

Council

11 December 2014

Agenda Item 54

Brighton & Hove City Council

Subject:	Review of Code of Conduct for Members		
Date of Meeting:	11 December 2014 18 November 2014 - Audit & Standards Committee		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Oliver Dixon	Tel: 291512
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report sets out the recommendations of the cross-party working group tasked with reviewing the Code of Conduct for Members.
- 1.2 The report is initially for consideration by Audit & Standards Committee, whose recommendations will be referred to Council for approval.

2. RECOMMENDATIONS:

- 2.1 That Audit & Standards Committee consider the draft revised Code of Conduct for Members set out in Appendix 1, and refer it – with any further recommended amendments (see in particular paragraph 3.6 below) – to Council for approval.
- 2.2 That Council approve the draft revised Code of Conduct for Members referred by Audit & Standards Committee, for implementation with immediate effect.
- 2.3 That Council grant delegated authority to the Monitoring Officer to take appropriate measures to implement the revised Code and to assist existing and new Members with understanding and applying its content.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Under the Localism Act 2011, the council must promote and maintain high standards of conduct by Members and co-opted Members; and the council must discharge that duty by, in particular, adopting a code dealing with the conduct expected of those persons when acting in their official capacity.
- 3.2 To comply with this obligation, the Council adopted a new Code of Conduct for Members in July 2012 and agreed minor revisions in May 2013.
- 3.3 In March 2014 Audit & Standards Committee agreed a revised procedure for dealing with complaints about alleged breaches of the Code of Conduct for Members. Having agreed the new procedure, the Committee recognised the need for a review of the Code of Conduct itself, to ensure it remained an effective

piece of corporate governance. In June 2014 the Committee agreed to the appointment of a cross-party working group to carry out the review.

3.4 The working group, consisting of Cllrs Littman, Norman (A), and Morgan, and chaired by Dr David Horne as Independent Person, discussed a revised Code in October 2014, resulting in the draft set out in Appendix 1 for consideration by the Committee.

3.5 The aims of the revised Code are as follows:

- (i) To provide certainty over when the Code applies.
- (ii) To set the Code in context – how it operates alongside the Seven Principles of Public Life and the council’s Corporate Values.
- (iii) To make the Code clearer and simpler for everyone.
- (iv) To retain mandatory provisions (i.e. requirements relating to disclosable pecuniary interests) and simplify all other elements (e.g. the definition of “other interests”).
- (v) To clarify the effect of declaring an interest – whether a disclosable pecuniary interest or an “other interest” – in terms of Member participation during the agenda item to which the interest relates.
- (vi) To clarify the criteria for the granting of dispensations from the standard requirement to declare an interest.
- (vii) To offer guidance on dealing with interests shared with the general public (e.g. the payment of Council Tax).

3.5A The revised Code differs from the current version in the following ways:

- (i) It is now explicit as to when the Code applies, namely “when the Member is acting as a member or representative of the council or when they claim to act or give the impression of acting as a representative of the council” – *see Introduction, paragraph 1*;
- (ii) The standard of behaviour required of Members is generally referenced by the conduct that a “reasonable person” would expect of a person holding that office – *see Behaviour, paragraphs 1.1-1.3 and 1.9*
- (iii) Interests that are not disclosable pecuniary interests are re-named “Other Interests”, and are now defined more simply as situations where the Member is in a position of general control or management of any body; and where the Member has received any gift or hospitality worth over £50 – *see Appendix B*.
- (iv) The definition of an interest formerly known as a “prejudicial interest” has been clarified, as has the effect of such an interest on participation in the meeting where the interest arises – *see Other declarable interests, paragraph 3.3*.

- (v) An expanded section on dispensations, detailing particular situations when Members are not required to declare an interest – see *Dispensations, paragraphs 3.6-3.7.*

3.6 After the working group met, it was recognised that references to “friends, relatives or close associates” in the context of declaring “other interests” – see paragraph 3.2 of the draft Code – could be difficult to apply in practice since these words are liable to subjective interpretation. An alternative approach is offered in paragraph 3.2A of the draft Code, which refers instead to specific relatives (e.g. spouse / civil partner) whose definitions are more precise and therefore easier to interpret. Audit & Standards Committee is invited to consider which version it prefers.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The existing Code of Conduct could be retained as it is fully compliant with the legal framework for ethical standards, but this version has proven to be difficult to follow – both for Members in understanding its requirements, and for officers when called to advise on its application. Retaining the existing Code is therefore not recommended.

4.2 The revised version is considered to be simpler and more comprehensible, and continues to meet the legal criteria for Member codes of conduct.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 One of the tests considered by the working group was whether the revised Code was simple and comprehensible enough for a reasonable person with no special knowledge. It is important that members of the public can comprehend the Code, as this will inform their judgement as to whether a complaint about Member misconduct may be justified.

6. CONCLUSION

6.1 For the reasons sets out above, the revised draft Code at Appendix 1 is recommended.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 There are no financial implications associated with the revised Code of Conduct. The cost of communicating the new Code to existing Members will be negligible, whilst training for new Members following the 2015 local election will be included in their wider induction programme already planned for early in the municipal year.

Finance Officer Consulted: James Hengeveld

Date: 03/11/14

Legal Implications:

- 7.2 The legal duties referred to in paragraph 3.1 are conferred by section 27(1)-(2) of the Localism Act 2011.
- 7.3 Section 28(13) of the Act makes it a requirement that revisions to a local authority code of conduct for members be approved by full Council.
- 7.4 Under the council's constitution, it is the role of Audit & Standards Committee to advise full Council on the adoption of, and revisions to, the Code of Conduct for Members.

Lawyer Consulted:

Oliver Dixon

Date: 30/10/14

Equalities Implications:

- 7.5 The revised Code carries forward the prohibition against doing anything that may cause the council to breach any of its equality duties (in particular as set out in the Equality Act 2010). These duties include the public sector equality duty set out in section 149 of the Act.

Sustainability Implications:

- 7.6 None

Any Other Significant Implications:

- 7.7 None

SUPPORTING DOCUMENTATION

Appendices:

1. Revised draft Code of Conduct for Members

Documents in Members' Rooms

None

Background Documents

1. Existing Code of Conduct for Members, set out in part 8.1 of the council's constitution.