



Standards Committee

5 November 2008

Report from the Borough Solicitor

For Action

Wards Affected:
ALL

New Model Code of Conduct

1.0 Summary

- 1.1 The Department of Communities and Local Government has recently issued a consultation document setting out proposed changes to the current Model Code of Conduct. This report discusses the changes and the steps the Council will take in response to the consultation and any new Model Code of Conduct.

2.0 Recommendations

- 2.1 That the Committee note this report and the changes proposed to the new Model Code of Conduct.
- 2.3 That the Committee note that if and when a new Model Code of Conduct is issued then the Council will have to adopt a new Members' Code of Conduct.

3.0 Detail

Background

- 3.1 The Department for Communities and Local Government has recently issued "*Communities in control: Real People, real power – Codes of Conduct for local authority members and employees*" ('the consultation paper') which sets out proposals for a new Model Code of Conduct. The consultation paper is attached to this report as **appendix 1**.

- 3.2 This report only discusses the part of the consultation paper that relates to the Members' Code of Conduct.
- 3.3 The Local Government Act 2000 requires the Council to have a Members' Code of Conduct which is based on the Model Code of Conduct issued by the Secretary of State. If a new Model Code of Conduct is issued then the Council will also have to adopt a new Brent Members' Code of Conduct that reflects any changes.

Proposed changes – detail

- 3.4 The consultation paper sets out the proposed changes to the Code of Conduct which will clarify when the Code applies to members' conduct outside of their official capacity and makes a number of other minor drafting changes.
- 3.5 Substantively there seems to be very little difference between what the Code of Conduct currently says and what is proposed. Although the majority of the consultation paper is given over to a discussion of what is meant by official capacity and attempting to clarify what conduct outside of a members' official capacity is covered by the Code, like now, only conduct which amounts to a criminal offence will fall within the new Code. There will however now be definitions of "official capacity" and "criminal offence".
- 3.6 The consultation paper also proposes a new general principle that would apply to members at all times. This general principle is a "Duty to abide by the law" which requires members not to engage in conduct which constitutes a criminal offence.
- 3.7 A number of minor drafting changes are proposed to clarify apparently ambiguous sections relating to personal and prejudicial interests. Specifically;
- amend paragraphs 8(1)(a)(i) and (ii) so that it is clear that they refer to bodies other than the Council
 - amend 8(1)(a)(viii) so that it is clear that gifts or hospitality with an estimated value of £25 have to be registered in a members register of interests
 - remove the double negative in 10(2) so that the paragraph says that a member "has a prejudicial interest" rather than a member "does not have a prejudicial interest where the matter does not"; and
 - include "variation, attaching, removing or amending conditions, waiving or revoking applications" within the meaning of "determining" in paragraph 10(2) which relates to prejudicial interests.
- 3.8 Additionally a new exception to the rules on prejudicial interests is also proposed so that a member is not considered to have a prejudicial interest when they give evidence at the Standards Committee.

Timetable

- 3.9 The consultation period runs until 24 December 2008 but there is no indication of when the new Model Code of Conduct will actually be issued.

Next Steps

- 3.10 The Monitoring Officer will respond to the Consultation on behalf of the Council.
- 3.11 Once any Order has been issued containing the new Model Code of Conduct the Council will have to adopt the new Code within a set period of time. In 2007 it was six months.
- 3.12 A revised Brent Members' Code of Conduct based on the new Model Code of Conduct would be brought for consideration by the Committee and a recommendation to the Council for adoption.
- 3.13 The consultation paper indicates that members will have two months from the date the Council adopts the new Code to provide a new written undertaking to abide by the new Code of Conduct adopted by the Council.

4.0 Financial Implications

- 4.1 This report contains no specific financial implications.

5.0 Legal Implications

- 5.1 These are addressed in the body of the report.

6.0 Diversity Implications

- 6.1 This report contains no specific diversity implications.

7.0 Staffing Implications

- 7.1 This report contains no specific staffing implications.

Background papers

Brent Members Code of Conduct

Local Government Act 2000

Should any person require any further information about the issues addressed in this report, please contact Dan Bonifant, Local Government Lawyer on telephone number 020 8937 1368.

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