



# Committee Report

<b>Date:</b>	<b>17 March 2016</b>
<b>Classification:</b>	<b>For General Release</b>
<b>Title:</b>	<b>Members Code of Conduct</b>
<b>Report of:</b>	<b>Director of Law</b>
<b>Financial Summary:</b>	<b>There are no financial implications</b>
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## 1. Executive Summary

- 1.1 The Standards Committee at its meeting on 19 November 2015 agreed that a review of the Members Code of Conduct be undertaken. The review, led by the Council's Monitoring Officer, also includes input from the Council's recently appointed Independent Persons.
- 1.2 As part of the review the Monitoring Officer has also consulted the party group leaders, Deputy Leaders and Chief Whips.
- 1.3 The review has also looked at some codes in place in other local authorities.

## 2. Recommendations

- 2.1 That the revised Members Code of Conduct, Appendix A, be recommended for adoption and the General Purposes Committee be asked to recommend to the Council its inclusion in the Council's Constitution and the Monitoring Officer be authorised to make minor drafting adjustments in consultation with the Chairman.
- 2.2 That training in the new code for all Members and Co-opted members be provided for all members by the Monitoring Officer and the take up to be reported in the next meeting.
- 2.3 That all Members be asked to confirm their compliance with the Code by signing the declaration attached.
- 2.4 That the dispensation arrangements previously approved and set out in paragraph 3.6 be endorsed.

### **3. Background Information**

- 3.1 The current Code was originally adopted by the Council with effect from 1 July 2012. This was subject to review which was reported to the Standards Committee in March 2013. It was noted that when the Code was originally adopted within a short timescale which allowed for very little prior consideration. Different suggested versions were submitted by the DCLG and the LGA. The opportunity has now been taken to fully review the Code including taking advice from the Independent Persons whose input is reflected in the recommended version.
- 3.2 The Code has now been fully reviewed in particular to remove any unnecessary requirements and make it simpler. A review of the Codes adopted by other local authorities has also been undertaken and the views of the Independent Persons reflected. Regard to the complaints made about Member Conduct to the Monitoring Officer has also been had to see if any clarity is required.
- 3.3 The Independent Persons view are that the revised Code is an easier document to follow which retains the statutory provisions. A definition of the Nolan Principles is to be included in the training sessions proposed to be held following the adoption of the new code.

The Independent Persons also consider that whilst the broad principles of the Code remain unchanged the new Code provides an opportunity to conduct refresher training. It also allows for a further suggestion from the Independent Members to be implemented, which is that all Members and Co-opted Members sign a declaration upon election that they will abide in the exercise of their duties with all the provisions of the Code. A recommended wording is attached. Following the adoption of the new Code it is recommended that all Members should make (sign) a declaration that they will abide by the Code in the exercise of their duties.

- 3.4 The Leaders, Deputy Leaders and Chief Whips of the Party Groups have also been consulted on the new proposed Code. No issues have been raised as a result of this consultation.
- 3.5 The existing Code is attached as Appendix B for comparative purposes.

### **3.6 Dispensations to the Members Code of Conduct**

1. Members will recall that provision was made by the previous Standards Committee for Members to be able to apply for a dispensation from the Code of Conduct. The Standards Committee agreed a process for the consideration for applications for dispensations.
2. Section 33 of the Localism Act sets out the circumstances when a dispensation can be considered. These are set out below:

## Dispensations from Section 31(4)

1. A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in Section 31(4) in cases described in the dispensation.
2. A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority:
  - a) considers that without the dispensation the number of persons prohibited by Section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
  - b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
  - c) considers that granting the dispensation is in the interests of persons living in the authority's area.
  - d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements considers that without the dispensation each member of the authority's executive would be prohibited by Section 31(4) from participating in any particular business to be transacted by the authority's executive, or
  - e) considers that it is otherwise appropriate to grant a dispensation.
3. A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
4. Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.
3. The circumstances where a dispensation should be required are limited, particularly if the view adopted by the former Standards Committee in respect of planning applications made or objected to by a member of the Council (or their spouse) does not constitute a Prejudicial Interest of Members considering the applications *provided* they could make the declaration outlined below, or a minor variation approved by the Director of Law.

"Councillor \_\_\_\_\_ has an interest in respect of Item \_\_\_\_ on the agenda. In line with guidance recently agreed by the City Council's Standards Committee, members of the Majority party sitting on tonight's committee are no longer required to apply for a dispensation from the Code of Conduct

provided they can declare that they only know Councillor \_\_\_\_\_ through their membership of the Majority party and seen him at Council and related events. I am able to give that declaration in relation to Councillor \_\_\_\_\_”

4. The Committee does, however, need to have in place a procedure for the consideration of applications for dispensations from the Code under the new regime. It should be noted that these are expected to be rare given the limited circumstances for these to be granted. It is suggested that, in accordance with the Act, Members be required to submit a written request for a dispensation to the Director of Law and a Sub-Committee of the Standards Committee with following Constitution and Terms of Reference be established to consider these applications.

Constitution: 3 Members of the Standards Committee (2 Majority Party Members and 1 Minority Party Member)

Terms of Reference: To consider applications made in writing to the Director of Law for dispensations from the Members Code of Conduct and to grant dispensations where, in the opinion of the Sub-Committee, the circumstances in Section 31(2) of the Localism Act are met.

5. It is thought likely, given the provisions of Section 33(2) of the Act detailed above, that only very few applications will be made. Officers will keep the position under review and report further if any changes to the process are considered necessary. As before, any dispensations granted should be for a specific period of time.

### **3.7 Conclusion**

1. In order to ensure that the City Council has sufficient and robust arrangements in place to promote and maintain high standards of conduct amongst its Members and Co-opted Members and to “check-list” full compliance with the requirements of the Localism Act 2001, the following summary of practical considerations have been assessed:
  - The City Council has adopted a Code of Conduct which complies with the requirements of the Localism Act 2011 and which is effective for the requirements of the authority. No issues have arisen in relation to the Code since its adoption in June 2012.
  - The City Council has, in consultation with Members, resolved to retain a Standards Committee with responsibility for matters relating to Member conduct. It has decided to issue a standing invitation to the authority’s Independent Person(s) to attend its meetings.
  - The City Council has adopted arrangements for dealing with allegations of breaches of its Code of Conduct which it considers to be manageable,

effective, non-bureaucratic and which accord with the principles of natural justice in respect of the provision for formal investigations, hearings and the right to an appeal.

- The Monitoring Officer has taken steps to ensure that Members of the authority are clear about the obligations imposed on them by the new Code of Conduct, by the requirements of the Localism Act 2011 and by the Regulations made thereunder. However, as detailed in the main body of this report, further steps to extend and consolidate this understanding are recommended.
  - The Monitoring Officer is clear about her responsibilities relating to standards of conduct of Members and Co-opted Members of the authority and is satisfied that she has access to sufficient resources to enable her to meet these responsibilities.
  - The City Council has appointed to the statutory post of Independent Person and, through the recruitment process, has taken steps to satisfy both the Monitoring Officer and relevant Members that the individuals are able to meet their responsibilities effectively.
2. In light of the above, and with the additional recommendations made in this report, Officers are satisfied that the City Council has fully and effectively complied with the standards requirements of the Localism Act 2011. Having due regard to the fact that a complaint against a Member of the Council has not been investigated since the commencement of the relevant Localism Act requirements, certain aspects of the new arrangements (specifically the new procedure for dealing with complaints against Members) has not been utilised and cannot therefore be properly assessed at this time. However, Officers will ensure that a further full review takes place when all aspects of the arrangements have been tested in practice and will continue to monitor these arrangements on an ongoing basis.

#### **4. Financial Implications**

- 4.1 There are no financial implications arising from this report.

#### **5. Legal Implications**

- 5.1 These are reflected in the body of this report. Broadly the Council is required by Section 27 of the Localism Act 2011 to adopt a Code of Conduct which must also reflect certain provisions.

**If you have any questions about this report, or wish to inspect one of the background papers, please contact:**  
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