

RESOLVED:

That the Monitoring Officer seeks clarification from the Standards Board of the reasons for their recommendation and that this matter be considered at a future meeting in the light of the advice received.

13. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

14. REVISED CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS - CONSULTATION

The Committee were advised that the Department for Communities and Local Government had issued a consultation paper inviting views on proposals for revising the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. It also sought views on the proposed introduction of a Model Code of Conduct for Local Government employees although that part of the consultation paper was not an issue for this Committee.

The Committee considered the questions posed in the consultation document on revisions to the Members' Code of Conduct.

RESOLVED:

(1) That the Monitoring Officer respond to the consultation paper incorporating the following views:

Question 1

(Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?)

Response – Yes.

Question 2

(Do you agree with the definition of "criminal offence" for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions?)

Response – Concern at the reference to paying a fixed penalty instead of facing a criminal conviction as this opportunity is not restricted to minor criminal offences. Also, there are regular changes made to offences to which the opportunity to pay a fixed penalty applies. It is considered that some offences are of such a nature that they should be subject to the Code even though they could possibly be the subject of payment of a fixed penalty. In addition, there is an inconsistent approach in different parts of the country to police cautions. It is considered that a better approach would be to list offences which will be subject to the Code and those which will be excluded.

Question 3

(Do you agree with the definition of "official capacity" for the purpose of the members' code? If not, what other definition would you support?)

Response – Yes.

Question 4

(Do you agree that the members' code should apply only where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?)

Response – Yes.

Question 5

(Do you agree that an ethical investigation should not proceed until the criminal process has been completed?)

Response – Yes, assuming that the timescale for concluding an investigation into an allegation is stopped and restarted on completion of the criminal process.

Question 6

(Do you think that the amendments to the members' code suggested are required? Are there any other drafting amendments which would be helpful? If so, please provide details of suggested amendments)

Response – Agree with the amendment of Article 2(5) to apply at paragraph 12(2) to parish councils. It should be made clear that this also applies to town councils.

Agree with the proposed amendment of paragraphs 8(1) (a) (i) and (ii).

Agree with the amendment of paragraph 8(1) (a) in relation to the registration of a gift or hospitality. It is also suggested that account should be taken of the aggregated effect of small multiple donations by a single donor which exceed the £25 limit.

Agree with the proposals regarding prejudicial interests.

Question 7

(Are there any aspects of conduct currently included in the members' code that are not required?)

Response – None.

Question 8

(Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included?)

Response – None.

Question 9

(Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?)

Response – Yes. There have been no problems in meeting this timescale in the past.

Question 10

(Do you agree with the addition of the new general principle, applied specifically to conduct in a member's non-official capacity?)

Response – Agree subject to clarification of the relationship between the two sets of principles.

Question 11

(Do you agree with the broad definition of "criminal offence" for the purpose of the General Principles Order? Or do you consider that "criminal offence" should be defined differently?)

Response – See comments in relation to question 2.

Question 12

(Do you agree with the definition of "official capacity" for the purpose of the General Principles Order?)

Response – Yes;

(2) That the Department for Communities and Local Government be asked to incorporate specific reference to actions of members which result in conflict with Orders made by the authority, e.g. consistent breach of parking regulations leading to the issue of numerous penalty notices when not acting in an official capacity; and

(3) That a draft of the response letter to the Department for Communities and Local Government be cleared by the Chairman of the Committee before being despatched.

15. DETERMINATION OF ALLEGATIONS RELATING TO THE CONDUCT OF MEMBERS

The Committee noted guidance issued by the President of the Adjudication Panel on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee.

16. DISPENSATIONS**(a) Waltham Abbey Town Council – Applications for Dispensation**

The Committee received the minutes of a meeting of the Dispensation Sub-Committee held on 2 July 2008.

The Committee noted that a special meeting of the Waltham Abbey Town Council had been held on 17 July 2008 to co-opt a member to fill the vacancy on the Town Council. All of the members present at that meeting had declared personal and prejudicial interests as at least one of the applicants had been known to each of them. Taking account of the dispensations granted by the Dispensations Sub-Committee, the Town Council members had proceeded to interview the four applicants and had held a ballot to select a co-opted member. As a result Mr M Reilly had been duly co-opted to the Town Council to fill the vacancy in the Honey Lane Ward.

(b) Dispensation – Application Form

The Committee considered a draft proforma for submission of future dispensation applications.

RESOLVED:

- (1) That the draft proforma be agreed subject to reference to Town Councils as well as Parish Councils;
- (2) That the dispensation process be included in future Members' Code of Conduct training; and
- (3) That the proforma be sent to the Clerks of Parish and Town Councils and included in a future edition of the District Council's Bulletin together with an explanation of the provisions.

17. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION

The Committee noted the current position of allegations made about District and Parish/Town Councillors.

In relation to references EFDC 1/2008 and EFDC 3/2008, the Deputy Monitoring Officer reported that he would be issuing a draft report shortly following his investigation. In relation to case reference EFDC 5/2008 the allegation was to be considered by the Assessment Sub-Committee on 9 December 2008.

18. DATES OF FUTURE MEETINGS

The Committee noted the calendar for 2008/09 provided for meetings of the Committee on 27 January and 14 April 2009.

CHAIRMAN