

REPORT OF:	MONITORING OFFICER
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TO:	STANDARDS COMMITTEE
DATE:	2 ND JULY 2007

AGENDA ITEM NO:	7	WARD(S) AFFECTED:	ALL
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SUBJECT:	THE ADOPTION OF A NEW MEMBER CODE OF CONDUCT
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RECOMMENDATIONS:

1. The Committee recommend to Full Council the adoption of the new Member Code of Conduct, in the form set out in Annex 1 to this report, including the optional provisions shown in bold italics, as from 1st September 2007, in accordance with the provisions of the Local Authorities (Model Code of Conduct) Order 2007 and section 51 Local Government Act 2000.
2. The Monitoring Officer bring a further report to the Committee on the implications of introducing local rules for the issues set out in paragraph 9 to this report.
3. That Horley Town Council and Salfords and Sidlow Parish Council be requested to adopt the alternative Code set out in Annex 3

SUMMARY

1. The consultation on a proposed new Member Code of Conduct was reported to the Committee on 12th March 2007. As from 3rd May 2007, the new Model Code of Conduct for Local Authority Members was available for use. The mandatory provisions in the model code will automatically take effect on 1st October 2007, unless adopted by the Council from an earlier date.
2. Members can also adopt optional provisions, provided that they are compatible with the mandatory provisions and those recommended are shown in bold italics in the proposed code set out in Annex 1.
3. Authorities may also adopt supplemental rules or guidance. For the reasons set out, a further report will be brought to the Committee on how this can best be achieved.
4. The Standards Board for England has strongly recommended that Local Authorities adopt the revised Code, without amendment, at the first opportunity. For the reasons set out in the earlier report, Members approved recommendation

2 and a timetable for adoption of the new Code, namely during the summer of 2007, and for the Code to take effect on 1st September 2007. This report is consistent with that timetable.

5. Annex 2 to this report describes the new provisions. It includes an explanation of the changes to the operation of members' interests and the intended separation of public office and private life.
6. Conflicts will inevitably remain, but the changes are sensible and well intentioned. The rules in the proposed Code are clearer and more proportionate than those in the current Code. They strike a better balance between protecting the public and the ensuring that Members can truly represent their own views where appropriate, and most importantly, those of their constituents.

STATUTORY POWERS

1. The Local Government Act 2000 introduced the requirement for Members to comply with a Code of Conduct and made the Standards Committee responsible for ensuring high standards of ethics and probity by Councillors.
2. The current Code was adopted on 24th April 2003 and took effect from 1st May 2003.
3. The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/159) ("the Order"), sets out revised standards of conduct expected of members and co-opted members of local authorities. It contains a new Model Code that will be applied as from 1st October 2007, unless adopted sooner.
4. The Secretary of State issued the Model Code under section 50 Local Government Act 2000. The Council is now required, under section 51(2) of the Act to resolve to adopt a new Code of Conduct in place of its existing Code, and to incorporate the mandatory provisions of the Model Code. In the Council's case that is all the provisions of the Model.
5. A slightly different version of the Code has been produced for Parish and Town Councils, as less of the Model Code's provisions are mandatory for these authorities. However, it is not materially different as more "optional provisions" have been recommended, aimed at ensuring the Codes for these Councils are consistent with that of the Borough Council, and so will make understanding of the Code requirements easier for twin-hatted Councillors.

6. The Monitoring Officer has also prepared a report for Horley Town Council and Salfords & Sidlow Parish Council. This recommends to the Councils the adoption of the proposed version of the Code, set out in Annex 3 to this report, to take effect as from 1st September 2007.
7. The terms of reference for this committee includes the promotion of high standards of conduct within the Council and to advise Council on the adoption or revision of its Codes of Conduct. Nevertheless, the Code is part of the Council's Constitution and therefore Full Council must approve any changes to it under Article 4.

ISSUES

8. All Councillors are required to make a declaration on accepting office to undertake to observe the Council's Code of Conduct. The members appointed to serve on the Standards Committee, as Independent Members, make a separate declaration since they, too, are under a duty to comply with the Code's obligations.
9. The model Code of Conduct is at the centre of the local government ethical framework. As set out in the earlier report, the new Code is long awaited and was subject to extensive consultation. The new model follows the form previewed in the earlier consultations with some variations, which are discussed below.
10. In responding to the Consultation in March 2007 (minute 22 of the meeting on 12th March refers), Members suggested that the Code should -
 - Continue to impose a whistle-blowing provision; and
 - Make it compulsory for all Members to undertake training on ethics and probity.

However neither of these are reflected in the Model Code.

11. As stated in the Executive summary, the Council can -
 - Add optional provisions to the Code, provided they are compatible with the mandatory provisions; as well as
 - Introduce other supplementary local rules or guidance separately from the Code, and as a part of local Protocol with separate enforcement procedures to breaches of the Code.
12. The proposed Code of Conduct is set out in Annex 1 and contains all the mandatory provisions required under the Order. The wording shown in bold italics is "optional". These provisions either reflect

comments made by Members during the consultation process or are intended to add greater clarity to the model wording. All the changes are considered to be compatible with the mandatory requirements.

13. However, the 2 issues set out in paragraph 9 were considered as part of the consultation and rejected. To that extent, it is considered that they are not consistent with the mandatory provisions and could only be adopted as supplementary rules or guidance.
14. It is therefore proposed that the Monitoring Officer brings a further report to the Committee to recommend how local rules, guidance and procedures would operate and can be enforced.

LEGAL IMPLICATIONS

15. The Model Code will automatically take effect as from 1st October 2007. However, the “optional provisions”, shown in bold italics in Annex 1, will only take effect if specifically adopted by the Council.
16. It is recommended that the proposed Code, including these optional provisions be adopted as from 1st September 2007. This will emphasise the Council’s commitment to high standards of probity and ethics, and that it has taken a positive step to amend its code accordingly.

FINANCIAL IMPLICATIONS

17. These were highlighted in the earlier report and relate to the need for Member training on the new Code, which will be met from existing budgets.

Background Papers:

1. DCLG Consultation: Amendments to the Model Code - 22 January 2007.
2. Standards Committee Report dated 12th March and the agreed response to the Consultation.
3. The Code of Conduct Guide for Members 2007 and Pocket Guide 2007- issued by the Standards Board for England.

All available from the Head of Legal and Property Services