring Officer<sup>5</sup>** on each occasion where:
  - they apply for a loan or grant, or
  - a business which is registered as an interest on their register of interest applies for a loan or grant<sup>6</sup>,
  - any other interest arises which may be perceived as giving rise to a conflict of interest (for example, where an application is

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<sup>4</sup> Any reference in this protocol to a spouse or partner should be taken as including any person with whom the member lives as a spouse or civil partner

<sup>5</sup> The Executive Support Officer (Private Sector Representatives) may receive notifications from private sector representatives, and the Governance Services Manager from local authority representatives on behalf of the Monitoring Officer.

<sup>6</sup> This includes any interest of their spouse or civil partner which they are required to register.

made by a close friend, or family member, or they are related to an officer of the Combined Authority).

The notification to the Monitoring Officer should identify

- the name of **the applicant**,
- the **type of funding** applied for (including the funding stream if known), and
- the nature of **the potential conflict of interest**.

The date of the application should also be stated (if known).

- b)** so far as reasonably practicable **avoid any personal involvement**<sup>7</sup> with any application for any loan or grant, or
- c)** where it is not reasonably practicable to avoid personal involvement with an application:<sup>8</sup>
  - **declare on any application form their involvement** if they are not a signatory,
  - **do not discuss the application verbally** with any officer of the Combined Authority, and
  - **communicate only in writing** about the application after it has been submitted.

## 8. Advising on Loan and Grant Applications

- 8.1 To avoid improper use of “inside information” about the assessment process for applications, where a member’s role includes or has included **advising on individual grant and loan applications from businesses**, no application from them, their spouse or civil partner, or from a business which they have (or should have) registered as an interest under the relevant Code of Conduct shall be considered until **6 months** has elapsed since they carried out that role.

## 9. Considering Loan and Grant Applications

- 9.1 Every application is considered on its own merits, and no applications are granted unless the eligibility criteria for the loan or grant are met.

**No Member may participate or vote on any decision-making relating to any application in respect of which they have a conflict of interest.**

**Members must not seek in any way to improperly influence the outcome of any application which has (or may be) made in which they have an interest.**

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<sup>7</sup> This includes advising on, drafting or signing the application

<sup>8</sup> For example, where they are a sole trader and apply on their own behalf

9.2 Where an interest has been declared by an applicant on the application form, and/or a member (or where an interest is otherwise brought to the attention of a relevant Director<sup>9</sup>), the application will not be progressed unless:

- a) the Monitoring Officer has confirmed that:
  - the member has **registered the business as an interest** on their register in accordance with the requirements of the relevant Code of Conduct, and
  - a full **declaration of interest** by the member has been received in relation to the application in accordance paragraph 7 of this protocol.

And

- b) the relevant Director has confirmed that:
  - the **applicant** has made a **declaration of interest** on the application form in accordance with paragraph 6,
  - the **member did not discuss the application verbally** with any officer of the Combined Authority after its submission, nor otherwise **seek to improperly influence** the application.

9.3 Subject to a) and b) above, where an interest arises, the application should be referred for determination by:

- the Combined Authority's Chief Executive, or
- a meeting of the Combined Authority or a relevant committee<sup>10</sup>.

9.4 An application may only be granted further to a recommendation from a **relevant Director** who has assessed the application, and confirmed that it has been considered on its own merits and meets relevant eligibility criteria.

9.5 The decision-maker should take into account any other relevant information which relates to the conflict of interest.

9.6 The **record of any decision** about an application where a conflict of interest has arisen must record the conflict of interest declared by the member, and that this protocol has been followed<sup>11</sup>.

## 10. Reporting

10.1 The Monitoring Officer will **annually report** to the Combined Authority's Governance and Audit Committee on the number and outcome of applications considered in accordance with this protocol during the financial year and on any breaches of the protocol.

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<sup>9</sup> Each relevant Director will carry out a **sample audit** of applications at quarterly intervals, to review whether declarations are being made in line with this protocol.

<sup>10</sup> For example, where the Chief Executive considers that they should not exercise their delegated authority in respect of the application.

<sup>11</sup> This extends to any published record of the loan or grant.

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