

BRIERLEY HILL AREA COMMITTEE: 19TH JANUARY 2006
CENTRAL DUDLEY AREA COMMITTEE: 24TH JANUARY 2006
HALESOWEN AREA COMMITTEE: 25TH JANUARY 2006
STOURBRIDGE AREA COMMITTEE: 30TH JANUARY 2006
NORTH DUDLEY AREA COMMITTEE: 1ST FEBRUARY 2006

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

MEMBERS' CODE OF CONDUCT

Purpose of Report

1. To raise awareness of the Members' Code of Conduct.

Background

2. In March 2002 the Council approved the Members' Code of Conduct, and in July 2005, as part of a review of the Code, the Council decided that each Area Committee should receive a report to heighten public awareness of the existence of the Code.
3. A copy of the Code is attached to this report at Appendix 1. The Code reflects the principles developed by the Nolan Committee on Standards in Public Life, and its aim is to promote and maintain high standards of conduct by Councillors, co-opted members and church and parent-governor representatives on Select Committees.
4. The Code is in three Parts.
5. Part 1 sets out a number of general provisions and obligations which make it clear that, apart from two exceptions, the Code only applies when a member is acting in a public capacity. The two exceptions are set out in paragraphs 4 and 5(a), i.e:-
 - A member must not in their official capacity, or any other circumstance, conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
 - A member must not in their official capacity, or any other circumstance, use their position as a member improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
6. The general obligations include:-
 - promoting equality

- treating others with respect, and
 - not disclosing confidential information without consent.
7. Part 2 of the Code deals with the declaration of personal or prejudicial interests.
8. A member has a **personal** interest in any matter:-
- If it is an interest that has to be included in the Register of Members' Interests (see below), or
 - If a decision upon the matter might reasonably be regarded as affecting the well-being or financial position of the member, their relatives or friends, more than it would affect other people in the Borough. This includes any employment or business that they may have, any company in which they have shares exceeding the nominal value of £5,000, or any public authority or charity in which they hold a position of general control or management.
9. If a member has a personal interest in a matter which is to be considered at a meeting of the full Council, Cabinet, Committee or Sub-Committee, they must declare the interest at the meeting and it will be recorded in the minutes. The declaration of a personal interest will not prevent a member from participating in the discussion or from voting.
10. Sometimes a personal interest is also **prejudicial**, i.e. a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the members' judgment of the public interest. In such a case, the member must withdraw from the meeting whilst the matter is under consideration and must not vote.
11. There are some exceptions to the rule on prejudicial interests. For example, if the interest relates to an organisation to which the member has been appointed by the Council, the member may regard the interest as not being prejudicial. In addition, in some circumstances a member with a prejudicial interest which is not of a financial nature may also participate in a meeting of an Area Committee.
12. Part 3 deals with the registration of financial and other interests by a member in a Register which is kept in my Directorate and is publicly accessible. The type of information that must be registered includes details of any employment or business carried on by a member, and details of any contract between the Council and the member or a firm or company of which they are a partner or director.
13. Finally, the Code requires members to provide written notification of the receipt of any gift or hospitality over the value of £25.

Failure to comply with the Code

14. A failure to comply with the Code can have serious implications. A complaint that the Code has been breached must be reported to the Standards Board for England who are based in London. They will decide whether or not there is a breach and whether it should be investigated either by them nationally or locally by the Council's Monitoring Officer. The less serious breaches tend to be

referred for local investigation and local determination by the Standards Committee, whilst the more serious offences are dealt with nationally.

15. If a breach is proved, the range of sanctions includes censure, suspension and disqualification from holding public office for up to 5 years.
16. In my role as Monitoring Officer, I can give preliminary assistance to a potential complainant to help to identify the relevant facts and background before any decision is taken to refer the complaint to the Standards Board for England, and complainants are encouraged to make use of this facility.
17. To date, in Dudley there have been very few complaints to the Standards Board for England, and in only two cases has a member been found to be in breach of the Code. In both of those cases the breach was deemed to be relatively minor and no further action was required.
18. My overall assessment as Monitoring Officer, therefore, is that members do comply with the Code, but the Council must continue to be vigilant in ensuring that high standards are maintained and that the public are aware of the Code together with its reporting procedures.

Finance

19. There are no financial implications arising from this report.

Law

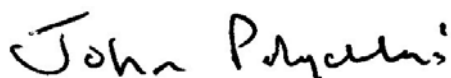
20. The relevant provisions regarding the Members' Code of Conduct are contained in Sections 49-52 of the Local Government Act 2000, and Regulations made by the Secretary of State.

Equality Impact

21. This report complies with the Council's policy on equal opportunities and diversity.

Recommendation

22. It is recommended that this report be noted.



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J. Polychronakis.
Director of Law and Property.

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List of Background Papers

None.