



Reigate & Banstead
BOROUGH COUNCIL
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REPORT OF:	MONITORING OFFICER
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TO:	STANDARDS COMMITTEE
DATE:	12 TH MARCH 2007
EXECUTIVE MEMBER:	COUNCILLOR BRUNT

AGENDA ITEM NO:		KEY DECISION REQUIRED:	NO
WARD(S) AFFECTED:	ALL		

SUBJECT:	CONSULTATION ON THE PROPOSED NEW CODE OF CONDUCT FOR MEMBERS
PURPOSE OF THE REPORT:	TO SEEK APPROVAL TO SUBMIT COMMENTS ON THE REVISED CODE
RECOMMENDATIONS:	
1. To approve the responses to the Department for Communities and Local Government ("DCLG") as set out in Appendix 4 to this report.	
2. To approve the proposed timetable for the adoption of the New Code of Conduct, as set out in paragraph 15 of this report.	

The Committee has the authority to approve the recommendations, but Full Council must approve the adoption of a New Member Code of Conduct, in due course.

Background

1. The current Member Code of Conduct was adopted by the Council on 24th April 2003 and took effect as from the 1st May 2003. The Horley Town Council and Salford and Sidlow Parish Council also adopted the same Code.
2. All three followed the national model, and so ensured consistency of approach across the authorities. This is particularly important as a number of Councillors are "twin-hatted", that is they are elected as Members of the Borough Council as well as the appropriate Town or Parish Council.
3. The Local Government White Paper, *Strong and Prosperous Communities*, published in October 2006, announced the Government's intention to introduce a clearer, simpler and more proportionate code of conduct for Members of all Local Authorities. The draft model code was published on 22nd January 2007 and the closing date for the consultation period is 9th March 2007.

4. The Local Government and Public Involvement in Health Bill (“LG&PIH Bill”), introduced to Parliament at the end of last year, also proposes related changes to the Conduct of Local Authority Members in Part 9, Chapter 1. Most of these however relate to the restructuring of the investigation and hearings processes when complaints under the Code are made. The intentions are for the Standards Board for England to take on a supervisory and monitoring role and to only handle the more serious complaints. The majority of complaints will therefore be dealt with locally using the Monitoring Officer and Standards Committees to complete the investigations and hearings respectively.

Statutory Powers

5. The Local Government Act 2000 established the requirement for rules governing probity and ethics at all Local Authorities. Regulations made under the Act introduced the Model Code of Conduct for Members.
6. Changes to the basis and process for dealing with breaches of the Code require primary legislation, which has been suggested through the LG&PIH Bill.

Factors for Consideration

Amendments to the Code

7. There are few surprises in the published draft. The proposed model follows the form suggested in earlier consultations. It is not a fundamental rewrite of the Code but follows the format of that currently adopted by the Council, with a number of alterations intended to
 - Slightly relax the requirements as to Member interests,
 - Create a clearer separation between the expectations of Members in their public and private life,
 - Introduce various other changes aimed at improving the definitions and therefore understanding of the Code and thereby resolve some of the concerns raised around the interpretation of the current code.
8. A copy of the consultation document’s “Commentary on Detailed Amendments Proposed” is attached at Appendix 1, together with the draft revised code at Appendix 2 and a copy of the current adopted code at Appendix 3.
9. The eight questions posed in the consultation document, and the suggested responses to them, are set out in Appendix 4 to this report. In addition a number of other comments have also been included on amendments that are not specifically covered by the questions asked.

Timing Issues - Adoption of the Code and Training

10. The DCLG has only allowed a six week consultation period due to the fact that wider consultations took place last year and to enable the DCLG to publish a revised Model Code so that it is available for adoption at the beginning of the next municipal year (May 2007).
11. In any event the Code will be applied to all Councils automatically 6 months later. It is, however, recommended that the Council take a positive decision to adopt the new code as this emphasises to the public the importance that the Members place on ethics and probity issues. It will also enable Members to take advantage of the new provisions at an earlier date.
12. The constraints and implications of this tight timescale, in terms of the consultation itself, are set out in the Options section of the report.
13. In the longer term the adoption of the Code could take place in May 2007. However, there is no certainty that the model will be available in sufficient time for a report to be brought to this Committee and Full Council to do so. In addition, and more importantly, it would give insufficient time to provide the necessary training and guidance to all Members on it, before they were obliged to comply with it, that is on their taking office in May.
14. Members will also be aware that the new Code will have to be adopted by the Town and Parish Council. It is recommended that the Codes of all three authorities should be adopted at or about the same time. In particular, this will limit the confusion for twin-hatted Members, who would otherwise have to comply with different Codes.
15. In these circumstances it is proposed that the adoption of the new code is delayed until the summer. This will overcome the above concerns but will still enable the Council to adopt the Code before it would automatically take effect, as referred to in paragraph 11 to this report.. The suggested timetable for this process is-
 - 2nd July 2007 - Report to the Standards Committee on the New Code and to recommend adoption of it as from 1st September 2007.
 - 12th July 2007 - Report to the Executive before it is referred to Full Council.
 - 26th July 2007 - adoption of the Code.
16. Further reports will be brought to Members in due course as referred to above and as to the implications and changes required if the proposals set out in the LG&PIH Bill are enacted.

Options

17. The consultation period will have expired by the time this Committee meets to consider the proposed changes. It has therefore been necessary to submit the response in advance, with the caveat that these were preliminary officer views only.

18. Members can either approve those comments as submitted and set out in Appendix 4, or suggest amendments or additions to them. In either case the decision of the Committee will be notified to the DCLG.

Resource Implications

19. There are no immediate resource implications as this is a consultation exercise only.
20. However, there will be resource implications when the new Code of Conduct is adopted, as training for all Members will have to be arranged. In order to provide more interaction and sharing of experiences & views with other Members, it is intended, where possible and appropriate, that this exercise will be arranged between the East Surrey Improvement Partners comprising this Council and the adjoining authorities of Tandridge District Council and Mole Valley District Council. This should also enable the training to be provided more cost effectively.

Legal Implications

21. These are set out in the report.

Consultation

22. The Executive Member for Organisational Development, responsible for the Constitution and ethical standards, has been consulted on both this report and the proposed responses. However, due to the tight timetable for the consultation it has not been possible to ask all Members for their views.
23. The Clerks to the Town and Parish Council's have also been advised of the consultation document and this report

Policy Framework

24. The Code of Conduct forms part of the Council's Constitution and any amendment to it therefore requires the approval of Full Council in due course. The consultation process does not give rise to any Constitutional change at this stage.

Conclusions

25. The amendments to the Code of Conduct have been long awaited. The proposals address concerns that were raised by the public, Members, the Standards Board for England and the Courts regarding the interpretation of the Code.
26. The proposed changes to the overall operation of the Standards investigation and hearings process are being addressed through primary legislation and a further report will be brought to the Committee when these changes are enacted.

27. The revised code seeks to add clarity of definition and purpose, and the changes are broadly supported. It is recommended that the detailed comments are set out in Appendix 4, and the timetable for the adoption of the Code in paragraph 15, be endorsed.

Background Papers: Consultation on Amendments to the Model Code of Conduct for Local Authority Members - January 2007.

Issued by the Department for Communities and Local Government Affairs and available at its website-
www.communities.gov.uk