

	
STANDARDS COMMITTEE	26th June 2012
Report of the Monitoring Officer	

Code of Conduct

1. Summary

- 1.1 This report presents a draft Code of Conduct for Members' consideration.

2. Background

- 2.1 The existing statutory code of conduct is due to be repealed with effect from 30th June. The City Council has already agreed to an interim position of following the existing Code with the addition of any statutory requirements in respect of disclosable pecuniary interests.
- 2.2 At its last meeting the Standards Committee Members expressed the view that the existing code was reasonably robust and asked the Monitoring Officer to bring forward a new Code using the existing model as a template.
- 2.3 On the 8th of June regulations were laid before Parliament defining "disclosable pecuniary interests". These interests are now included within the draft Code annexed.
- 2.4 NALC have also produced a straightforward code which they are recommending to Parish Councils.

3. The Draft Code

- 3.1 The draft code is stated to apply to members and co-opted members when acting as such. This follows the new statutory provision for Codes. The draft Code then defines when a Member is "acting as such" by using the current definition of "official capacity" i.e "when conducting the business of the Council or acting, claiming to act or

giving the impression that you are acting as a representative of the Council.

Question One

Is it appropriate to include a definition of when a Member is acting as such?

- 3.2 The draft code generally follows the existing Model in defining general obligations. There are though some modifications:
- The prohibition on intimidation is extended so that it does not just cover complainants, witnesses etc. It also specifically covers *attempts* to intimidate or to bully.
 - An additional consideration is added to the confidentiality provisions allowing disclosures to take place only having consulted the Chief Executive or MO and having considered their advice.
 - The prohibition on Members scrutinising their own decisions is contained in the “interests” section of the current code but has been brought forward in the draft.
 - An attempt to simplify some of the language has been made.

Question Two

Is a prohibition on Members scrutinising their own decisions a matter for the Code?

Question Three

Do Members agree with the added requirement to consult Officers before disclosing confidential information?

Question Four

The “respect” and “disrepute” provisions have been retained although it may be argued that any complaint can be brought within one or other of these. Are Members content that the new filtering arrangements provide the right way to deal with this issue rather than changing the Code?

- 3.3 The draft Code reflects the legal requirements in respect of disclosable pecuniary interests. The interests which are defined as DPI's closely reflect the majority of those which needed to be registered under the existing Code. The first schedule sets these out using the language of the Statutory Instrument. Given that there are criminal offences for non compliance it seems inappropriate to seek to alter the language even if that might make the draft code more reader friendly.
- 3.4 A member with a DPI is not permitted to participate in the debate or decision making but the law does not require them to declare the interest (if it registered) or leave the room. Standing Orders could certainly make the latter provision.
- 3.5 The second schedule sets out interests which appear in the current code but which are not DPI's. The draft Code requires such interests to be declared if they have not been registered. It also requires the declaration of any interests which relate to members' close associates. The draft code does not attempt to re-create prejudicial interests so a member with a simple personal interest would be allowed to participate in a meeting.
- 3.6 A modification has been made to existing provisions in that it is suggested that Members who have been appointed to the body by the Council should not be treated as having a personal interest.
- 3.7 The draft code, as with the previous statutory codes, does not attempt to deal with the legal provisions regarding bias and pre-determination.

Question Five

Is there a need for the non statutory category of interests?

Question Six

Should the draft code make provision for prejudicial interests?

Question Seven

Does the Committee believe that Council should adopt a standing order requiring members with a DPI [or a prejudicial interest] to withdraw from the room

Question Eight

Do members agree that there should be no requirement to register interests arising from the Council making an outside body appointment?

4. Recommendation

4.1 That the Standards Committee discuss the draft code and in particular the questions posed above.

Author	Chief Officer Responsible for the report		
<i>Author's name: Andy Docherty Title: Assistant Director of Governance and ICT Dept: CBSS Ext: 1004</i>	<i>Chief Officer's Andy Docherty Title: Assistant Director of Governance and ICT</i>		
	Report Approved	√	Date 11/6/12

Background papers

None

Annex

Draft Code of Conduct