

Standards Committee - 28th June 2007

Report of the Monitoring Officer

Revised Code of Conduct for Members

Purpose of Report

1. To consider the revised Members' Code of Conduct and submit a recommendation on its adoption to the Council.

Background

2. The original model Code of Conduct was introduced by the Government in 2001 and was adopted by this Council in 2002 without any modification.
3. The old Code has had its critics including the Standards Board for England who were not involved in its drafting.
4. After a very lengthy period of consultation the Government has now issued a revised model Code which came into force on the 3rd May 2007. The Council has 6 months from this date to adopt the model. The Council may add to the Code provided that such additions are not incompatible with the model. However, with one exception the recommendation of the Standards Board for England is that authorities should adopt the Code without amendment in order to avoid any confusion. The exception is that the Standards Board advise that the Code include a preamble outlining the ten general principles governing the conduct of members of local authorities. These are based on the Seven Principles of Public Life set out by the Committee on Standards in Public Life and are attached at Appendix 1.
5. The revised Code is attached at Appendix 2. In this report I will summarise the main changes and set out the statutory requirements for its adoption by the Council.

Principal Changes

6. The "whistle-blowing" provision requiring a member to report another member whom they reasonably suspect of breaching the Code is now dropped.
7. There are new offences of bullying, and victimisation and intimidation of participants in standards proceedings. Though bullying is not defined, guidance

on this is given by the Standards Board for England in their Guide for Members which will be issued to each member.

8. With one exception the Code will apply to members only when they are “on duty” i.e. performing their functions as members. The exception is that the Code will apply to conduct which has resulted in a criminal conviction even where that conduct occurred in a member’s private life. This will be the case even if the conduct occurred before the member was elected or, in the case of a co-opted member, before their appointment.
9. Although disclosure of confidential information is still a breach of the Code, there is now a defence available to the member if the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council.
10. Members with a prejudicial interest will now have the same rights as an ordinary citizen to make personal representations on their planning application or where a planning application adversely affects their property. The same will apply in respect of licensing applications. In such situations the member will be allowed to speak at meetings of the Development Control Committee or Licensing Sub-Committee (as would any member of the public) but must then leave the room before the committee or sub-committee begins to deliberate.
11. Under the old Code the ability of a member to represent their community was often limited if the proposal in question also adversely affected the member’s own home. There was an exception to this when the matter did not affect the member any more seriously than the majority of the inhabitants of the rest of the borough. However it was an exceptional proposal which would have such a widespread impact. This exception is now extended very substantially. In future, where the matter does not affect the member any more seriously than the majority of residents in their ward (as opposed to the borough), the member will not even have a personal interest let alone a prejudicial interest.
12. The old Code stated that a member could also have a personal or prejudicial interest because a matter affected either the well-being or financial standing of a relative or a friend. “Relative” was defined but for the definition of “friend” we had to rely on guidance from the Standards Board for England. The revised Code replaces “relative” with “member of your family” and “friend” with “person with whom you have a close personal association”. Neither of these terms is defined but the Guide issued by the Standards Board for England gives advice on their interpretation.
13. A member will not now have a prejudicial interest in any matter which affects them, or a member of their family, or a close personal associate or a body of whom they are a member, unless the matter affects their financial position or is in connection with a planning or licensing application which directly affects them. This seems to be a throwback to days gone by when members had to distinguish between “pecuniary” and “non-pecuniary” interests. There is a possibility that this is an unintended consequence of poor drafting of the model Code but as it currently stands, the Code does substantially amend the previous definition of prejudicial interest.

14. Members are still required to register the receipt of any gift or hospitality which has an estimated value of at least £25. However, in addition they will need to disclose an interest where a matter under consideration affects a person or body who provided the gift or hospitality within the last 3 years.

Register of Interests

15. When the new Code is adopted every member will have to re-register their interests within 28 days and I will notify members accordingly.
16. The actual categories of interests which require to be registered are very similar to those which were required under the old Code. The only addition is that the register of gifts and hospitality is now merged into the register of interests.

Duty to Comply with Code

17. Under Section 52 of the Local Government Act 2000 every member or co-opted member of the Council must give a written undertaking to the Council that in performing their functions they will observe the Code and, if they fail to do so, they will cease to be a member or co-opted member. The undertaking must be given within 2 months of the date upon which the Code is adopted or the date of their election or appointment.
18. When the Code is adopted, I will make the necessary arrangements for these undertakings.

Training

19. Members will, of course, require extensive training on the new Code and a training session has already been held in May. Further training events will be organised to ensure that every member has an opportunity to be briefed on the Code.

Finance

20. There are no direct financial implications arising from this report.

Law

21. The revised Code has been introduced through the Local Authorities (Model Code of Conduct) Order 2007 which came into force on the 3rd May 2007.
22. The relevant statutory provisions regarding the Code are contained in Sections 49 – 52 of the Local Government Act 2000 and Regulations made by the Secretary of State.

Equality Impact

23. The revised Code still requires members to treat others with respect and members must not do anything which may cause the Council to breach legislation on equality.

Recommendation

24. That the Standards Committee recommend to the Council that :-
1. The revised Code of Conduct, including the ten general principles set out in Appendix 1 as a preamble to the Code, be adopted with effect from the 17th July 2007.
 2. All members be notified of the need to renew their registration of interests.
 3. A copy of the revised Code of Conduct and the Guide issued by the Standards Board for England be provided to every member of the Council.
 4. Arrangements be made for every member to sign a written undertaking to observe the Code before the 16th September 2007.
 5. Further training on the new Code be made available to members of the Council.

John Polychronakis

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J. Polychronakis.
Monitoring Officer

Contact Officer: John Polychronakis.
Telephone: 01384 (81)5300
Email: john.polychronakis@dudley.gov.uk

List of Background Papers

1. None.

The Ten General Principles of Public Life

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.