



Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 20th July 2012

Subject: Review of the local codes and protocols

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: n/a		
Appendix number: n/a		

Summary of main issues

1. Following the introduction of the new standards regime on 1st July 2012, the local codes and protocols within the Council's Constitution need to be urgently reviewed.
2. This report proposes amendments to some of these codes and protocols to bring them up to date and to ensure they are fit for purpose. The amended codes and protocols are appended to this report.
3. This report also proposes that all the codes and protocols are more thoroughly reviewed before the next Standards and Conduct Committee. In particular, that both the Codes of Practice are further considered by the Joints Plans Panel and the Licensing Committee, and the results of this review be reported back to the Standards and Conduct Committee at its next meeting.

Recommendations

4. The Standards and Conduct Committee is asked to consider whether each of the Codes of Practice and Protocols should be retained in the amended form presented in this report, and if so, whether the document(s):
 - Require further review; and
 - Should be considered, in any way, an extension to, or interpretation of, the adopted Members' Code of Conduct.

1 Purpose of this report

- 1.1 Following the introduction of the new standards regime on 1st July 2012, the local codes and protocols within the Council's Constitution need to be urgently reviewed.
- 1.2 This report proposes amendments to some of these codes and protocols to bring them up to date and to ensure they are fit for purpose. The amended codes and protocols are appended to this report.

2 Background information

- 2.1 The local codes and protocols which relate to the conduct of Members and standards matters are:

- The Protocol for Member/Officer Relations;
- The Monitoring Officer Protocol;
- The Code of Practice for the Determination of Planning Matters; and
- The Code of Practice for the Determination of Licensing Matters.

- 2.2 These documents, which are contained in Council's Constitution, were introduced as part of the Council's ethical framework under the previous standards regime.

3 Main issues

- 3.1 The sections of the Localism Act 2011 which relate to standards came into force on 1st July 2012. As a consequence large elements of the codes and protocols referred to above, particularly those elements that deal with the issues of conflicts of interest and predetermination, are in need of update.
- 3.2 However, equally, the new code of Members' Conduct provides an opportunity for a fresh perspective to be brought to all conduct matters, particularly the value of the Codes and Protocols referred to above and their contribution to the governance and conduct framework of the council.

Amendments arising from the new standards arrangements

- 3.3 For ease of reference, the codes and protocols have been reviewed to remove any references to personal and prejudicial interests and to insert references to disclosable pecuniary interests. The new definition of predetermination has been included in the revised Codes of Practice, to reflect Chapter 6 of the Localism Act which came into force in January 2012.
- 3.4 The sections about monitoring the codes and protocols have been revised to reflect that it will not be necessary for the Standards and Conduct Committee to receive annual reports on compliance with the codes and protocols. Instead the Codes reflect that reports will be brought to the Committee as and when amendments are required.

- 3.5 In relation to the Monitoring Officer Protocol amendments have been made to paragraph 2.2.5 to reflect the changes in the procedure for handling complaints.
- 3.6 The above amendments will ensure that the local codes and protocols reflect the new standards provisions under the Localism Act 2011. The amended documents are attached as appendices 1 to 4 to this report. As the proposed changes are extensive, the final version of each document is presented in this agenda so that it is easier for Members to read.
- 3.7 However, Members are asked to consider whether each of the Codes of Practice/Protocols should be retained, and, if so, whether the document(s) should be, considered, in any way, an extension or interpretation of, the adopted Members Code of Conduct.
- 3.8 The Monitoring Officer is of the view that the Protocol for Member/Officer Relations may be of some value but that the existing document is not currently fit for purpose. The Protocol requires a substantial rewrite based around the principles of the Member / officer relationship.
- 3.9 If Members are of the view that any or all of the documents are required as part of the Council's ethical framework, then further work will be required to consider whether all the guidance contained within them is necessary and fit for purpose. Further work might also be required to clarify the extent to which the codes and protocols apply to Members and officers and how they should be enforced.
- 3.10 Members may also wish to consider whether, in the event of the Codes of Practice for Planning and Licensing matters not being retained as part of the conduct framework, whether the relevant committees be asked to consider the value of the documents in regulating each of the respective committees decision making processes.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No consultation has taken place in relation to this review, as the amendments being made simply reflect the new legislation and the locally adopted Code of Conduct.
- 4.1.2 The Standards and Conduct Committee is asked to consider whether to undertake further consultation with the Joint Plans Panel and the Licensing Committee when a more thorough review of the Codes of Practice is conducted.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no issues for equality and diversity or cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 Principle 3 of the Council's Code of Corporate Governance relates to good conduct and behaviour. Updating these codes and protocols supports this principle by making the Council's expectations clear.

4.4 Resources and value for money

4.4.1 There are no resource implications relating to this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The amendments to the codes and protocols proposed in this report will ensure that the Codes reflect the new definition of predetermination and the standards regime as set out in the Localism Act 2011.

4.6 Risk Management

4.6.1 If the codes and protocols are not updated they will not reflect the requirements of the new standards regime. There is consequently a risk that Members will continue to rely on the guidance within the codes and protocols and therefore find themselves in potential breach of the requirements of the new standards regime.

5 Conclusions

5.1 This report proposes amendments to some of the codes and protocols to bring them up to date and to ensure they are fit for purpose. The proposed amendments are appended to this report.

5.2 This report also asks Members to consider whether each of the Codes of Practice/Protocols should be retained, and, if so, whether the document(s) should be, considered, in any way, an extension or interpretation of, the adopted Members Code of Conduct. In particular, that both the Codes of Practice are further considered by the Joints Plans Panel and the Licensing Committee, and the results of this review be reported back to the Standards and Conduct Committee at its next meeting.

6 Recommendations

6.1 The Standards and Conduct Committee is asked to consider whether each of the Codes of Practice and Protocols should be retained in the amended form presented in this report, and, if so, whether the document(s):

- Require further review; and
- Should be considered, in any way, an extension or interpretation of, the adopted Members' Code of Conduct.

7 Background documents¹

7.1 The Localism Act 2011

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.