

Committee: STANDARDS COMMITTEE

Agenda Item

Date: June 25, 2007

6

Title: CODE OF CONDUCT

**Author: Michael Perry, Assistant Chief Executive,
01799 510416**

Item for decision

Summary

- 1 On 22 January 2007 the Government published a consultation paper containing a draft revised Code of Conduct for members. This committee met on 21 February 2007 and responded to the consultation.
- 2 With a view to ensuring that the revised Code was in place as soon as possible, the committee met further on the 26 March 2007 and recommended to Full Council that it adopt a Code of Conduct in a form approved by the committee subject to any further amendments which may be required to comply with the mandatory provisions of the legislation once the appropriate statutory instrument had been laid.
- 3 The statutory instrument was laid on the 2 April. Amendments were made to the Code approved by the committee to take account of the differences between the consultation draft and the Model Code as laid. Full Council adopted the revised Code at its meeting on the 17 April to be effective from 8 May 2007.

Recommendations

- 4 That members consider the Code of Conduct, determine whether it wishes to recommend any amendments in the light of the changes made by the Government and considers what guidance (if any) it wishes to give to members of the district and town and parishes with regard to the Code.

Impact

5

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Finance	None.
Human Rights	None.
Legal implications	The committee has a duty to advise the Council with regard to the Code of Conduct

	and to assist members in observing the same.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

- 6 The Model Code of Conduct is different in a number of respects to the draft issued for consultation. All amendments form part of the mandatory provisions of the Code and I did not therefore consider it appropriate to delay the recommendation to Full Council until the amendments could be further considered by this committee.
- 7 The differences between the consultation draft and the Code as laid are as follows:-
- (i) The general provisions now contain a preamble emphasising that the Code applies to the member and the member is responsible for complying with the Code.
 - (ii) The definition of member has been expanded to include appointed members.
 - (iii) The circumstances in which the Code applies has been extended to circumstances where a member claims to act or gives the impression that he or she is acting as a representative of the authority.
 - (iv) The draft Code was ambiguous on the issue of whether conduct outside of a member's official capacity was conduct capable of bringing a member or the authority into disrepute. The Code as laid clarifies this position and provides that only criminal convictions will fall into that category.
 - (v) The consultation draft provided that members should not do anything which may seriously prejudice the authority's ability to comply with its equalities duty. This has been amended to provide that members should not do anything which may cause the authority to breach any of the equality enactments.
 - (vi) The provisions which prevent intimidation of persons involved in dealing with complaints of a breach of the Code have been clarified to underline the fact that it covers the member subject to the complaint as well as other members.
 - (vii) The exemption regarding disclosure of confidential information has been expanded by adding a further category of disclosure for the

purpose of obtaining professional advice providing that the third party giving such advice agrees not to disclose the information to any other person.

- (viii) The requirement with regard to advice given by the Chief Financial Officer and Monitoring Officer has been clarified to show that the provision only applies when the Officer is acting pursuant to his or her statutory duties.
- (ix) The definition of personal interests has been further modified. A decision which might be reasonably regarded as affecting the wellbeing or financial position of a corporate body in which a member has a beneficial interest in securities exceeding a nominal value of £5,000 is no longer listed as a personal interest. The abolition of the separate register of gifts and hospitality remains although the requirement to declare gifts or hospitality to the value of more than £25 will expire 3 years after the date of registration rather than 5 years as in the consultation draft. The draft Code required disclosure of interests relating to friends, family and persons with whom the member has a close personal association. The reference to friends has been deleted and the requirement therefore now requires disclosure of interests relating to family and persons with whom the member has a close association. Standards Board guidance is that 'family' is exactly the same as the former statutory definition of 'relatives'. I find this a surprising conclusion as if the Government had intended that to be the case surely the definition would have been repeated? With regard to close association, Standards Board guidance is that it includes someone a member is in contact with on a regular or irregular basis over a period of time who is more than just an acquaintance, someone a reasonable member of the public may think a member would favour or disadvantage. It may be a friend, colleague, business associate or someone you know from general social contact.
- (x) The definition of prejudicial interest has been clarified. Matters which do not relate to finance or the regulatory functions of the Council are excluded from being prejudicial interests.
- (xi) The consultation draft contained complex provisions regarding members speaking where a prejudicial interest existed. These have been greatly simplified. A member with a prejudicial interest will be able to attend meetings of the Council or any committees for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for that purpose. If the public are not allowed to speak, members may not do so and are required to withdraw. Where a member with a prejudicial interest may speak under this exemption, he or she must withdraw from the meeting having done so. The rules relating to dispensations remain unchanged.

Risk Analysis

8

Risk	Likelihood	Impact	Mitigating actions
<p>Members fail to abide by the revised Code of Conduct.</p>	<p>Low at the district council as all members will be offered training with regard to the Code.</p> <p>Medium at town/parish level as initial indications are that few town and parish councillors are taking up the offer of training at the presentations being offered across the district.</p>	<p>High for all authorities if a member breaches the Code of Conduct the member may be suspended (which may hinder the performance by the Council of its functions) or disqualified (resulting in a by-election) and the Council may suffer reputational damage.</p>	<p>The Monitoring Officer ensures availability of advice with regard to the Code to district councillors and ensures that parish clerks are aware where guidance can be obtained from the Standards Board.</p>