

AUDIT & STANDARDS COMMITTEE

Agenda Item 96

Brighton & Hove City Council

Subject:	Amendments to the Code of Conduct for Members		
Date of Meeting:	16 April 2013		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Oliver Dixon	Tel: 01273 291512
	Email:	oliver.dixon@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the proposed amendments to the investigation procedure needed preliminary consideration by a members' working group held shortly before the committee meeting date.

1. SUMMARY AND POLICY CONTEXT:

1.1 When the new code of conduct was adopted in July 2012, it was on the basis that it should be reviewed in the light of experience. Officers have been monitoring the operation of the new code and this report proposed some changes to include the corporate values, to simplify the declaration of interests rules and to require co-operation with investigation into unauthorised disclosure of information.

2. RECOMMENDATIONS:

2.1 That the Committee approve in principle the proposed amendments to the Code of Conduct for Members

2.2. That the Committee recommends Council to agree the amendments to the Code of Conduct for Members as set out in Appendix 1 to this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Full Council, agreed the existing code of conduct for Members in July 2012. Officers have been monitoring the application of the code in practice and discussed some modifications to the code with the Working Group of Members consisting of Cllrs Leo Littman, Ann Norman and Jeanne Lepper and Dr David Horne, an Independent Member.

3.2 The three areas that were considered important in terms of modification to the rules cover the new corporate values, a duty to co-operate with investigations into unauthorised disclosure of information, declaration of interests and duty to have regard to advice from Officers.

3.3 Corporate Values

3.3.1 The Council has adopted new corporate values as part of the Corporate plan. These include respect, collaboration, efficiency, openness, creativity and customer focus. As these are meant to guide and influence behaviour, it is important that they are reflected in the Code of Conduct for Members and employees. As they are high level principles, rather than specific rules, it is considered more appropriate to include these in the preamble to the Code rather than the body of the Code itself.

3.4. Duty to Co-Operate with Investigations

3.4.1 One of the recommendations of the Investigations into the unauthorised disclosure of information undertaken in the autumn of 2012 was the need to include an express duty to co-operate with investigations into leaks, including to provide access to all relevant material. This was one of the recommendations from the peer review undertaken by Southampton City Council. The revised code incorporates this as a new paragraph 4 (c) of the code as shown in Appendix 1.

3.5. Officer advice

3.5.1 Paragraph 7 of the code requires Members, when reaching decisions, to have regard to any relevant advice provided by the Chief Finance Officer or the Monitoring Officer when they are acting pursuant to their statutory duties. This was taken from the previous mandatory code. Under the new standards regime, this is no longer prescribed. As this is not prescribed by regulations. It is considered appropriate that advice provided by the Chief Executive is added to these, especially when the Chief Executive is providing advice in her capacity as Head of Paid Service under section 4 of the Local Government & Housing Act 1989 regarding to workforce matters. Paragraph 7 of the Code has therefore been amended in the attached appendix 1.

3.6 Declaration of interests

3.6.1 The one area which has given rise to most difficulties concerns the arrangements for registering and declaring interests. The introduction of separate rules for disclosable pecuniary interest and other interest with their own requirements and definitions has made the new system difficult to navigate. Some of it, in particular around disclosable pecuniary interest is mandatory. The rest is for the Council to change as it sees fit. In reviewing the code the approach adopted has been to formulate something that (a) complies with the law; (b) reflects good practice and principles of high standards of conduct and (c) is reasonably easy to implement in practice. This has not proved easy but it is hoped that the proposed changes will at least be simpler.

3.6.2 The proposed amendments include the following changes:

(i) Require all interests, other than de minimis level interest, to be declared at all meetings. This provides one rule for all situations and avoids the confusion caused by having to declare “other” interests whether they are registered or not but not having to declare disclosable pecuniary interests when they are registered. The latter are arguably more important giving to an anomalous situation. The new rules will simplify this by requiring all interests (except those covered by the sensitivity exemption) have to be declared.

(ii) A member whose interest is financial or relates to property or is so significant that a Member of the public would think their judgement of the public interest may be affected will be treated as having a prejudicial interest and required to leave the room. This avoids the confusion as to whether members should leave the meeting or not, which is currently left to the Member’s discretion. The new rules will limit Members’ exclusion to cases where the public is likely to question the Member’s involvement.

3.7 It is hoped that these changes taken together with the various guidance approved by the Committee will assist the Council in promoting high standards of conduct in more practical ways.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 The Monitoring Officer has consulted a cross-party member’s working group, together with the Independent Person, on these proposals.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no financial implications arising from this report.

Finance Officer Consulted: Anne Silley

Date: 05/04/13

Legal Implications:

5.2 The proposed amendments to the Code are consistent with the requirements of the Localism Act 2011.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 05/04/13

Equalities Implications:

5.3 There are no equalities implications arising from the proposed changes, but the code requires Members to avoid doing anything which could result the Council to breach its duties under the Equalities Act 2010 and to treat others with respect.

Sustainability Implications:

5.4 None

Crime & Disorder Implications:

5.5 None

Risk and Opportunity Management Implications:

5.6 The proposals, by simplifying some of the rules, will avoid Members, inadvertently, breaching the code.

Public Health Implications:

5.7 None

Corporate / Citywide Implications:

5.8 The proposal helps to portray the authority as a modern council, by making its internal processes as efficient as possible.

SUPPORTING DOCUMENTATION

Appendices:

1. Revised Code of Conduct for Members

Background Documents

1. Existing Code of conduct for Members.