

TRANSPORT FOR LONDON

AUDIT COMMITTEE

SUBJECT: GUIDANCE ON MEMBERS' INTERESTS

DATE: 15 JUNE 2010

1 PURPOSE AND DECISION REQUIRED

- 1.1 At the meeting of the Audit Committee on 4 March 2010, the rules which apply to the declaration of interests by Members were discussed. The Committee asked for a guidance note which sets out the rules that apply to Members to be considered at its next meeting.
- 1.2 The Committee is asked to note this paper.

2 THE DECLARATION OF INTEREST RULES WHICH APPLY TO MEMBERS

- 2.1 The rules which govern the declaration of interests of Members of TfL are set out in the Greater London Authority Act 1999 ("the GLA Act").
- 2.2 The GLA Act provides that if any Member has any interest, whether direct or indirect, and whether pecuniary or not, in any matter being considered at a meeting of TfL, the Member must disclose the nature of the interest to the meeting and must not take part in any deliberation or decision of TfL or any of its Committees with respect to that matter.
- 2.3 It is an offence, punishable by a fine of up to £2,500, for a Member to fail to disclose an interest or to participate in discussions or make decisions on matters in respect of which the Member has a personal interest.
- 2.4 A guidance note in relation to the declaration of Members' interests is Appendix 1 to this paper. This note is based on current guidance given to all Members on appointment with additional guidance relating to Related Party Transactions in Section 5 of the guidance note.
- 2.5 Once the guidance note has been considered by the Committee, it will be distributed to all Members.

3 RECOMMENDATION

- 3.1 The Audit Committee is asked to NOTE this paper.

4 CONTACT

- 4.1 Contact: Ellen Howard, Director of Corporate Governance
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GUIDANCE NOTE - TFL MEMBERS' INTERESTS XX JUNE 2010

1 INTRODUCTION

- 1.1 Schedule 10 of the Greater London Authority Act 1999 ("GLA Act") sets out the rules which apply to Members and the declaration of their interests. This document provides guidance to Members in relation to those rules.
- 1.2 Failure to comply with the rules regarding Members' interests is a criminal offence punishable by a fine of up to £2,500 unless the Member proves that he or she did not know that the contract, proposed contract or other matter in which he or she had the interest was the subject of consideration at the meeting.

2 NATURE OF INTERESTS TO BE DISCLOSED

- 2.1 Members are required to declare direct and indirect pecuniary and non-pecuniary interests. A Member need not disclose remote or insignificant interests.
- 2.2 '**Direct pecuniary interest**' includes payments or receipts of cash or assets and benefits and disbenefits to the value of assets. A pecuniary interest need not amount to a pecuniary advantage; if a Member stands to gain or lose financially from a matter under consideration, then s/he is likely to have a pecuniary interest in it.
- 2.3 Members have an **indirect pecuniary interest** if:
 - (a) they or their spouse or civil partner is a member of a company or other body with which a contract is made or is proposed to be made with the TfL Group or which has a direct pecuniary interest in the matter under consideration; or
 - (b) they or their spouse or civil partner are a partner or are in the employment of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration.

Members must be living with their spouse or civil partner and know of the spouse or civil partner's connection with the company or body for it to be deemed the interest of the Member.

- 2.4 The rules do not apply to membership of or employment by a public body. A 'public body' is any body established for the purpose of carrying on under

national ownership any industry or undertaking, the governing body of an educational institution and the National Trust.

2.5 The rules do not apply if a Member does not have a beneficial interest in the securities of the company or other body in question. 'Securities' includes shares, instruments creating or acknowledging indebtedness, units in a collective investment scheme etc. Securities in overseas companies must be taken into account.

2.6 Generally, a **non-pecuniary interest** is one which members of the public would think might affect a Member's conduct or influence his or her actions.

2.7 A Member need not disclose any interest which is **so remote or insignificant** that it cannot reasonably be regarded as likely to influence them in the consideration or discussion of, or voting on, any question with respect to a contract or matter. A Member also need not disclose an interest which they have merely as a council tax or ratepayer, as an inhabitant of the area, or as a person entitled to participate in any service offered to the public.

2.8 **Dispensations**

The Mayor has the power to provide dispensations from these rules but only in very limited circumstances. He can only allow a Member who has a relevant interest in a matter to participate in any Board or Committee meeting and vote in relation to that matter where the proportion of Members prohibited from taking part in the proceedings would be so great as to impede the transaction of business.

3 **HOW AND WHEN SHOULD DISCLOSURES BE MADE?**

3.1 The GLA Act provides that disclosures can be specific or general.

3.2 **Specific Disclosures**

Members must make specific disclosures at a meeting of TfL at which the matter in which they have an interest is being considered. A Member must make the disclosure before the issue is considered or, if the interest is not apparent until the matter is under consideration, as soon as the interest becomes apparent. A Member may also give a notice in writing to the Secretary which can be read and considered at the meeting if the Member does not attend.

Disclosure must be recorded in the minutes of the meeting. If a meeting was in open session, the minutes recording the declaration will be publicly available.

3.3 **General Disclosures**

The GLA Act adopts local government requirements and provides that a general notice given in writing to the Secretary by a Member that they or their spouse or civil partner with whom they are living is:

- (a) a member or in the employment of a specified company or other body;
- (b) a partner or in the employment of a specified person; or
- (c) a tenant in any premises owned by TfL.

will satisfy the requirement to disclose any interest arising from those relationships.

In accordance with these requirements, TfL maintains a publicly accessible register of Members' interests which may be publicly inspected. The Register of Interests also appears on the TfL website at:

<http://www.tfl.gov.uk/corporate/about-tfl/boardandchiefexecutives/1432.aspx>

Members receive a form on which they declare their interests at approximately six monthly intervals. In addition, Members are required to notify TfL of any new interests (or changes to existing interests) within 28 days of their arising.

As the prohibition on speaking or voting on a matter involving such an interest remains, it is prudent to make a specific disclosure even when a general disclosure has been made. It is not, however, necessary to make general disclosures of matters which have been declared for the purpose of the Register of Interests at all meetings unless they have a particular relevance to an item under consideration at the meeting.

4 **THE EFFECT OF MAKING A DECLARATION**

Meetings of the Board and Committees

- 4.1 If a Member has made a declaration of interest in respect of a matter that is brought up for consideration at a meeting of the Board or Committee, the Member must not take part in any deliberation of or decision made with respect to that matter.
- 4.2 If the matter is being considered in open session of the Board or a Committee meeting, the Member need not withdraw from the meeting but should not take part in any deliberation or decision on the matter concerned.
- 4.3 If the matter is being considered in closed session of the Board or a Committee meeting, the Member should withdraw from the meeting while the relevant item is considered.

Meetings of Panels

- 4.4 The GLA Act refers only to a Member refraining from taking part in any deliberation or decision of TfL or any of its Committees which relates to a matter in respect of which the TfL Member has a declarable interest. A meeting of a Panel is a meeting of TfL and therefore Members must declare their interests in matters that are brought up for consideration but are not prevented from taking part in discussions and decisions.

- 4.5 Members should still consider, however, whether it would be appropriate for them to take part in the consideration of the matters in which they have an interest, and, particularly in situations where they have a pecuniary interest, should also consider not taking part in the relevant discussion or decision. The Member should, in any event, withdraw from the meeting if requested to do so by the Chair of that meeting.

5 RELATED PARTY TRANSACTIONS ENTERED INTO BY MEMBERS

- 5.1 Members are asked once a year whether they have entered into a related party transaction with TfL. This information is required in order to compile the Annual Accounts.
- 5.2 A related party transaction is where a Member, a close family member or a company controlled by a Member or a close family member has entered into a transaction with TfL or any of its subsidiary companies (excluding the appointment of the Member).

6 FURTHER INFORMATION AND ADVICE

- 6.1 The rules, in relation to declarations of interest are complex and not complying with them can have serious consequences. If you have any questions in relation to the application of the rules please contact Howard Carter, General Counsel (020 7126 4097, howardcarter@tfl.gov.uk) or Ellen Howard, Director of Corporate Governance (020 7126 4221, ellenhoward@tfl.gov.uk).