

Item No. 5.	Classification: Open	Date: May 23 2007	Meeting Name: Council Assembly
Report title:		Revised Code of Conduct	
Ward(s) or groups affected:		All Wards	
From:		Standards Committee	

RECOMMENDATION

1. That the Council Assembly adopts the revised code of conduct together with the introductory general statements of principles.
2. That members note that they will be required to complete a new declaration of interests within 28 days of the adoption of the new code.

BACKGROUND INFORMATION

3. The revised code came into force on 3 May 2007. The government requires all local authorities to adopt the revised code by 1 October 2007.
4. The new code takes into account the recommendations of the Standard Board for England, and decisions of the Adjudication panel and of the High Court on the previous version of the code. It has been subject to consultation with local authorities, including Southwark.
5. The Standards Committee on May 9 2007 considered the revised code of conduct and agreed to recommend it in its entirety for adoption by Council Assembly.

KEY ISSUES FOR CONSIDERATION

6. The new code contains detailed alterations to the current code of conduct. It follows the same broad structure as the old code, but it makes substantial changes. These are as follows:

- **Requirement to report Breaches of the Code**

The requirement to report breaches of the code has been removed.

- **Public interest defence**

A new public interest defence is introduced for breach of confidentiality. It takes account of the ruling in the case of Dimoldenburg in which the Adjudication Panel ruled that the confidentiality clause in the Code did not properly take account of an individual's right to freedom of expression enshrined in Article 10(1) of the European Convention on Human Rights. The tribunal found that in order to be compatible, the Code had to be read as allowing a public interest defence.

- **Bullying, intimidation and victimisation**

The new Code adds a specific provision to indicate that members must not bully, victimise or intimidate any person. This would include other members, officers, or anyone else.

- **Behaviour outside official duties**

The effect of the Livingstone case was that conduct purely in a private capacity was not covered by the prohibitions on bringing one's office into disrepute. The new code provides that the prohibitions on intimidation, bringing one's office into disrepute and using one's position to improperly secure an advantage apply not only to conduct in a member's official capacity but also to conduct that constitutes a criminal offence for which the member has been convicted.

- **Using or seeking to use improper influence**

The old code provides that a member must not in his or her official capacity or any other circumstance, use his or her position to confer or secure for him or herself or any other person, an advantage or disadvantage.

The new code extends this provision to include attempts to use their position even where such attempts were unsuccessful.

- **Interest of family, friends and those with close personal association**

The old code provides that a member must regard him/herself as having a personal interest in a matter which affects the financial position or well-being of the member, a relative or friend to a greater extent than other council tax payers, ratepayers or inhabitants.

This has been extended to include any person with whom the member has close personal association, for example a business association.

- **Definition of personal interest**

The definition of personal interest has changed. It arises only where the interest might reasonably be regarded as affecting the member to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the *ward which is affected by the particular matter*. This is intended to allow members to represent the interests of their ward without needing to declare a personal interest.

The definition has also been extended so that a member has a personal interest if a matter affects the interest of someone else from whom they have received a gift or hospitality of at least £25.00.

- **Disclosure of personal interest**

Under the old code a person would technically be in breach of the code in respect of the personal interest of a relative even if he or she was unaware of it.

The new code only requires a member to disclose a personal interest at a meeting in respect of a family member, a friend, or a person with a close personal association where the member is aware or ought to reasonably be aware of the interest held by that person.

- **Public service interest**

The new code effectively creates a new category of 'public service interest', which arises where a member is also a member of another public body, to which they have been appointed, nominated by the public authority or of which they are a member in their own right.

Such interests only need to be disclosed when a member speaks to the meeting on business in respect of which they have a personal interest.

A member with a public service interest will not be regarded as having a prejudicial interest unless the matter relates to the financial affairs of the body concerned, or it relates to the determination, approval, consent, licence, or permission in relation to that body.

- **Prejudicial Interest – list of exceptions**

Three new items have been added to the list of interest, which are not to be regarded as prejudicial. These are matters relating to the authority's functions in respect of:

- i. Indemnities where, for example, members have felt unable to vote in discussions on the issue by the authority of indemnities which might relate to themselves, as well as a number of other members of the council.
- ii. Council tax setting where the member has a connection with an organisation funded from an operational budget, which is being set by the council tax budget.
- iii. Considering whether or not the member should become a freeman of the authority.

- **Participation in relation to prejudicial Interest**

Under the new Code a member who would otherwise have a prejudicial interest can attend a meeting to make representations, answer questions or give evidence provided the public are also allowed to attend the meeting for the same purpose and he or she withdraws from the room as soon as the representations have been made. This reverses the effect of the Richardson case, which prevented members from attending meetings to make representations where they have a personal and prejudicial interest in the matter.

- **Overview and scrutiny committees**

In the old code members were barred from scrutinising a decision of a committee, sub-committee, or joint committee of which s/he was also a member irrespective of whether or not s/he was present when the decision was made.

The new code now only debars members from scrutinising decisions where they themselves were involved in the decision.

- **Sensitive Information**

There is a new provision to allow members to apply to the monitoring officer for sensitive personal interest to be withheld from the register. For example, if the member worked for scientific laboratory carrying out tests on animals.

- **Registering interest**

Members will be required to re-register their interest within 28 days of the new code being adopted by or applied to the authority. There is also a new drafting change to make it clear that members have to give notification of any new interest as well as changes to existing interest, again within 28 days of becoming aware of this.

Community Impact Statement

7. This report has little or no impact on the community.

Resource Implications

8. This report has minimal resource implications.

Legal Implications

9. The legal implications are as set out in the main body of the report. Council Assembly should note that if the council fails to adopt the revised code of conduct by 1 October 2007, it would apply automatically.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	The Statutory Instruments -Code of Conduct
Appendix 2	General Statement of Principles

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Legal & Democratic Services	
Report Author	Richard Blakeley, Constitutional Officer	
Version	Final	
Dated	May 10 2007	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS/DIRECTATES/EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Legal & Democratic Services	Yes	Yes
Finance Director	No	No
Date final report sent to Constitutional Support Services	May 10 2007	