

REPORT OF:	MONITORING OFFICER & HEAD OF LEGAL & PROPERTY SERVICES AND HEAD OF PERSONNEL & SUPPORT SERVICES
AUTHOR:	ANN CORONEL
TELEPHONE:	01737 276058
E-MAIL:	ann.coronel@reigate-banstead.gov.uk
TO:	STANDARDS COMMITTEE
DATE:	3RD NOVEMBER 2008

AGENDA ITEM NO:	4	WARD(S) AFFECTED:	ALL
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SUBJECT:	CONSULTATION ON THE PROPOSED INTRODUCTION OF AN OFFICER CODE OF CONDUCT
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RECOMMENDATIONS:

1. That the proposals for an Officer Code of Conduct be noted
2. That a further report will be brought to the Committee on the Code to be adopted, following consideration by the Local Joint Forum and the Executive, for recommendation to Full Council.

SUMMARY

1. This report invites the Committee to note to the consultation paper issued by the Department for Communities and Local Government ("DCLG") on 1 October 2008.
2. Consideration of the proposals to revise the model Code of Conduct for councillors, which forms part of the same consultation paper from the Department for Communities and Local Government, is dealt with elsewhere on this agenda.
3. The second part of the consultation relates to the intention to introduce a requirement for local authorities to incorporate a code of conduct for staff, based on a statutory model. That is the subject of this report.

The Standards Committee has authority to determine recommendation 1 and Recommendation 2 is a matter for Full Council to consider in due course.

STATUTORY POWERS

1. There is no statutory requirement to introduce an Officer Code of Conduct, although many of the proposed obligations are already set out in either the employees terms and conditions of employment or the rules adopted by the Council and set out in the Constitution.
2. Under the Local Authorities (Functions & Responsibilities) (England) Regulations 2000, any decision to amend the terms and conditions of employee's contracts are a matter for Full Council. The Executive cannot determine such matters but can recommend changes to the Council.
4. If implemented the Code would also form part of the Council's Constitution and therefore require the approval of Full Council. Under paragraph 4 of the Standards Committees terms of reference, it too has a role to play in making recommendations for such changes.
5. It is therefore appropriate for the Standards Committee to consider the likely impact of this consultation but is for noting only at this stage referred to in **Recommendation 1**. A further report will be made to the Committee following consideration of the Code at the point that it needs to be adopted, as set out in **Recommendation 2**.

ISSUES

Background

3. The Government stated its commitment to introduce a model code of conduct for local government employees in the Local Government Act 2000. In August 2004, the then Office of the Deputy Prime Minister issued a consultation paper on a draft code defining the minimum standards of conduct expected of local authority staff.
4. Responses to that earlier consultation paper indicated that the model code of conduct was not adequate and also that the universal application of a code to all staff would be needlessly bureaucratic as all employees would be subject to the same code regardless of their position.
5. The Government restated its commitment to introduce a model code in its 2006 White Paper on local government and has now issued a consultation paper on its provisions. This report has been prepared to inform the Committee of the proposed model code and invites a response to the consultation paper.

Proposed Code Of Conduct For Staff

6. The purpose of the proposed model code is to provide employees with an effective ethical framework within which to work and thereby give the public confidence that Council officers are working in an appropriate manner that is consistently applied across the Country.
7. It is proposed that the code would apply to all relevant authorities and, subject to any augmentation individual authorities may wish to make, be incorporated into the terms and conditions of their employees. It would not apply to employees in professions that are already covered by their own code of conduct, such as fire fighters, teachers and solicitors, nor to consultants or contractors, as they are not strictly employees of the Council, unless incorporated by a specific contract term.
8. The Government proposes a two-tier model. The first tier would apply equally to all employees and would enshrine the core values by which all staff should reasonably be expected to comply. The core values are set out in **Annex I**.
9. The second tier would apply to “qualifying employees” only, to which, in addition to the core values, it is considered some further restrictions and expectations should apply. These are set out in **Annex 2**, and the main provisions relate to the registration of interests by officers and their involvement in matters in which they have a prejudicial interest.
10. The Council already requires officers to follow various provisions relating to their financial and private interests, including registration of all gifts and hospitality received and notification of their interests in relevant council business. The proposed Code has the benefit of adding transparency and clarity to the existing arrangements.
11. Two definitions have been suggested for the term “qualifying employee” namely based on either-
 - The approach taken to determine which posts in an authority are “politically restricted” and assumes that such posts are senior or influential enough to warrant further controls; or
 - To select qualifying employees on the basis that they perform functions delegated to them by the Council, that is are sufficiently senior that they are authorised to take decisions.
12. The Council has generally only authorised to Directors or Heads of Service to take decisions, as set out in the Officer Scheme of Delegation. However, these officers may either generally or in specific cases

delegate authority to subordinate officers. Therefore, the identification of qualifying employees based on delegated authority would lack clarity and be subject to regular changes. On this basis, it is suggested that the use of politically restricted posts (for which records are already maintained) would be more appropriate for defining qualifying employees.

13. The proposed model would also only apply the following requirements to qualifying employees:
 - (a) A qualifying employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. A qualifying employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.
 - (b) A qualifying employee must not use, or attempt to use, their position improperly either for their or anybody else's advantage or disadvantage.
 - (c) If a qualifying employee seeks advice, or advice is offered to them, on aspects of how the employees' code applies, the qualifying employee must have regard to this advice.
14. It is difficult to understand why it is only proposed to apply these provisions to qualifying staff (rather than all staff). Members may wish to make representations at this stage and so seek amendments to the basic Code to extend these or similar requirements more widely. However, as it is proposed Councils will have the power to add to the statutory requirements in any event, it is instead recommended that this be addressed once the statutory Code has been finalised.

Conclusions

15. The imposition of the proposed model code as a minimum statutory requirement is acceptable. However, the Council may wish to supplement this by retaining or amending existing requirements contained in its existing controls to provide an effective ethical framework for its staff.
16. It appears that the Government intends to bring the Code into effect in May 2009. Therefore a further report will be brought to both the Standards and Employment Committees at that time.

LEGAL IMPLICATIONS

17. These are set out in the report

FINANCIAL IMPLICATIONS

18. There are none

Background Papers: DCLG consultation paper - Communities in Control: Real people, real power. Codes of Conduct for Local Authority Members and Employees

CORE VALUES FOR ALL STAFF

General Principles

1. The public is entitled to expect the highest standards of conduct from all local government employees. The role of such employees is to serve their employing authority in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

2. Employees are accountable, and owe a duty to, their employing authority. They must act in accordance with the principles set out in this code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political Neutrality

3. Employees, excluding political assistants, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

Relations with Members, the Public and Other Employees

4. Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. Employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

5. Employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

6. Employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal Interests

7. An employee must not allow their private interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

Employees should abide by the rules of their authority about the declaration of gifts offered to or received by them from any person or body seeking to do business with the authority or which would benefit from a relationship with that authority. Employees should not accept benefits from a third party unless authorised to do so by their authority.

Whistle blowing

8. Where an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the model code of conduct for employees, the employee should report the matter, acting in accordance with the employees rights under the Public Interest Disclosure Act 1998 and with the authority's confidential reporting procedure or any other procedure designed for this purpose.

Treatment of Information

9. Openness in the dissemination of information and decision-making should be the norm in authorities. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of Staff

10. Employees of the authority, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, those employees must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

Investigations by Monitoring Officers

11. Where a monitoring officer is undertaking an investigation in accordance with Part III of the Local Government Act 2000 and associated regulations, employees must comply with any requirement made by that monitoring officer in connection with such an investigation.

VALUES FOR QUALIFYING EMPLOYEES

Compromising the impartiality of officers of the authority

1. A qualifying employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. A qualifying employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

Using your position improperly

2. A qualifying employee must not use, or attempt to use, their position improperly either for their or anybody else's advantage or disadvantage.

Considering advice provided to you and giving reasons

3. If a qualifying employee seeks advice, or advice is offered to them, on aspects of how the employees' code applies, the qualifying employee must have regard to this advice.

Personal interest

4. Qualifying employees must register, within 28 days of taking up their appointment, any interests set out in the categories below. This record of interest must be in writing, to the authority's monitoring officer or, in the case of a parish council, through the parish clerk.

5. The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required. These are:

- Your membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the company.
- Any contracts between the authority and any company you have an interest in, as above.

- Any land or property in the authority's area in which you have a beneficial interest.

6. A qualifying employee may seek to exempt their personal interests from the register of interests if they consider, for instance, that having this information on record might put themselves or others at risk. In such cases, the qualifying employee should discuss the matter with their monitoring officer.

Prejudicial interest

7. A prejudicial interest is considered to be a matter which affects the qualifying employee's financial interest or relates to a licensing or regulatory matter in which he or she has an interest and where a member of the public, who knows the relevant facts, would reasonably think that his or her personal interest is so significant that it is likely to prejudice his or her judgement of the public interest. A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which the qualifying employee has a personal interest or will affect him or her personally.

8. Qualifying employees with a prejudicial interest should declare such an interest. Where possible, they should take steps to avoid influential involvement in the matter. Where this is not possible, their prejudicial interest should be made clear.