

**ADOPTION OF NEW CODE OF CONDUCT
21st May 2007**

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Council to adopt the Government's revised Model Code of Conduct in place of the existing Code.

This report is public

RECOMMENDATIONS

- (1) That Council adopt the Model Code of Conduct contained in Statutory Instrument No. 1159 of 2007, as appended to this report, in place of its existing Code of Conduct.**
- (2) That a Preamble to the Code, as appended to this report, continue to be included in the Constitution**
- (3) That the Monitoring Officer be authorised to amend the Constitution accordingly, and to advertise the adoption of the Code in accordance with the statutory requirements.**

1.0 Introduction

- 1.1 Under Section 50 of the Local Government Act 2000, the Secretary of State may by order issue a model code as regards the conduct that is expected of members and co-opted members of relevant local authorities in England. This includes the power to revise any such model code of conduct which has previously been issued. Within six months of the making of such an order, a Council must pass a resolution adopting the code of conduct in place of its existing Code. This must incorporate any mandatory provisions of the model code of conduct, and may include any other provisions which are consistent with the model code.
- 1.2 The first Code of Conduct under this regime was adopted by the Council on the 13th February 2002, in accordance with the Model issued in 2001. For several years, the government, in consultation with the Standards Board for England, has been considering amendments to the model code in the light of experience since its introduction. There have been a number of consultation exercises, culminating in the

making on the 2nd April 2007 of an Order (SI 1159 of 2007) which sets out a new model Code of Conduct.

- 1.3 The Council is therefore required by law to pass a resolution by the 2nd October 2007 adopting a code of conduct in place of its existing Code. The firm advice of the Standards Board is that Councils should adopt the Code as set out in the Order and should not include any other provisions. This is to ensure consistency within local government.
- 1.4 Councils are, however, advised to add the statutory principles of good conduct on which the Model Code is based as a preface or appendix to the local code to enable Members to relate the contents of the code to the principles. These principles are not and cannot lawfully be a part of the code. They are aspirations rather than enforceable requirements. The Council's Preamble to the existing Code already sets out these principles in this way.

2.0 Proposal Details

- 2.1 It is proposed that the Council should adopt the new model Code of Conduct at this meeting. This will mean that, after this meeting, Members will not need to concern themselves with the old Code, and that the training sessions over the next few weeks will be able to deal solely with the new Code. It is felt that it would not be helpful to delay adopting the Code, as it would then be necessary to train new members in both the old and the new Code, which would be unnecessarily confusing and a waste of resources.
- 2.2 The terms of reference of the Council's Standards Committee include advising the Council on the adoption or revision of the Code of Conduct. The Standards Committee has responded to the various consultations on the new Code of Conduct, and would normally make recommendations to Council on the adoption of a new Code. However, at its meeting in February 2007, before the new Code had been published, the Committee expressed concern that any delay in adopting the Code might lead to a duplication of training. The independent Chairman of the Standards Committee and the two other independent members have all indicated that they support the adoption of the new Code at this meeting, notwithstanding the terms of reference of the Standards Committee.
- 2.3 For Members' information, the main changes to the Code are as follows:
 - Simplifying and clarifying the drafting of the Code, including making the language in which it is written gender-neutral;
 - Providing that the code of conduct will apply to members' conduct in their private capacity where such conduct has resulted in a criminal convictions;
 - Amending the rules relating to personal interests, so that a member only has a personal interest where his interest is greater than that of the majority of people in the ward affected by the matter, rather than merely greater than the interest or other people in the Council's area.
 - Amending the rules relating to prejudicial interests, so that there is no prejudicial interest where the matter does not affect financial position or the grant of a consent or licence or similar.
 - Allowing members with a prejudicial interest to speak at a council meeting providing this is to solely to allow them to make representations, answer questions or give evidence, but not to vote, and provided other members of the public would be similarly entitled. (Members must withdraw from the room after making any such representations).

- 2.4 The new Model Code is attached at Appendix A. In accordance with advice from the Standards Board, paragraphs relating to parish councils, police authorities and the Greater London Authority, and therefore not applicable to this Council, have been deleted. In every other way, Appendix A follows the wording in the Statutory Instrument. It is recommended that the Council adopts this as its Code of Conduct.
- 2.5 Attached at Appendix B is the proposed Preamble to the Code. This is the same as the Council's Preamble to the old Code, but slightly updated to take account of the date of the new Model Order. It is recommended that this document too is adopted.
- 2.6 The two documents would then form part of the Council's Constitution. There is a statutory requirement for the Council to publish a notice in a local newspaper stating that the Code of Conduct has been adopted, and to make the Code available for public inspection.

3.0 Details of Consultation

- 3.1 The Government consulted on the new Code of Conduct, and the Council's Standards Committee responded to that consultation on the Council's behalf.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The Council is required to adopt the mandatory provisions of the Model Code by the 2nd October 2007. Whilst the Council could delay adopting the Code, the advice from the Standards Board for England is that Councils should adopt the new Model as soon as possible, and it is the view of officers, supported by the independent members of the Council's Standards Committee, that the Model Code should be adopted at this meeting, so that the forthcoming member training may be based on the new rather than the old Code of Conduct.
- 4.2 Whilst Councils may add to the mandatory provisions of the Code, the advice of the Standards Board is that, in the interests of consistency, they should not do so.
- 4.3 The preferred option therefore is for the Council to adopt the Model Code at this meeting.

5.0 Conclusion

- 5.1 Council is recommended to adopt the new Model Code in place of its existing Code of Conduct, together with the Preamble.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p>

<p>Not applicable to this report.</p>

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report save the cost of the public notice, which is statutory. The cost of such notice can be met from the existing corporate advertising budget.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

The recommendations follow the requirements of the Local Government Act 2000.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer, who has statutory responsibilities with regard to Code of Conduct issues.

BACKGROUND PAPERS

None

Contact Officer: Mrs. S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

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