
MEETING: COUNCIL

DATE: 16 MAY 2007

SUBJECT: ADOPTION OF A NEW CODE OF CONDUCT

REPORT FROM: THE LEADER

CONTACT OFFICER: JAYNE HAMMOND, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TYPE OF DECISION: COUNCIL

FREEDOM OF INFORMATION/ STATUS: This paper is within the public domain

SUMMARY:

To report on the new model Code of Conduct (The Code) for Local Authority Members and to agree that it be adopted by the Council in place of its existing Code of Conduct.

OPTIONS AND RECOMMENDED OPTION (with reasons):

It is recommended that Members:

1. Adopt the Model Code of Conduct issued by the Secretary of State for Communities and Local Government as set out in the Local Authority's (Model Code of Conduct) Order 2007 ("The Code"), together with a preamble incorporating the 10 general principles governing the conduct of Members; in place of the Council's existing Code.
 2. That any consequential changes to the Council's existing form of register of interests, Codes, Protocols and other documents, needed as a result of the adoption of the Code be included in the Standards Committee Work programme for 2007/08.
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IMPLICATIONS -

Corporate Aims/Policy Framework:

Do the proposals accord with the Policy Framework? Yes No

Financial Implications and Risk Considerations

There are no financial implications.

Statement by Director of Finance and E-Government:

The existence and adoption of the Code is a key requirement of the Council's Local Code of Corporate Governance and a key element of the governance framework. Adoption of the Code is strongly recommended.

Equality/Diversity implications

There are no direct resource implications arising from the adoption of the Code. The initial impact assessment has been undertaken and it is concluded that there will be no significant differential negative impact from the adoption of the Code of Conduct.

Considered by Monitoring Officer: Yes

It is a statutory duty to adopt the Code. If the Code is not adopted within six months it will be automatically applied. The Code regulates the actions of Members and it is considered that any interference with individual rights is proportionate.

Staffing/ICT/Property: There are no implications
Wards Affected:
Scrutiny Interest:

TRACKING/PROCESS **DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES:**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council
			16 May 2007

1.0 BACKGROUND

1.1 A lengthy consultation process took place in 2006/07 on a new Code of Conduct for Members in which the Standards Committee participated. Following this process the Secretary of State for Communities and Local Government published a revised Model Code of Conduct for Members. The revised Code of Conduct came into force on 3 May 2007. Every local authority must adopt the revised Code of Conduct (with or without local additions) by resolution of the Council within six months of the date on which it came into force (which was 2 April 2007), ie on or before 1 October 2007. Where an Authority fails to adopt the revised Code of Conduct by that date, mandatory provisions apply automatically.

- 1.2 The Standards Board for England has issued General Guidance on the Code and the current recommendation from the Standards Board is that local authorities should adopt the New Code in its model form without amendment. This is to give certainty to Members and the public as to what standards are expected and to ensure consistency throughout England, minimising the legal risk of adopting additional provisions that may be enforceable. The Standards Board has, however, recommended that local authorities include a preamble to the Code, which would outline the 10 general principles governing the conduct of members. This preamble has been included in Appendix 1.

2.0 SUMMARY OF CHANGES

- 2.1 Although the revised Code of Conduct follows the same broad structure as the old Code of Conduct, it makes some significant changes to that.
- 2.2 In terms of when the Code of Conduct applies to Members, the revised Code follows the judgment in the Ken Livingstone case, so that the Code applies only to conduct in the performance of members functions as Members and does not apply to events in members' private lives. The exception to this relates to criminal conduct, which the revised Code of Conduct seeks to cover even if it occurs in a Members private life.
- 2.3 The general conduct rules are extended to include new provisions about bullying and intimidation and victimisation in respect of standards proceedings. The "offence" of failing to report breaches of the Code of Conduct by other Members has been deleted and a new public interest defence is introduced for breach of confidentiality.
- 2.4 In terms of the "personal interest" test the new Code has removed the reference to "friend" and has used a wider term covering any person with whom a member has a "close association". Conversely the number of declarable personal interests is likely to be reduced as the new Code restricts declarations to those matters affecting the majority of the inhabitants of the ward affected by the decision (as opposed to the majority of the inhabitants of the Borough).
- 2.5 As for prejudicial interests, the basic test is the same as the old Code, namely that where there is a personal interest then the interest is also prejudicial where it is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the members judgment of the public interest. However the new Code provides that a member does **not** have a prejudicial interest where:
- (a) The matter under discussion does not affect the financial position of the Member or any person or body described within the Code in relation to whom a Member may have a personal interest;
 - (b) The matter does not relate to the determining of any approval, consent, licence permission or registration in relation to the Member or any personal body described in the Code to whom a Member may have a personal interest: and
 - (c) The matter relates to a specific exception such as housing, school meals, school transport, statutory sick pay, members allowances, payments or indemnities ceremonial honours or setting the Council tax.

2.6 The effects of prejudicial interests on participation remain the same, however under the new Code, prior to withdrawing from the room, a Member with a prejudicial interest may make representations, answer questions or give evidence at a meeting open to the public, provided that the public are also allowed to attend the meeting for the same purpose. After speaking, the Member with a prejudicial interest must then immediately withdraw from the room. The intention therefore, is to ensure that a member has the same right as an ordinary member of the public, to speak at a meeting open to the public, despite having a prejudicial interest.

3.0 SUMMARY

3.1 There have been a number of significant changes from current Code and indeed from the Code issued for consultation. The balance between the freedom of members to act as local advocates and the need to ensure that decisions are made without the improper influence of personal interests has been re-examined in the new Code and greater participation by Members with prejudicial interests has been allowed. It was hoped that the new code would include a specific section on "bias and pre-determination" but this has not been done. Members will therefore need to separately consider whether they are approaching an issue with an open mind and be able to take part in the discussion (even if they do not have a prejudicial interest because the outcome would have no effect on their financial position).

3.2 There will be consequential changes needed to the Council's existing Codes and Protocols as a result of the adoption of the Code and it is suggested that these be included in the Standards Committee Work Programme for 2007/08.

3.3 It is recommended that all members be encouraged to attend the Training Sessions that have been arranged for 14 June 2007 and further Training Sessions for each political group or individual members can be arranged with the Monitoring Officer if required.

List of Background Papers and Appendices:

The Local Authorities (Model Code of Conduct) Order 2007 (Statutory Instrument Number 1159)

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