

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

11 JULY 2012

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Corporate Management and Finance - Lead Cabinet Member – Councillor Harrington.

LOCALISM ACT 2011 (“the Act”) – A NEW CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS

1. Summary

This report provides details of a proposed new code of conduct for the Council's members as required by the Act.

2. Recommendations

It is recommended that:-

1. The draft code of conduct attached at **Appendix 4** to the report be recommended for approval to and adoption by the Council as the code for dealing with the conduct that is expected of members and co-opted members of the Authority when acting in that capacity;
2. The publicising of the adoption of the code required by the Act, be delegated to the Monitoring Officer in consultation with the Cabinet Member for Corporate Management and Finance; and that
3. The review of the new standards arrangements which Council previously agreed the Monitoring Officer should carry out after 12 months of their operation, includes a review of the new code of conduct for members.

3. Reasons for the Recommendations

To ensure that the Council adopts and publicises a new code of conduct for Members as required by the Act and related regulations, and to ensure that the agreed code continues to be fit for purpose.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

This report provides details of a proposed new code of conduct for the Council’s members as required by the Act.

RECOMMENDATIONS

It is recommended that:-

1. The draft code of conduct attached at **Appendix 4** to the report be recommended for approval to and adoption by the Council as the code for dealing with the conduct that is expected of members and co-opted members of the Authority when acting in that capacity;
2. The publicising of the adoption of the code required by the Act, be delegated to the Monitoring Officer in consultation with the Cabinet Member for Corporate Management and Finance; and that
3. The review of the new standards arrangements which Council previously agreed the Monitoring Officer should carry out after 12 months of their operation, includes a review of the new code of conduct for members.

DETAIL

1. A Local Authority must adopt a code dealing with the conduct that is expected of members and co-opted members of the Authority when acting in that capacity. This is part of the fulfilment of its duty to promote and maintain high standards of conduct amongst members and co-opted members (of the Authority) (Sections 27(1) and (2) of the Act).
2. The code must, when viewed as a whole, be consistent with the seven Nolan principles:-
 - a) Selflessness;
 - b) Integrity;
 - c) objectivity;
 - d) accountability;
 - e) openness;
 - f) honesty;

- g) leadership
3. The code must include the provision the Authority considers appropriate in respect of the registration in its register, and disclosure of:-
 - a) pecuniary interests; and
 - b) interests other than pecuniary ones
 4. In principle, there is no limit to what may be included in an Authority's code, save that it cannot include provisions which prejudice the operation of the following sections of the Act:-
 - a) Register of Interests – Section 29;
 - b) Disclosure of pecuniary interests on taking office – Section 30;
 - c) Pecuniary interests in matters considered at meetings or by a single member – Section 31;
 - d) Sensitive interests – Section 32;
 - e) Dispensations relating to disclosable pecuniary interests – Section 33; and
 - f) Offences – Section 34
 5. An Authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers likely to bring the adoption revision or replacement of the code to the attention of persons who live in its area.
 6. The function of adopting, revising or replacing a code of conduct can only be discharged by the Authority.

Stockton's Proposals

7. Following a report to Cabinet on 9 February 2012, Council agreed on 7 March that a new code should be drafted based on the ten principles of conduct (as specified in the Relevant Authorities (General Principles of Conduct) Order 2001):-
 - a) selflessness;
 - b) honesty and integrity
 - c) objectivity;
 - d) accountability;
 - e) openness;
 - f) personal judgement;
 - g) respect for others;
 - h) duty to uphold the law;
 - i) stewardship;
 - j) leadership
8. Based on this, Council agreed that the new Code should therefore include provisions equivalent to paragraphs 3 to 7 of the current code and that it should require registration and disclosure of interests which would constitute personal and/or prejudicial interests under the current code, but withdrawal from a meeting room only in relation to disclosable pecuniary interests.
9. Council also agreed that when the regulations relating to disclosable pecuniary interests are published the Code should be reviewed and should include any appropriate provisions (regarding registration and disclosure) which may be required in relation to disclosable pecuniary interests and other interests.

A new draft code of conduct

10. An initial draft code of conduct was considered by the Council's Standards Committee on 15 March 2012 and was the subject of consultation with Officers and leading members. In order to show how the new draft code has been developed with the current code in mind, a copy of the current code is attached at **Appendix 1**.
11. Since the initial draft Code was prepared, the Local Government Association and Department for Communities and Local Government have each issued guidance on local codes of conduct. Copies of the guidance is attached at **Appendix 2**.
12. The draft code of conduct prepared for Stockton's Members accords generally with this guidance, although the draft is in a more traditional format, akin to the current code of conduct for Stockton's Members.
13. The Secretary of State has also now issued regulations regarding disclosable pecuniary interests ("the regulations"). As a result the initial draft code of conduct has been revised to reflect these new interests.
14. Attached to the report are copies of the regulations and a related briefing note for Members (**Appendix 3**), together with a copy of the revised draft code of conduct for Stockton's Members (**Appendix 4**).
15. Cabinet is asked to consider the revised draft code at Appendix 4 and, subject to any comments on its terms, to recommend it to Council for approval.
16. The revised draft code has been reported to the Standards Committee (25 June) and has also been discussed with leading Members and Officers. Any comments arising from this will be reported to Cabinet Members at the meeting.

Training

17. Council previously agreed that in addition to guidance to members on their duty to register interests, appropriate training should be provided to Members regarding the Council's new code of conduct, disclosable pecuniary interests and the arrangements for dealing with misconduct allegations.

Review

18. Council also agreed that the arrangements for dealing with misconduct allegations should be reviewed after an initial twelve months operation. It would be sensible to include a review of the new code of conduct in this context, in order to demonstrate if it has proved to be fit for purpose.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

19. There are no financial implications arising directly from the report. Costs arising from providing training and advice in relation to the new code will be met from existing budgets.

Legal

20. The Act requires local authorities to introduce new codes of conduct for their members. The code will form the basis of Stockton's arrangements for handling the new misconduct allegations under the Act.

RISK ASSESSMENT

21. Potential breaches of the code of conduct by Stockton's Members continue to be assessed as a low to medium risk, with ongoing measures in place to control the risk, including awareness, advice and guidance arrangements. The position regarding such risk will be reviewed in light of the introduction of a new code and the wider Localism Act standards regime, particularly those provisions with consequential criminal standards in the event of non-compliance.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

22. High standards of conduct are critical to the Council's governance and organisational development.

EQUALITY IMPACT ASSESSMENT

23. It is not considered that an assessment is necessary. The new draft code retains the key features of the current code and complies with the requirements of the Act.

CONSULTATION

24. The draft code has been the subject of prior consultation with Officers and leading Members. The report to Cabinet is accessible to all Members and there will be a report to full Council.
25. Details of the draft code have also been provided to all Town/Parish Councils in the Authority's administrative area and a copy of the agreed code will be circulated to them.

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<u>Background Papers:</u>	The appendices attached to the report
<u>Ward(s) and Ward Councillors:</u>	Not Ward specific
<u>Property Implications:</u>	None