

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

24th SEPTEMBER 2007

1. REVISED CODE OF CONDUCT FOR MEMBERS OF THE WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Report of the Monitoring Officer

RECOMMENDED

- (1) that the Authority adopt the revised Code of Conduct, in place of the existing Code;
- (2) that, in terms of the non-mandatory paragraphs within the Model Code, paragraph 6(c) relating to a Code of Publicity be adopted;
- (3) that the ten General Principles be adopted by the Authority as a non-enforceable annex to the Code to remind members and the public of the principles underlying the Code;
- (4) that a copy of the revised Code of Conduct be provided to every Member of the Authority;
- (5) that the Clerk and the Monitoring Officer notify all members of the need to register or renew their registration of interests;
- (6) that the Clerk and the Monitoring Officer be authorised to identify the training needs of members, co-opted members and appointed members of the Authority and to arrange appropriate training as necessary;
- (7) that the Clerk and the Monitoring Officer be authorised to carry out the post adoption formalities including:-
 - a. ensuring that copies of the revised Code of Conduct are available for inspection at the Authority's offices;
 - b. publishing notice of the adoption of the revised Code of Conduct in a local newspaper; and

- c. sending a copy of the Code of Conduct, as adopted, to the Standards Board for England.

2. PURPOSE OF REPORT

- 2.1 At its meeting on 5th March 2007 the Standards Committee considered the Consultation on Amendments to the Model Code of Conduct for Local Authority Members and suggested a response to Government.
- 2.2 On 4th April 2007 the Government tabled in Parliament the revised Model Code of Conduct for Members. The Code came into force on 3rd May 2007 and local authorities have until 1st October 2007 to adopt the revised Code.
- 2.3 The Standards Committee met on 7th September, 2007 and considered the changes to the Code, which are set out in section 4 of this report.
- 2.4 The terms of reference of the Standards Committee include:
 - advising the Authority on the adoption or revision of a Code of Conduct;
 - advising, training or arranging for training for Members of the Authority on matters relating to the Authority's Code of Conduct.
- 2.5 The Standards Committee recommended that the Authority adopt the revised Code. The Committee also considered which of the non-mandatory sections of the Model Code should be adopted and recommended that a provision on a Code of Publicity be included in the Code for the Authority.
- 2.6 In addition, at the Policy Planning Forum meeting held on 10th September, 2007, Members discussed the revised Code, its applicability and the level of consistency with the regime imposed on national politicians.

3. BACKGROUND

- 3.1 The Standards Board for England carried out consultation in 2005

on amending the Code and subsequently made recommendations on this to the Government. The Government's response was set out in the Discussion Paper "Conduct in English Local Government: The Future".

- 3.2 In October 2006 the Local Government White Paper, "Strong and Prosperous Communities" set out the Government's broad proposals to make the Code more effective and proportionate. The White Paper also signalled a move to a more locally based decision-making framework for the investigation and determination of all but the most serious of misconduct allegations. The Standards Board would become a strategic regulator promoting and ensuring consistency of standards. The Local Government and Public Involvement in Health Bill includes the changes intended and is progressing through Parliament.
- 3.3 The Consultation on Amendments to the Model Code of Conduct for Local Authority Members was considered by the Standards Committee on 5th March 2007. This included the revised draft Code and some specific questions. The response made on behalf of the Authority is attached as Appendix 1.
- 3.4 On 4th April 2007 the Government tabled in Parliament the revised Model Code of Conduct for Members. The Code came into force on 3rd May 2007 and local authorities have until 1st October 2007 to adopt the revised Code. The Local Authorities (Model Code of Conduct) Order 2007 which includes the Model Code of Conduct as a Schedule is included as Appendix 2.
- 3.5 Paragraphs 6(c), 10(2)(c)(i), 10(2)(c)(ii), 11 and 12(2) of the Code are not mandatory for Fire and Rescue Authorities. These provisions are highlighted in Appendix 2. Standards Committee has previously indicated support for the Local Authority Code of Publicity. The Authority does not have a housing, school meals or school transport function relevant to Members. The Authority does not have overview and scrutiny committees. Members will need to consider which, if any, non-mandatory provisions should be adopted.

4. **CHANGES**

- 4.1 The revised Code brings in some significant and material changes as well as revisions seeking to clarify aspects. The main changes

are very briefly summarised below:-

- a. Rather than referring to a Member of an Authority in the third person it refers directly to the Member as “you”.
- b. The “whistle-blowing” provision requiring a Member to report another Member whom they reasonably suspect of breaching the Code is now dropped.
- c. There are new provisions relating to bullying, victimisation and intimidation of participants in standards proceedings.
- d. There is an obligation on a Member not to do anything which may cause the Authority to breach any of the equality enactments.
- e. The Code will apply to Members only when they are “on duty” ie performing their functions as Members or when they give the impression that they are acting as a representative of the Authority. The Code will only apply to conduct in a Member’s private life if the actions of a Member constitute a criminal offence for which they have been convicted. The Code refers to criminal conduct relating to intimidation, bringing the office or Authority into disrepute and/or improperly seeking an advantage.
- f. Disclosure of confidential information remains a breach of the Code. However there is now a defence available to the Member if the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Authority.
- g. The provisions relating to interests are relaxed to enable Members with a prejudicial interest to make representations to a meeting in the same manner as members of the public, and to participate fully where the interest is shared with the majority of residents of his/her ward or electoral division or inhabitants of the Authority’s area.
- h. Members are still required to register the receipt of any gift or hospitality which has an estimated value of at least £25. Members will now also need to disclose an interest where a matter under consideration affects a person or body who

provided the gift or hospitality within the last three years.

- i. When the new Code is adopted every Member will have to re-register their interests within 28 days.

5. **TRAINING**

- 5.1 It is likely that Members will have received some training in their host organisations. The Clerk is currently consulting Members on the extent of their training needs and training on the Code can be provided to the extent necessary. Each Member can be sent a copy of the Code together with Guidance issued by the Standards Board. In addition the Monitoring Officer can be consulted if advice is needed.
- 5.2 At the Policy Planning Forum meeting held on 10th September, 2007, the Chair of Standards Committee urged Members to identify their training needs to the Clerk and Monitoring Officer. Members viewed the DVD 'The Code Uncovered' issued by the Standards Board for England as a key training tool for members.

6. **EQUALITY IMPACT ASSESSMENT**

- 6.1 The report does not raise issues which require a full Equality Impact Assessment to be completed. It is considered that there are no discriminatory practices or differential impacts upon specific groups arising from this report. The revised Code still requires Members to treat others with respect and members must not do anything which may cause the Authority to breach legislation on equality.

7. **LEGAL IMPLICATIONS**

- 7.1 The Local Government Act 2000 provides the main legal basis for the ethical framework for local government. The Secretary of State is enabled to introduce a Model Code of Conduct.
- 7.2 On 4th April 2007 the Government tabled in Parliament the revised Model Code of Conduct for Members (Appendix 2).
- 7.3 The Code came into force on 3rd May 2007 and local authorities have six months to adopt the revised Code. The Standards Board has to be notified of the adoption and a notice has to be published

regarding the adoption. If the revised Code is not adopted and effective by 1st October 2007 it will apply nevertheless by operation of the law. Clearly it is much better to follow the law and actively adopt the Code following due consideration.

- 7.4 To facilitate implementation, ensure consistency across authorities and assist Members to understand the revised Code, the Standards Board recommended early adoption of the revised Code without amendment. This is designed to give certainty to Members and the public as to what standards are expected, to ensure consistency throughout England, and to minimise the legal risk of the Authority adopting additional provisions which are unenforceable.
- 7.5 The revised Code replaces the four separate Codes of Conduct issued in 2001 that covered Local Authorities, Parish Councils, National Parks and Broads Authorities and Police Authorities.
- 7.6 The Standards Board does recommend that the ten General Principles are adopted as a non-enforceable preamble or annex to the Authority's Code to remind Members and the public of the principles underlying the Code. The Relevant Authorities (General Principles) Order 2001 is attached as Appendix 3 to this report. The General principles are:

Selflessness
Honesty and integrity
Objectivity
Accountability
Openness
Personal judgment
Respect for others
Duty to uphold the law
Stewardship
Leadership

- 7.7 The Code will apply to Members whether elected, appointed or co-opted. Breaches of the Code can lead to sanctions including suspension and disqualification of Members.

8. **FINANCIAL IMPLICATIONS**

- 8.1 It is not considered that the revised Code of Conduct will in itself

have any significant resource implications although some resources may be needed to train Members if necessary.

Background Papers