
REPORT OF THE MONITORING OFFICER

AGENDA ITEM:

**REVIEW OF THE MODEL LOCAL GOVERNMENT CODE OF
CONDUCT IN WALES**

Purpose of the Report

1. To provide members with information about the proposed new Model Code of Conduct.

Background

2. In June 2001 the National Assembly for Wales approved the first set of the subordinate legislation under Part 3 of the Local Government Act 2000 (the 2000 Act) giving effect to the new ethical framework introduced by that Act. The basis of the ethical framework is a statutory code of conduct for which must be formally adopted by the Council and to which all Elected and Co-opted members (with voting rights) of Local Government must give an undertaking to abide by.
3. The Model Code of Conduct in Wales is based on 10 general principles which articulate the fundamental values of public service that underpin the conduct of Local Government Members. The Model Code lays down a set of enforceable minimum standards for the way that Local Government Members should conduct themselves. The existing code places responsibilities on Members to consider whether they have "a personal interest" in a matter such that the existence and nature of the interest should be enclosed. Where such an interest exists the code sets out the extent, if at all, to which a member can continue to participate in business connected with the interest. Regulations are also set out for circumstances in which members with a personal interest may seek dispensation and the model code provides also for registration of gifts and hospitality.

The Review of the Model Code of Conduct

4. Following the introduction of the new ethical framework the Welsh Assembly Government gave a commitment to review the Model Code of Conduct in the light and experience of its operation by Local Government. A multi-agency working group chaired by the Assembly Government undertook this review and the review groups report made 26 recommendations for simplifying and

clarifying the code, including a fundamental change in the approach to the disclosure and registration of interests.

5. The key recommendations of the Review Group were:-

- Principles of conduct should be clearly stated, rather than in a separate statutory instrument;
- The application of the code should be widened and there should be greater clarity when members act as representatives of the Authority on other bodies;
- There should be a clearer statement of Members' obligations to ensure equality for all people with separately stated obligations to show respect to others and not to bully or harass employees and other workers;
- The Code should not provide expressly that a criminal conviction is a breach of the Code given that serious offences would still be regarded as a breach by virtue of bringing the member or Authority into disrepute.
- There should be a simpler approach to disclosure of interests with a wider range of exemptions;
- The code should enable members to make representations on behalf of third parties without preventing them from speaking and/or voting on matters;
- The current provisions on registration of gifts and hospitality should be maintained, but Standards Committees should set the threshold for registration;
- There should be a common code of conduct for all community and Town Councils.

Consultation

6. In 2005 the Assembly Government consulted on the recommendations of the Review Group. Cardiff Council was one of the 87 consultees who responded with detailed comments. The consultation revealed broad support for the proposals of the review group. There were some additional suggestions made:-

- There should be clarification of the obligation on members not to disclose confidential information or information that could reasonably be regarded as confidential;
- There should be a narrower definition of close personal association in place of references to "family and friends" and a more objective assessment of potential conflicts of interest.

Next steps

7. There was hope that the new code would be published and implemented in the latter part of 2006. There have been further delays, despite considerable pressure from Standards Committees and Monitoring Officers across Wales. Following this there was a meeting of the Code of Conduct Reference Group in May 2007 which further considered the Draft Statutory Instrument and a new code and after further amendments this document has now been disseminated

to Monitoring Officers and Standards Committees in Wales. The Draft document is attached at Appendix A.

Proposed New Code

8. The Code has been completely rewritten to take account of and incorporate all of the comments that were made during the consultation process. In particular, Part 3 of the Code is now considerably simplified and follows the format of the English Code of Conduct whereby members are required to consider whether they have a personal interest which must be disclosed, and thereafter whether that interest could be considered prejudicial which is defined as:-

“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 judgment of the public interest”.

In essence the difference between a personal and a prejudicial interest may be summed up as follows:-

- Personal Interest – say and stay;
- Prejudicial Interest – wash and go

Implementation Date

9. At the time of drafting of this report there is no certain information about when the Code is to be formally implemented, although all of the indications are now that it will be post-May 2008. This will facilitate the planning of induction and training sessions for members after the elections next year. It will also give some time for Standards & Ethics Committees to scrutinize the proposed new code and identify areas that they particularly wish to examine and promote.

Financial and Legal Implications

10. There are not such implications arising directly out of this report.

Recommendations

11. That the proposed new Code of Conduct be noted by the Committee and consideration be given as to how this code can be properly implemented within the Council.

Kate Berry

Monitoring Officer and City and County Solicitor

Dated: 29 August 2007