

CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE: 24 MARCH 2009

REPORT OF THE MONITORING OFFICER AGENDA ITEM: 4

EMPLOYEES CODE OF CONDUCT – REVIEW OF SUPPORTING GUIDANCE, PROCEDURES, and RULES

Reason for this Report

1. To provide information regarding the guidance, procedures and rules supporting the Employees' Code of Conduct, to enable the Committee to review the same and propose any appropriate amendments and improvements, and to consider any training needs in this respect.

Background

2. The Committee's terms of reference include at paragraphs (b) and (c) the remit:

 'To advise the Council on the content of its Ethical Code and to update the Code as appropriate'; and

 'To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application'
3. On 27 January 2009 the Committee considered a report of the Monitoring Officer on the statutory Employees' Code of Conduct, adopted by the Council on 28th July 2001. The Committee noted that the guidance, procedures and rules supporting the implementation of the Code have not been reviewed or updated for a few years; and instructed the Monitoring Officer to report on the same to a future meeting (and thereafter to develop and implement a training programme to embed any revised guidance).

Issues

General guidance on Code

4. A guide to the Code is published on the Council's intranet website – as appended at **Appendix A**; and the Code is incorporated within Part 5 of the Council's Constitution (which is also published on the intranet website).
5. In response to enquiries, the Monitoring Officer understands that, upon adoption of the Code in July 2001, the Council's (then 'Human Resources') People and Organisational Development section distributed a copy of the Code to all staff with their wage slips. No other guidance or training on the Code appears to have been provided for existing staff.
6. The People and Organisational Development service area has advised that since adoption of the Code, new employees have been made aware of their obligations under the Code by reference to the same:
 - (i) within the statement of Main Terms and Conditions of Employment issued to new appointees;
 - (ii) on the checklist of issues which are to be covered during the Service Area Induction, which is carried out shortly after commencement of employment; and
 - (iii) in some detail, as part of the one day Corporate Induction programme attended by all staff. During the Corporate Induction, staff are given a copy of the guide on the Code (as part of their information pack) and told where to locate the Code on the Council's intranet website. It is explained that the Code forms part of employees' contracts of employment, with the consequence that a breach of the Code is regarded as a breach of their contract of employment. The obligations under the Code are explained, including the importance of abiding by the Council policies and procedures referred to therein. Particular attention is given to explaining employees' duties with regard to conflicts of interest, and what they should do if a conflict should arise; and also to equality awareness, linking this to the duties under the Code and relevant Council policies.
7. The Committee may recall that staff awareness and understanding of duties under the Code was considered as part of the Ethical Audit conducted on the instructions of the Committee in July 2006 (in Section 2 of the report, which is appended at **Appendix B**). From these results (Table 2.3 of that report), the Committee will note that only 53% of respondents said they were aware of the existence of the Employees Code, and only 28% said they had a broad understanding of its content. These statistics suggest there is a clear need for staff training / awareness raising on the Employees' Code.

Guidance, procedures and rules on specific provisions of the Code

8. The Council has a raft of procedures, rules and guidance which support the implementation of the various provisions of the Code, as set out, together with explanatory notes, in the table which follows:

<u>PROVISION OF CODE</u>	<u>COUNCIL PROCEDURE, RULES, or GUIDANCE</u>	<u>NOTES</u>
<p><i>General Principles</i></p> <p>1. The public is entitled to expect the highest standards of conduct from all qualifying employees¹ of Cardiff Council. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.</p>	<p>No specific guidance, procedures or rules</p>	<p>As the Code is automatically incorporated into employees' contracts of employment, a breach would constitute a fundamental breach of contract.</p>
<p><i>Accountability</i></p> <p>2. Qualifying employees of Cardiff Council work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.</p>	<p>No specific guidance, procedures or rules</p>	<p>As the Code is automatically incorporated into employees' contracts of employment, a breach would constitute a fundamental breach of contract.</p>

¹ At the date of this Code, teachers and fire-fighters are not bound by its provisions.

<p><i>Political Neutrality</i></p> <p>3. Qualifying employees of Cardiff Council, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.</p>	<p>No general guidance, procedures or rules.</p> <p>However, specific guidance is issued to staff during election periods</p>	<p>‘Politically restricted posts’ are essentially the more senior Council posts, as prescribed by legislation². These post-holders are subject to additional political restrictions which are prescribed in legislation³. Guidance on this issue may be beneficial.</p>
<p><i>Relations with members, the public and other employees</i></p> <p>4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.</p> <p>5. Qualifying employees of Cardiff Council should deal with the public, members and other employees sympathetically, efficiently, and without bias.</p>	<p>Protocol on Member / Officer Relations</p> <p>Complaints Policy; and various service area specific policies and procedures</p>	<p>The Protocol on Member / Officer Relations (contained within Part 5 of the Council’s Constitution) was considered by the Standards & Ethics Committee in April 2008; and the Committee approved a Member / Officer Compact (summarising the key commitments) for circulation to all Members and staff.</p> <p>A Customer Services Strategy and Standards are to be drafted imminently.</p>

² Politically restricted posts are: (i) the chief executive, all chief officers, the monitoring officer, and political assistants; and (ii) posts above NJC salary point 49, and posts which regularly involve advising the Council or speaking to the media on behalf of the Council. NB. The Council is required to keep a list of all posts within group (ii).

³ Local Government Officers (Political Restrictions) Regulations 1990 (SI 1990/851)

<p><i>Equality</i></p> <p>6. Qualifying employees of Cardiff Council must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.</p>	<p>Gender Equality Scheme; Race Equality Scheme; Disability Equality Scheme; Age Equality Advice Leaflet</p>	<p>The Council routinely conducts Equality Impact Assessments of its policies and relevant decisions of the Executive eg. the Council budget and corporate plan; and has an Equalities and Diversity Team to support and develop best practice in this area.</p>
<p><i>Stewardship</i></p> <p>7. Qualifying employees of Cardiff Council must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.</p>	<p>Anti-Fraud and Anti-Corruption Strategy</p>	<p>This strategy sets out the Council’s approach to safeguarding public resources against fraud and corruption from within the authority (and also from outside). Breach may be a fundamental breach of contract and lead to disciplinary action.</p>
<p><i>Personal Interests</i></p> <p>8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:</p> <p>(1) any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests,</p>	<p>Re. (1) No current guidance, procedures or rules on officers’ personal interests. However, the following forms exist: (i) Initial Registration of Officer Interests (CIS 4.HR.128); (ii) Declarations of Officer Interests (Voluntary) (CIS 4.C.055); and (iii) Register of Officer Interests (CIS 4.C.056)</p>	<p>As the officer interests forms refer to Standing Orders which are now obsolete; and there is no current guidance, procedures or rules, this is an area of considerable confusion and ignorance.</p>

<p>(2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.</p>	<p>Re. (2) Guidance on Hospitality, Gifts and Other Benefits (CIS document 1.CM.070); and the following forms: (i) Employee Authorisation (CIS form 4.C.095); (ii) Employee Register (CIS form 4.C.034); and (iii) Hospitality for External Organisations, Businesses or Individuals</p>	<p>The Committee has reviewed the threshold for registration of hospitality (and a reduced threshold was consequently adopted by Council with effect from October 2007); and receives regular 6 monthly reports on the registration of Members' hospitality.</p> <p>However, the Committee has not specifically considered officers' registration of hospitality, and may wish to take this opportunity to do so.</p>
<p><i>Whistleblowing</i></p> <p>9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.</p>	<p>Whistleblowing Policy Whistleblowing Report Form (CIS 4.C.241)</p>	<p>The Committee has reviewed the Whistleblowing Policy (and the Council's Executive consequently approved a revised Policy with effect from August 2007); and receives an annual report on issues reported under the Policy.</p>

<p><i>Treatment of Information</i></p> <p>10. Openness in the dissemination of information and decision making should be the norm in Cardiff Council. However, certain information may be confidential or exempt in accordance with the Access to Information Procedure Rules and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, Cardiff Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to disclose information in accordance with the Freedom of Information legislation. Where employees are uncertain about obligations to disclose or withhold information they must seek appropriate advice from Legal or Information Management officers.</p>	<p>Access to Information Procedure Rules (contained within Part 4 of the Council's Constitution)</p> <p>Information Management Policy and Strategy</p> <p>Data Protection Strategy</p> <p>Wales Accord for Sharing Personal Information (WASPI) and the Personal Information Promise</p> <p>Freedom of Information guidance (various)</p>	<p>The Council has developed a raft of policies and strategies, which are now in place. The issue now is dissemination and training for staff.</p>
<p><i>Appointment of Staff</i></p> <p>11. Qualifying employees of Cardiff Council involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.</p>	<p>Recruitment and Selection Policy and Procedure</p>	

Investigations by Monitoring Officers

- 12.** Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

Officers' Personal Interests

9. The Committee will note from the comments in the table in paragraph 8 above that the issue of officers' personal interests (paragraph 8(1) of the Code) requires attention as a matter of priority, as the rules ('standing orders') referred to in the existing forms are out of date. The rules previously applying to officers' personal interests, together with the associated forms are appended to this report at **Appendix C**.
10. The issue of officers' personal interests is topical, in that the Monitoring Officer is aware that it has been raised in a couple of whistleblowing reports and a concern raised with a service area informally. We also understand that Swansea Council are currently reviewing this issue. Swansea are collating information on practice in other local authorities, and the same will be used to inform this Council's approach.

Officers' Hospitality

11. The Committee will also note from the comments in the table in paragraph 8 above relating to hospitality (paragraph 8(2) of the Code) that, whilst it has previously reviewed the threshold for registration of hospitality (which applies to both Members and officers), and receives regular reports on the registration of Members' hospitality, the issue of officers' hospitality has not specifically been considered.
12. The guidance on hospitality (appended as **Appendix D** to this report) currently states that 'it is necessary under the Employee Code of Conduct for employees to receive formal authorisation from the Council before accepting gifts, hospitality and other benefits', and the associated forms (included within **Appendix D**) reflect this requirement. However, the Committee will note that the current Employees' Code contains no express requirement for authorisation. The Committee may wish to consider whether authorisation should be required for officers' hospitality, and to consider amendment of the guidance and forms accordingly.

Political Neutrality

13. The Committee will further note from the comments in the table in paragraph 8 above that there appears to be no general guidance on employees' obligation of political neutrality (paragraph 3 of the Code) or the additional restrictions applicable to those in politically restricted posts. This is an area where the Committee may consider that guidance would be beneficial.

Suggested way forward

14. It is the Monitoring Officer's view that a simplified and consistent process for registration for officers' personal interests and hospitality should be established, within the following framework:
 - (i) Chief Officers should be responsible for registrations of personal interests and hospitality made by employees within their service areas;
 - (ii) Employees should complete the relevant forms and submit the same to their Chief Officers;
 - (iii) Chief Officers should review the forms submitted by their staff and, where they agree that registration is appropriate, arrange for entry in the registers held by them;
 - (iv) Central registers should be kept by the Clerk to the Council;
 - (v) Chief Officers should submit registrations within their service area to the Clerk to the Council for inclusion in the central registers;
 - (vi) Chief Officers should review registrations within their service areas every 6 months; and
 - (vii) Central registers should be reviewed annually.

15. The Committee is invited to consider the above; make any comments it considers appropriate, specifically on the issues of (a) officers' personal interests, (b) officers' hospitality and (c) political neutrality; and to authorise the Monitoring Officer, in accordance with the Committee's instructions, to:
 - (i) review any existing guidance and to draft amended or new guidance as appropriate;
 - (ii) review and update all associated forms;
 - (iii) to arrange for training and awareness raising to be provided via all service area management teams; and
 - (iv) to report to the Committee in 12 months time on the implementation of the above.

ADVICE

This report has been prepared by the Monitoring Officer. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the advice contained in this section.

Legal Implications

The relevant legal provisions and the implications of these are contained within the body of this report.

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATIONS

That the Committee:

Notes the current guidance, procedures and rules supporting the Code; and agrees the suggested way forward, as set out in paragraphs 14 and 15 of this report.

Kate Berry

Monitoring Officer and City and County Solicitor

18th March 2009

Appendices

- A - Guide to Employees' Code of Conduct
- B - Extract from Ethical Audit (Section 2, Ethical Standards Consultation Report. July 2006)
- C - Officers' Personal Interests (existing forms, and previous standing orders)
- D - Officers' Hospitality (Guidance and forms)

Background papers:

Report of the Monitoring Officer to Standards & Ethics Committee 'Employees Code of Conduct' dated 27 January 2009

Report of the Monitoring Officer to Standards & Ethics Committee 'Ethical Audit' dated 25 July 2006

Report of the Monitoring Officer to Standards & Ethics Committee 'Member / Officer Compact' dated 15 April 2008 and minutes thereof

Reports of the Monitoring Officer to Standards & Ethics Committee 'Hospitality – Review' dated 18 September 2007, 24 June 2008 & 17 January 2009, and minutes in respect thereof

Report of the Monitoring Officer to Standards & Ethics Committee 'Whistleblowing Policy' dated 20 March 2007 and minutes in respect thereof