



Report to the Standards Committee

Report Reference: STD-001-2015/16

Date of meeting: 12 October 2015

**Epping Forest
District Council**

Report of: Monitoring Officer

Subject: Revisions to the Code of Member Conduct

Responsible Officer: Colleen O'Boyle (01992 564475)

Democratic Services: Gary Woodhall (01992 5642)

Recommendations:

- (1) To consider proposals for changes to the Council's Code of Conduct;**
 - (2) To advise the Constitution Working Group of the agreed proposals for onward recommendation to Council; and**
 - (3) To circulate the code to the Joint Standards Committee and Parish Council's inviting their adoption.**
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1. (Monitoring Officer) Members will be aware of the complete review of the Council's Constitution currently being undertaken by the Constitution Working Group. Members will have a separate report on the proposals for the revision of the Council Article relating to this Committee. As part of the review, officers have been looking at whether the Council's Code of Conduct requires any amendment.

2. The review is timely for a number of reasons:

- (i) There has been no recent review in light of operational experience;
- (ii) Since the last iteration of the Code, the Government has published a further report of the Committee on Standards in Public Life;
- (iii) There has been a recent standards case that has resulted in an Investigator making recommendations in relation the treatment of non-pecuniary interests.
- (iv) There is a need to be consistent in the way that constitutional elements are written.

3. Two areas are highlighted as being in need of review:

- (i) Dealing with Non-pecuniary interests
- (ii) Revisions to the Nolan principles

Dealing with Non-Pecuniary Interests

4. The Investigators report into case no. 2/2014 contains a recommendation as follows:

"There may be a case to refer the issue of the wording of paragraph 10 back to the standards committee to confirm that it achieves what was intended. As currently drafted it does not take effect unless there is a pecuniary interest which is not the

case in this instance [in the case under investigation]. However there may be merit in considering whether its scope was intended to include **any** instance of an interest where a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice their judgement in the public interest”

5. The issue with the current code is that it remains silent on predetermination in the case of having a non-pecuniary interest. Having rechecked with the Public Legal Partnership a later version of their Model Code has the following provision:

“Public Perception

If you have an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (i) Disclose the existence and nature of the interest; and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held”

6. This addition would give guidance on non-pecuniary interests and deal with the subjective assessment each Council must make on items where they may be open to accusations that they are predetermined.

7. It is suggested that this wording be included in a new draft of our code. The Committee are asked whether they agreed to its inclusion.

The Nolan Principles

8. The Government has, since the last review of the Code, published a further report of the Committee on Standards in Public Life. That report¹ reviews the principles that the Nolan Committee² originally put forward. There are suggested minor wording changes as a result of their review, which leave the headings unchanged do change the descriptions.

9. Within their report the Committee flags up the following reasoning for these changes:

- The description of the present formulation of honesty refers to holders of public office having a duty to declare any conflicts of interest. The avoidance of conflicts of interest fits more obviously into our current understanding of integrity. Most people today would expect honesty to have a much broader meaning, focusing on truthfulness. This has particular resonance at the present time since a number of issues of current concern have involved allegations of inappropriate behaviour being covered up.

¹ Report of the Committee on Standards in Public Life published here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228884/8519.pdf
Chapter 3

² First Nolan Committee Report
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336919/1stInquiryReport.pdf

- Discussion around the importance of public office-holders making decisions on merit, tends to refer more frequently to impartiality than to objectivity. We think it would be helpful to include impartiality in the description of the meaning of objectivity.
- Equality of opportunity has become even more of a central tenet of thinking about ethics and values in the period since the principles were first established. We think it would be helpful to make clearer that objectivity requires giving full regard to the importance of equality of opportunity and fair treatment, irrespective of individual characteristics such as disability, race, gender or sexual orientation.
- Public office-holders sometimes need to show courage in speaking up about difficult issues, speaking “truth to power” and making or sticking by difficult decisions. We see this as a key element of ethical leadership and have amended the description of leadership accordingly.

10. The Committee has concluded therefore that some adjustments to the principles wording were needed. The revised wording is attached as Appendix 1 to this report. The Committee are asked to consider their adoption.

Other Issues

11. The Constitution Working Group has been undertaking a full review of the Constitution. As part of their work, they have looked at a number of the ancillary documents that are attached which have, over time, increased the size of the document. It has been suggested by the Working Group that the Planning Protocol should be rewritten and guidance on gifts and hospitality should be rationalised and appended to the Code of Conduct so it can be easily found.

12. It is proposed that these two redrafted documents come back to this committee at its next meeting.

13. The committee may wish to take this opportunity to raise other matters on the code that they wish officers to give further consideration to.

Adoption and the Town and Parish Councils

14. It will be necessary for the District Council to adopt the new code. Likewise affiliated Local Councils would need to be encouraged to adopt the revision. Officers propose to contact the Local Councils and provide a standard report with resolution and the new code document. Officers will also attend the next meeting of the Epping Forest Joint Standards Committee to talk about the changes proposed.

15. For ease of reference a tracked changes version of the amended code is attached at Appendix 2 for discussion.

Introduction

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources.

The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.