

ASSEMBLY

11 July 2012

Title: MEMBERS' CODE OF CONDUCT	
Report of: The Monitoring Officer	
Open	For Decision
Wards Affected: None	Key Decision: No
Report Author: Margaret Freeman	Contact Details: Tel: 020 8227 2638 E-mail: margaret.freeman@lbbd.gov.uk
Accountable Divisional Director:	Tasnim Shawkat, Divisional Director for Legal and Democratic Services
Accountable Director:	The Chief Executive
Summary: Further to the report to Assembly on 16 May 2012, this report sets out the final draft version of the new Code of Conduct based on the Department of Communities and Local Government wording but incorporating relevant elements from the LGA template as well as the specific comments expressed by the Standards Committee and that of the Constitution Working Group. The report also updates the Assembly on: <ol style="list-style-type: none">1. the implications for the Members' Code of Conduct of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (the Regulations) which came into effect on 1 July 2012 which includes provision for dispensation of interests;2. draft Terms of Reference and membership of the Standards Committee and Standards Sub-Committee;3. draft procedures for making complaints against councillors for breaches of the Code of Conduct;4. the redrafting, as a consequence of the Regulations, of the Planning and Licensing and Regulatory Codes of Conduct, which although do not form part of the Statutory Code, are an integral part of the Codes and Protocols contained in the Council's Constitution;5. the appointment of the Independent Person as required under the legislation; and6. Member training to date on the new Standards regime.	
Recommendation(s) The Assembly is asked to: <ol style="list-style-type: none">(a) note the report; and(b) adopt with immediate effect:<ol style="list-style-type: none">(i) the final draft Code of Conduct as set out in Appendix A;	

- (ii) the Terms of Reference of the Standards Committee and Standards Sub-Committee as set out in Appendix C;
 - (iii) the procedure for making complaints against a councillor for breach of the Code of Conduct as set out in Appendix D;
 - (iv) the redrafted Codes of Conduct for Planning Matters and for Licensing and Regulatory Matters set out in Appendices E and F respectively.
- (c) to confirm the Member appointments to the Standards Committee, and
- (d) to delegate to the Monitoring Officer the responsibility for granting dispensations, on the basis that appeals against refusal will be determined by the Standards Committee.

Once the Members' Code of Conduct is adopted, the Council is under a duty to publicise it in such a manner as is likely to bring it to the attention of local residents.

Reason(s)

To enable the Council to ensure that its members and co-opted members maintain high standards of conduct and to comply with the Localism Act 2011.

1. Introduction and Background

1.1 The Localism Act 2011 (the Act) requires each local authority to adopt a Code of Conduct that:

- (a) can only apply to members and co-opted members when acting in that capacity;
- (b) is consistent with the seven "Nolan" principles of standards in public life, namely selflessness, integrity, objectivity, accountability, openness, honesty and leadership; and
- (c) sets out the rules that the authority has in place with regard to requiring members to register and disclose pecuniary and non-pecuniary interests.

1.2 The decision to adopt a local statutory Code of Conduct must be taken by the Assembly.

1.3 At its meeting on 16 May 2012 the Assembly agreed to adopt the current Code of Conduct as modified by the Regulations under sections 30 and 31 of the Act and to delegate authority to the Monitoring Officer to take such steps as were required to comply with the Act and the Regulations until the matter could be brought back to this meeting of the Assembly.

1.4 The Regulations were recently published and came into effect on 1 July 2012.

2. Proposal and issues

The Code of Conduct

2.1 The Standards Committee at its meeting on 25 April 2012 received an initial report detailing the LGA draft Template Code of Conduct upon which a number of observations and suggestions were made. Taking these into account as well as

additional points raised at the meeting of the Committee on 21 June, and comments from the Constitution Working Group, a finalised Code is set out in **Appendix A**.

The Regulations

- 2.2 Attached as **Appendix B** is a copy of the Regulations that have been issued in accordance with Section 30 of the Localism Act 2011, and which came into effect on 1 July 2012.
- 2.3 Relevant provisions under the Act concerning registration and declarations of interest have also been incorporated into the finalised Code. The Act is more prescriptive about the requirements on Members to declare and register financial and other interests. In summary, the main provisions are:
- 2.3.1 A requirement for members to register “discloseable pecuniary interests” prescribed in Regulations at the time of their election or appointment.
 - 2.3.2 A requirement on members to declare discloseable pecuniary interests and to not participate or vote in an item where the member has the interest.
 - 2.3.3 A requirement on members to update their register entry if they declare a discloseable pecuniary interest at a meeting but which is not currently on the register of interests.
 - 2.3.4 A power for the Council to require Members to register and declare other pecuniary and non-pecuniary interests (“Other Interests”).
 - 2.3.5 The Act also gives power to the Council to require members who have declared a discloseable pecuniary interest to withdraw from the meeting room.
 - 2.3.6 The introduction of criminal offences in limited circumstances where discloseable pecuniary interests are either not registered nor declared.
 - 2.3.7 A provision for the Council to grant dispensations in respect of discloseable pecuniary interests. It is proposed that for the purposes of expediency and transparency the power to grant dispensations should be delegated to the Monitoring Officer, with appeals against refusals being determined by the Standards Committee.
- 2.4 **Definitions:**
- 2.4.1 A “pecuniary” interest is most easily defined as a “financial” interest and so would include interests such as a Members’ home or job.
 - 2.4.2 A non-pecuniary interest could be membership of a political party or interest group.
 - 2.4.3 Very approximately, a discloseable pecuniary interest appears to be equivalent to the “prejudicial interest” under the current Code and non-pecuniary interest is equivalent to the current “personal interest” in both definition and the obligations imposed on Members by the Codes. Full definitions are included in the proposed Code at **Appendix A**.

Council Constitution

- 2.5 As a consequence of the Act and the Regulations, amendment is required to the Terms of Reference of the Standards Committee and Standards Sub-Committee, currently set out in the Council Constitution at Article 7 of Part B and Section L of Part C. Set out in **Appendix C** are the terms of reference and membership of the Standards Committee and Standards Sub-Committee, the appointment to the former being an Assembly responsibility.
- 2.6 The opportunity has also been taken to update the Codes of Conduct for Planning Matters and for Licensing and Regulatory Matters set out in **Appendices E and F** respectively. These Codes, whilst not forming part of the statutory Code, are seen as an integral part of the Codes and Protocols contained in the Council's Constitution.
- 2.7 The Constitution also includes a number of other protocols and procedures which are relevant to the Members' Code of Conduct. These will be updated, included as revisions in the Constitution and communicated to Members in due course.

Complaints Procedures

- 2.8 The Act also requires the Council to make arrangements for the handling of complaints that a Member has breached the new Code of Conduct. The previous regime was generally seen as cumbersome and inflexible, so the new regime gives the Council an opportunity to agree an effective but simple process that can promptly deal with complaints. Draft procedures for making complaints were presented to the Standards Committee meeting on 21 June 2012. Points raised by the Committee have been incorporated into the draft procedures and they are set out at **Appendix D**. In addition to guidance, the draft procedures include a flowchart, assessment criteria, and the process for investigation and a hearing through a Standards Sub-Committee.

Independent Person

- 2.9 The Act removes the requirement to have independent members determining complaints under the Code of Conduct. The new regime introduces a requirement for an Independent Person, who will have an advisory role in the determination of future complaints. Arrangements are currently in hand to make an appointment to this role. A separate report will be brought before the Assembly in September to make this appointment.

Training

- 2.10 Training for Members on the new Standards regime took place on 2 July 2012, in addition to which it is proposed to organise a pre-Assembly briefing in September 2012 on the implications for Members of the declarations of interest provisions.

3. Options Appraisal

Although there is scope to frame the Code of Conduct to reflect local circumstances, the Act specifies what is required, as set out in **Appendix A**.

4. Consultation

The Standards Committee and the Constitution Working Group have been regularly consulted.

5. Financial Implications

Implications completed by: David Abbott Senior Finance Officer
Telephone and email: 020 8227 2261 David.abbott@lbbd.gov.uk

There are no financial implications (incremental costs or savings) associated with this report. This will be carried out within the existing Legal & Democratic Services budget and establishment. Adoption of appropriate codes of conduct is essential, not only to meet statutory requirements, but to genuinely safeguard the Authority's assets.

6. Legal Implications

Implications completed by Fiona Taylor
Telephone and email: 0208 227 3295 fiona.taylor@lbbd.gov.uk

The statutory requirements for the Code and Procedure are set out in the body of this report. The new regime came into force on 1 July 2012. It is considered that the above arrangements comply with the duty to promote and maintain high standards of conduct and the duty to have a code that is consistent with the Nolan principles.

7. Other Implications

None

Background Papers Used in the Preparation of the Report:

The Localism Act 2011
The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

List of appendices:

Appendix A:	Draft Code of Conduct
Appendix B:	Disclosable Pecuniary Interests Regulations
Appendix C:	Draft Terms of Reference and composition of the Standards Committee and Standards Sub-Committee
Appendix D:	Draft Complaints Procedure
Appendix E:	Draft Code of Conduct for Planning Matters
Appendix F:	Draft Code of Conduct for Licensing and Regulatory Matters