

Item no.

Report to: **Standards Committee**
Date: **23 April 2007**
Report of: **Monitoring Officer**
Subject: **Adoption of a New Code of Conduct for Councillors**
Ward: **All**

1. **Purpose of the Report**

The purpose of the report is to advise the Council on the adoption of the New Members Code of Conduct which has been laid before Parliament.

2. **Consultation**

Publication of the Code follows extensive consultation by CLG with the Standards Board and Local Authorities amongst others.

3. **Background**

The original Code of Conduct for Councillors was adopted in 2002. The Department for Communities and Local Government and the Standards Board have considered how that Code could be improved based upon experience of its operation. Following consultation, a final draft was laid before Parliament on 4th April 2007. Unless challenged successfully by Parliament, it will become law on 3rd May 2007. Local Authorities are recommended to adopt the new Code without amendment.

The timing of the publication of the Code leaves very little time for its consideration before Members are required to sign their agreement to comply with the Code following the Elections on the 3rd May 2007. I therefore have taken the unusual step of inviting the Committee to consider the Code shortly before its formal endorsement by Parliament. This is on the understanding that if Parliament makes any radical changes to the draft, it will be brought back to the Standards Committee before the Council is invited to act upon the recommendation. Considering the Code now, should enable the Council to adopt it at its Annual Meeting to enable new Members to be inducted on the basis of the new Code rather than being trained on the old Code only for it to be replaced a month or so later.

4. **Significant Changes**

(i) **Scope**

The Code applies to Members when acting in an official capacity. It has a limited additional application to their private lives. Conduct constituting a criminal offence for which a Member is convicted, whether committed before taking office or not, provided the conviction was after the date of election is covered by the Code. Conduct outside the official capacity which does not contravene the Criminal Law, is not caught by

this Code. Members should note that this restriction is likely to change if the Local Government Bill obtains the Royal Assent in its current form later this year.

5. **General Obligations**

Bullying is made a specific offence. There is also a provision prohibiting attempts to intimidate any person who is likely to be a complainant, a witness or involved in the administration of any investigation or Code of Conduct proceedings.

6. **Confidential Information**

This restriction is now qualified by an exclusion if the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Authority. It is difficult to see when it will be in compliance with the reasonable requirements of the Authority to disclose material which the Authority has decided to treat as confidential.

7. **Reporting Other Members for Breach**

The requirement to report another Councillor, who a Member becomes aware of having broken the Code, has been removed. It is therefore no longer a breach of the Code not to take action personally in the event of learning of a breach by someone else.

8. **Personal Interest**

The definition of personal interest is amended so that the test relates to other Council Tax payers or inhabitants of your Ward rather than the Council's entire area. This will enable greater participation in issues which affect the Councillors Ward but are not so close to his home as to affect him more than other people living in the Ward.

9. **Relatives, Friends etc.**

The class of persons on whose behalf you also have an interest is re-defined as a member of your family or any person with whom you have a close association. The previous definition was relative with a long list of blood and marriage relationships and friends which always proved difficult to interpret. It is questionable whether the phrase "person with whom you have a close association" will be any clearer than "friend".

10. **Disclosure of Personal Interest**

If a Member's personal interest arises from his membership of a Management Committee or by exercising functions of a public nature, the interest need only be disclosed to the meeting if the Member chooses to address the meeting on the item in question. Interest arising from the making of a gift or hospitality exceeding £25.00 will only be relevant if the gift or hospitality was within the last three years.

11. **Prejudicial Interest**

The Code states that a prejudicial interest will not arise where the business in question does not affect the financial position of the body on which the Member

is a representative and does not concern the granting of any approval consent, licence, permission or registration for that body. The Code relaxes the requirement to leave the room where a Member had a prejudicial interest in order to reverse the effect of the decision in Richardson -v- North Yorkshire County Council where a Member was held to have no right to address the Committee as a member of the public on a planning application which affected him personally. Provided that the public are allowed to attend a meeting for the purpose of making representations, answering questions or giving evidence relating to the business being conducted, a Councillor with a prejudicial interest may exercise the same rights as a member of the public but must then leave the meeting immediately after doing so. In all other cases, Members with a prejudicial interest must leave immediately the item comes under discussion.

12. Sensitive Information

There is provision for a Member with the agreement of the Monitoring Officer, to leave out of the Register of Interest, information likely to create a serious risk of a Member or a person living with him becoming subject to violence or intimidation if the interest is publicly registered.

13. Implications

Financial

None

Legal

The Council is required to consider adoption of the new Code within six months.

Policy

None

Risk

Prompt adoption of the new Code will keep the Council in line with the latest ethical standards thinking.

Communication

The Council will need to determine whether there should be any external publicity on the adoption of the new Code. It will be communicated to all Members by way of training.

Corporate

None

Equality and Diversity

None

E.Government

None

Procurement

None

Recommendation

The Committee is recommended to advise the Council to adopt the new Model Code of Conduct for Members.

Background Papers

Local Authorities Code of Conduct for Members 2007 (Draft).

DT/CB/DAVID.TAYLOR/070400
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