

CONDUCT COMMITTEE

16th February 2015

REVIEW OF MEMBER CODE OF CONDUCT

Report of the Monitoring Officer

STRATEGIC AIM:	Relevant to all aims
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1. PURPOSE OF THE REPORT

- 1.1 To present to the Committee a draft revision of the Member Code of Conduct for consideration.

2. RECOMMENDATIONS

- 2.1 **That the Committee recommends that Council adopt the revised Member Code of Conduct as set out at Appendix C.**

3 BACKGROUND

- 3.1 A report was presented to the meeting of 7th October 2014, providing a background note and observations of changes that might be made to update the Council's Code of Conduct for Members, not least in response to the revised definitions of the general principles of conduct (the Nolan principles) provided by the Committee for Standards in Public Life.
- 3.2 This was initiated by the Conduct Committee of 28 January 2014, which expressed the intention that the Code should be reviewed, given the time it has now been in place
- 3.3 The Committee was requested to consider the appropriateness, effectiveness and level of understanding of the current code of conduct for members in light of the report.
- 3.4 As a result, it had been resolved that:
- i) *The description of the seven principles should be directly incorporated into the wording of the Code;*
 - ii) *In considering re-wording of the Code, if the existing provisions are to be retained, it should follow subject areas;*
 - iii) *Other interests contained in Schedule 2 to the Code should be removed bar interests arising in relation to gifts or hospitality; and*
 - iv) *A revised Code would be prepared to incorporate the provisions above and the comments noted above and would be brought back to the next meeting of the Committee in December.*
- 3.5 Accordingly, attached is:

- (a) a revised draft Code annotated to explain the suggested changes (Appendix A), alongside which is
- (b) a copy of the existing Code (Appendix B); and
- (c) a clean copy of the draft revised Code (Appendix C).

4. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	Low	The timing of the review is not critical to the functioning of the Council
Viability	Low	
Finance	Low	
Profile	High	The conduct of Members, their knowledge of ethical behaviours and the law on decision making and the public's perception of ethical behaviour is key to the reputation of the Authority
Equality and Diversity	Low	An initial equality impact assessment has been completed and there are no matters arising that require consideration relating to the proposals in this report.

5. APPENDICES

Appendix A: Draft Revised Code - Annotated

Appendix B: Existing Members Code of Conduct

Appendix C: Draft Revised Members Code of Conduct

Background Papers

None

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A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

Note

Draft Revised Code

1 INTRODUCTION

Current para 1.2

1.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council (“Members”) and the Code sets out the standards that the Council expects Members to observe.

Current para 1.1, expanded to include the statutory wording

1.2 This Code of Conduct has been adopted by the Council as required by Section 27 of the Localism Act 2011, under which the Council must secure that the Code:

- (a) is, when viewed as a whole, consistent with the principles as set out at Part 3 of this Code of Conduct; and
- (b) includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of
 - (i) pecuniary interests (including ‘disclosable pecuniary interests’), and
 - (ii) interests other than pecuniary interests.

Current para 1.3 first sentence is deleted. This explanation is as per the Parliamentary Members’ Code

1.3 In doing so, the Council sees that the purpose of the Code of Conduct is to assist all Members in the discharge of their obligations to the Council, their constituents and the County at large by:

- (a) establishing the standards and principles of conduct expected of all Members in undertaking their duties;
- (b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing
- (c) ensuring public confidence in the standards expected of all Members and in the commitment of the Council to upholding these rules.

2 SCOPE

Current para 2. & 3.1, with removal of the word “official” to better reflect the wording of s.27(2)

2.1 The Code applies whenever a person is acting in his or her capacity as a Member of the Council or co-opted member of a committee, sub-committee or other body of the Council.

Current second sentence, para 1.3

2.2 It is the responsibility of individual Members to comply with the provisions of the Code of Conduct as well as such other legal obligations as may apply to them from time to time.

3 PRINCIPLES

Introduction associated with inclusion of the principles, linking them to conduct under the Code

- 3.1 In carrying out their Council and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life applying to holders of public office. These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct in Part 4 of the Code.

[... General principles recited ...]

Now follows the construct of the previous Council Code from which the wording of the current was taken

4 RULES OF CONDUCT

New wording (based on parliamentary)

In addition to observing the principles set out above, Members shall comply with the following requirements of this Code.

Current para 4.1, expanded to coincide with the Parliamentary Code

- 4.1 Members must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest

Current para 4.15 (shortened)

- 4.2 Members must treat others with respect.

- 4.3. Members must not:

Current para 4.8 (shortened)

- (a) do anything which may cause the Council to breach any of its obligations under the Equality Act 2010

Current para 4.16 but relating to more than just employees

- (b) bully any person

Re-inserted from original

- (c) intimidate or attempt to intimidate any person who is or is likely to be:
- (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings,
- in relation to an allegation that a Member (including him or herself) has failed to comply with this code of conduct

Current para 4.4

- (d) do anything which compromises or is likely to compromise the impartiality of those who work

for, or on behalf of, the Council

4.4 Members must not:

Current para 4.5
but expanded to
include whistle-
blowing and other
exceptions
(blanket ban not
acceptable in law)

- (a) disclose information given to the Member in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) the Member has the consent of a person authorised to give it;
 - (ii) they are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Council; or

Current para 4.11

- (b) prevent another person from gaining access to information to which that person is entitled by law.

Current para 4.14
but shortened as
current version is
unenforceable

4.5 Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

4.6 Members must:

Current para 4.2

- (a) not use or attempt to use their position as a Member improperly to confer on, or secure for him or herself or any other person, an advantage or disadvantage; and

Current para 4.3 &
4.13 combined

- (b) when using or authorising the use by others of the resources of the Council:
 - (i) act in accordance with the Council's reasonable requirements (including those relating to expenses, allowances and use of ICT, facilities or other services);
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);

Addition from
template

- (c) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986; and

Current para 4.9,
reworded

- (d) act in accordance with any Protocol or Code of Practice as adopted by the Council and that apply to the role being undertaken by the Member at that time

4.7 Members must:

Current para 4.7

- (a) when reaching decisions on any matter, have regard to any relevant advice provided by:
 - (i) the Council's head of paid service
 - (ii) the Council's the Section 151 officer; or
 - (iii) the Council's monitoring officer,where that officer is acting pursuant to their statutory duties;

Current para 4.6

- (b) make decisions concerning appointments, award of contract and the like on merit; and

Current para 4.10

- (c) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

As currently

5 REGISTER OF INTERESTS

5.1 The Council's Monitoring Officer maintains a register of interests of Members and co-opted members of the Council. A copy of the register will be available for public inspection and will be published on the authority's website.

5.2 The Council has determined what interests Members are required to enter in the register of interests, including those disclosable pecuniary interest prescribed by regulations. These disclosable pecuniary interests are listed in Schedule 1. The other disclosable interests are listed in Schedule 2.

5.3 Members must notify the Council's Monitoring Officer of any disclosable pecuniary interests and other interests that should be recorded in the Council's register of interests.

5.4 Within 28 days of becoming a councillor, all Members must submit to the Monitoring Officer a list of their disclosable interests and other interests and must notify the Monitoring Officer of any changes as and when they arise.

5.5 Where a Member considers that disclosure of

the details of an interest could lead to the Member, or a person connected with the Member, being subject to violence or intimidation if the interest is entered in the register, and the Monitoring Officer agrees, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that the Member has an interest the details of which are withheld.

6 CONFLICTS OF INTEREST

Current para 5.6
and para 4.12
(deleted)

6.1 Where a disclosable interest or other interest exists, whether or not it has been entered in the register of interests, a Member must disclose the interest to any meeting of the authority at which the Member is present. Where this is a disclosable pecuniary interest the Member must withdraw from the meeting room during its consideration.

Addition to directly
reflect revised
Integrity principle

6.2 Where a Member is aware, or ought reasonably be aware, that an action or decision by them would result in gain of financial or other material benefit for themselves, their family or their friends, the Member must declare and resolve that conflict of interest and relationship.

As currently

Schedule 1

Removal of other
interests except
for gifts &
hospitality

Schedule 2