

Title: Adoption of a new Code of Conduct

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Purpose

- To consider the adoption of a new Code of Conduct.

Background

- In February of this year the Secretary of State for Communities and Local Government issued a Consultation Paper on a new Code of Conduct. All members were asked for comments and the Consultation Paper was considered at a meeting of the Standards Committee on 1 March. The Standards Committee then sent a letter with comments to the Secretary of State.
- Following the consultation period, the Secretary of State has now made the Local Authorities (Model Code of Conduct) Order 2007. The Order contains a new Model Code which is attached as Appendix A.
- The Standards Board has recommended that the new Code be adopted without amendment. This is to ensure consistency across all local authorities and to give certainty to members of the public.
- The Standards Board has also recommended that local authorities include a preamble to the Code setting out the 10 general principles governing the conduct of members. They are attached as Appendix B. They do not form part of the Statutory Code and are not enforceable in the same way as the provisions of the Code.
- It was thought helpful to members if the new Code was adopted as soon as possible, particularly to new members who would otherwise have had to familiarise themselves with the old Code for a few months only. The new Code introduces changes to the disclosure of prejudicial interests. Members can now make representations in certain circumstances even though they have a prejudicial interest. In order to assist members, it was considered that the Code be brought in as soon as possible.

A special meeting of the Standards Committee was held on 30 April to consider the Code. It resolved to recommend to Council that it adopt the Model Code of Conduct as set out in Appendix A. It also recommended that the 10 principles of conduct be adopted as a non-enforceable preamble to the Code.

Key Issues

Scope

- The Code only applies when a member is acting in an official capacity. However, the Code states that wherever a criminal conviction has been imposed that conduct could be a breach of the Code, even in a private capacity.

General Obligations

- There are two obligations to note in particular - not to bully any person and to allow disclosure of confidential information if it is reasonable and in the public interest to do so. The Standards Board has produced guidance on what constitutes bullying behaviour and on the definition of "public interest".
- It is to be noted that the requirement for members to report breaches of the Code to the Standards Board has been removed.

Personal Interests

There are two types of personal interests:

- those that are required to be registered. These are listed in the Code and are very similar to those in the old Code. There is one new interest in that if a member receives gifts or hospitality worth more than £25, this is now a personal interest and needs to be registered;
- where the well-being or financial position of a member, or a relevant person, is likely to be affected, to a greater extent than the majority of other inhabitants of the ward.
- The definition of relevant people is - "a member of your family or any person with whom you have a close association". The Standards Board has produced guidance on this definition.
 - The existence and nature of the personal interest should be declared at the beginning of the meeting. A member can remain in the meeting to speak and vote. However, where the personal interest relates to a body to which a member has been nominated or appointed by the Council or is a body exercising public functions, then the personal interest need only be declared at a meeting if and when a member wishes to speak.
 - There is a new provision regarding sensitive information. If registering or declaring a personal interest would involve revealing sensitive information that could create a serious risk of violence or intimidation, such information need not be disclosed or registered provided the Monitoring Officer agrees.

Prejudicial Interests

- The test for this is the same as under the old Code. If a member has a personal interest then the interest is also prejudicial where it is one where a member of the public with knowledge of the relevant facts would reasonably regard it as so significant it is likely to prejudice the member's judgement of the public interest. The new Code does bring in some exceptions to this. It states that a member does not have a prejudicial interest where:
 - The matter does not affect the financial position of the member or any person or body set out in paragraph 8 of the Code.
 - The matter does not relate to any approval consent, or permission that affects the member or those listed in paragraph 8 of the Code.
 - The matter relates to exceptions such as housing, school transport and members allowances. These are set out in more detail in the Code.
- If a member has a prejudicial interest they should declare it and withdraw from the room. However, under the new Code they may make representations, answer questions or give evidence at a meeting provided that the public is also allowed to attend the meeting for the same purpose. As soon as the member has finished speaking they must withdraw from the room.

Effect on Strategies and Codes

- It is to be noted that the Code affects all members whether elected, co-opted or appointed. It will also apply to the Parish and Town Councils when those Councils adopt it.

Risk Implications

- A training session for members was held on 10th May to which all members were invited. More training will be given once further guidance and training material is available from the Standards Board. It is however, members' responsibility to make sure that they are familiar with and comply with the Code. If in any doubt, members should seek advice from the Council's Monitoring Officer or Deputy Monitoring Officers.

Finance and performance implications

- There are no significant financial implications as member training has been built into the Induction Programme.

Legal and human rights implications

- There is a statutory duty to adopt the Code. If it is not adopted within six months it will apply automatically. Although it is possible to make amendments to the Code, the Standards Board has advised that it be adopted without amendment to ensure consistency.

Recommendations:

It is recommended that Council:

- adopts the Code of Conduct as set out in the schedule to the Local Authorities (Model Code of Conduct) Order 2007.
- adopts the preamble setting out the general principles
- informs the Standards Board of the adoption of the Code and publishes a notice in a local newspaper.