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## Report of the Director of Legal and Democratic Services

### Standards Committee

Date: 21<sup>st</sup> December 2006

Subject: The New Model Code of Conduct for Members

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**Electoral Wards Affected:**

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

Narrowing the Gap

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### Executive Summary

1. This report advises Members of the current position in relation to the implementation of a new model Code of Conduct for Members.
2. Members are asked to note the contents of this report.

## **1.0 Purpose Of This Report**

- 1.1 This report advises Members of the current position in relation to the implementation of a new model Code of Conduct for Members.

## **2.0 Background Information**

- 2.1 The Local Government Act 2000 makes provision for the Secretary of State to issue a model Code of Conduct for Members. The Code must be adopted by Local Authorities and Members must give a written undertaking that they will abide by the Code.
- 2.2 The current Code was approved by parliament in November 2001 and adopted by the Council on 27th March 2002.
- 2.3 Over the period of its operation a number of problems have been identified with Code and it is the Secretary of State's intention to issue a new model Code. This report sets out the proposed timetable for implementation of the new code, together with brief details of the proposed changes.

## **3.0 Main Issues**

### Timescale

- 3.1 It was originally intended by the Standards Board for England that the proposed new model code would be available for consultation by now, with an intention that the consultation period should end by the end of December 2006.
- 3.2 Unfortunately the New Model Code has not yet been released as a consultation document. It is not known whether the end date for consultation responses will be amended in light of the late release of the new model Code, but it will be circulated to Members by email as soon as it becomes available.
- 3.3 Following on from consultation it is intended that Parliament would approve the Code in late January/early February, to come into effect in May 2007. This is intended to allow adoption of the Code by local authorities at their annual meetings in May (although again each authority will have up to six months to adopt the Code).
- 3.4 It is possible that the delay in releasing the model Code is in part because of the Court's recent decision in the Ken Livingstone Case. It is anticipated that the Government may legislate to clarify the position in relation to whether the Code is binding upon Members in their private lives as well as their official capacity.

### Areas of Change

- 3.5 In a number of fora, including the Annual Assembly and in their publication Town and Parish Standard, The Standards Board have indicated a number of areas in which they expect that there will be change in the new Model Code.

3.6 In particular the Town and Parish Standard gives the following details:-

#### Public service interests

- 3.6.1 There has been a concern that the interests regime was over restrictive and prevented Councillors from properly representing their constituents. To address this problem, a new category of interest is proposed called a "public service interest".
- 3.6.2 Members who serve on another public body (dual-hatted Members) would need to declare their membership of the body within the register of interests as normal. However in meetings they would only need to declare an interest if they wanted to speak about the matter. It is anticipated that this will reduce the amount of declarations which need to be made at the start of Council meetings.
- 3.6.3 Also dual-hatted Members would only need to declare a prejudicial interest in the matter if there was a genuine conflict of interest between the Council and the outside body, and the matter relates directly to the public body on which the Member serves, for example a grant application or regulatory decisions which has an immediate effect on the body. However even where the Member does have to declare a prejudicial interest they will be allowed to address the meeting and answer any questions about the matter before withdrawing prior to the main discussion and voting.
- 3.6.4 In addition to those Members who have a public service interest, Members of charitable bodies and lobby groups would also benefit from the above rules, and would only be prevented from voting when a matter directly affects the organisation they represent.

#### Disclosure of confidential information

- 3.6.5 The Standards Board have proposed that under the new Code of Conduct, that 'confidential' information can be disclosed in the public interest. The Standards Board are preparing guidance to be published by May 2007 which will explain the public interest disclosures more fully, including how Members can ascertain what is in the public interest and what is not (for example specific details of ongoing contract negotiations).

#### Bullying

- 3.6.6 The Standards Board considers that bullying is a serious issue which has a corrosive effect on the organisation as a whole and its performance. Because of this a specific reference to bullying will be included in the new Code of Conduct. The Standards Board will also be releasing guidance on the issue, which will set out what conduct may constitute bullying, how to prevent bullying, and how to provide evidence of bullying.

#### Disrepute

- 3.6.7 The Standards Board acknowledge the view that only misconduct which relates to official duties should be regarded as capable of bringing the authority into disrepute. However the new Code of Conduct will continue to cover certain behaviour outside of official duties, but this will be limited to unlawful conduct.

- 3.6.8 The Standards Board further define unlawful conduct as criminal or cautionable offences. Civil matters or merely objectionable conduct in private will not be covered by the Code.
- 3.7 In summary the amendments anticipated fall into two groups:-
- 3.7.1 The first group of anticipated changes relate to interests and the need to create greater support for Councillors with regard to their community advocacy role. In this respect the following three changes are anticipated:-
- There are likely to be a reduced number of interests which fall within the definition of personal interest.
  - The creation of a new category of interest called public service interest.
  - There will be greater powers for Standards Committees to award dispensations to members.
- 3.7.2 In addition a number of changes are anticipated in relation to the general requirements set out in the Code. Of particular interest the Standards Board expect changes in relation to the following:-
- The disclosure of confidential information in the public interest
  - Disrepute
  - Bullying
  - Abolition of the duty to report breaches of the Code by other Members.

#### Terms of Reference

- 3.10 The Standards Committee statutory functions are laid out in the Local Government Act 2000 Part 3 Section 54(2). which states that the Standards Committee **must** carry out the following functions:
- advising the authority on the adoption or revision of a code of conduct; and
  - advising, training, or arranging to train Members and Co-opted Members of the authority on matters relating to the authority's code of conduct.

#### Implementation

- 3.11 It will be necessary to act quickly following parliament's approval of the new Code in order for the new Code to be in place for the Annual Meeting in May 2007.
- 3.12 As previously, the Council will be required to adopt those provisions in the model Code which are mandatory, they may also choose to adopt any provision in the model Code which are not mandatory and to adopt any further conditions which they wish to apply in Leeds.
- 3.13 It may assist Members to know the process which was used in 2002 in order to adopt the current Code of Conduct. Parliament approved the model Code in November 2001. That model Code was presented to Standards Committee in February 2002, at which time Standards Committee resolved to recommend that the Council adopt the Code of Conduct in the same form as the model Code. Full Council adopted the Code of Conduct at its meeting on 27<sup>th</sup> March 2002. Following this there was a consultation exercise with all Members to identify whether any amendments should be made to the Code. No further amendments were made to the Code as a result of this consultation exercise.

- 3.14 In order to ensure a smooth implementation of the new Code it would be preferable if the consultation exercise could take place prior to its adoption. It is therefore proposed that (assuming Parliament approves the new Model Code in late January/early February as planned), a report detailing the provisions of the new model Code of Conduct, together with recommendations as to the adoption of any discretionary clauses or additional clauses to be applicable in Leeds, be presented to Standards Committee at its meeting on 14<sup>th</sup> February 2007. Following consideration by Standards Committee the proposed new Code of Conduct for Leeds would then be the subject of a consultation exercise with all Members, the results of which would be reported to Standards Committee at its meeting on 11<sup>th</sup> April 2007. That meeting could then recommend a version of the Code for adoption by Full Council at its meeting on 18<sup>th</sup> April 2007, in time for the Annual Meeting on 24<sup>th</sup> May 2007.
- 3.15 However, if Parliament is delayed in approving the new Model Code, it would not be possible to report to Standards Committee on 14<sup>th</sup> February. In this event it is proposed that a similar process be used for adoption of the new Code of Conduct as was used in 2002. A report detailing the provisions of the new model Code of Conduct, together with recommendations as to the adoption of any discretionary clauses or additional clauses to be applicable in Leeds will be presented to Standards Committee at its meeting on 11<sup>th</sup> April 2007. Standards Committee will be invited to recommend this Code of Conduct to Full Council to adopt at its meeting on 18<sup>th</sup> April, with the intention that a consultation exercise takes place with all Members thereafter.
- 3.16 Clearly if parliament's approval of the new model Code is further delayed it will be necessary to consider further an appropriate timescale in which it can be implemented.

### Parish Councils

- 3.17 Each Parish Council is required to adopt the new Model Code for Parish Councils. As with Leeds City Council, they will be required to adopt any mandatory provisions but will have the discretion as to any additional provisions they wish to adopt.
- 3.18 In order to support Parish Councils through this process it is proposed that a similar approach is adopted to that used in 2002. All Parish and Town Councils were contacted through the Clerk to ensure that they had a copy of the model code and were asked to complete a form stating when the code was adopted, whether all Councillors had agreed to abide by the code, and whether they had added any additional provisions to the model code. These forms were returned to Governance Services and retained in the records.
- 3.19 Parish and Town Councils were also sent copies of any new guidance issued by the Standards Board for England to assist them with complying with the new code.

### Training

- 3.20 It will be necessary to provide appropriate training to Members in advance of the new Code of Conduct coming into force in Leeds. Members are asked to request that the Director of Legal and Democratic Services implement a series of training events for all Members of the Council prior to the Annual Meeting. It is proposed that a series of

2 or 3 briefing sessions is organised at Civic Hall for Members at various times of day.

- 3.21 In addition Members are advised that the e-learning package, entitled 'Cracking the Code' will be revised and re-issued to Members as soon as possible following adoption of the Code in Leeds.
- 3.22 Members are asked to request that the Director of Legal and Democratic Services liaise with the Parish Councils in the Leeds area in order to arrange appropriate and timely training in relation to the new Code, having regard to the timescales for adoption of that Code in each of those authorities. It is proposed that a series of local evening briefing sessions is organised to reflect the geographical spread of the Parish Councils in Leeds, in addition to a central session to be held at Civic Hall.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 The Council will be obliged to adopt, and Members obliged to abide by, the new model Code within six months of the statutory instrument which brings it into force. The Code is intended to uphold standards of Conduct in public life, whilst supporting members fully in their roles as community advocates.
- 4.2 Steps will be taken to ensure that the new Code is adopted and implemented in line with recommended timescales, and that Members receive appropriate training to enable them to abide by the new Code of Conduct when implemented.

#### **5.0 Legal And Resource Implications**

- 5.1 There are no legal implications to this report.
- 5.2 There will be clear resource implications to the training of District and Parish Council Members in preparation for implementation of the new Codes of Conduct. However, it is considered that these can be met from existing resources.

#### **6.0 Conclusions**

- 6.1 Information available indicates that consultation on and implementation of a new Code of Conduct for Members is imminent. Whilst there has been some delay in the timetable Members should note that it may be necessary to act quickly in order to adopt the new Code in accordance with recommended timescales.
- 6.2 This report sets out the proposed route by which the new Code will be adopted in Leeds and the proposals for training to support implementation of that Code.

#### **7.0 Recommendations**

- 7.1 Members are requested to:
- note the contents of this report;
  - request the Director of Legal and Democratic Services to implement a series of training events for all Members of the Council prior to the Annual Meeting; and
  - request that Director of Legal and Democratic Services liaise with the Parish Councils in the Leeds area in order to arrange appropriate and timely training in relation to the new Code.