

WAVERLEY BOROUGH COUNCIL

STANDARDS PANEL – 10 OCTOBER 2016

Title:

REVIEW OF MEMBER CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS AND COUNCILLORS' PLANNING CODE

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

As requested at the 13 June 2016 meeting of the Standards Panel and subsequently agreed at Council meeting on 19 July 2016, this report sets out a number of suggested changes to the Waverley 'Member Code of Conduct', 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice'.

How this report relates to the Council's Corporate Priorities:

Confidence in high standards of conduct is a key part of understanding and responding to our residents' needs.

Financial Implications:

There are no budget implications, and the operation of the new Code has generally been accommodated within existing budgets over the last four financial years.

Legal Implications:

The Council is under a range of duties under the Localism Act and operating the new Code and arrangements is a key part of discharging these duties. The Council can choose to amend its Code or arrangements when it considers appropriate.

1. Introduction

- 1.1 The Localism Act gave Councils an explicit duty to promote and maintain high standards of Member conduct. It obliged the Council to adopt a Code dealing with the high standard of conduct that is expected of Members when acting in their official capacity.
- 1.2 At its meeting on 13 June 2016, the Standards Panel recommended to Council that the Waverley 'Member Code of Conduct', 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice' be reviewed by the Monitoring Officer in light of examples that had come forward and advice that had been given. Council agreed that recommendation on 19 July 2016.

- 1.3 That review has now taken place and this report sets out a number of suggested changes. The existing versions of all three documents are attached as Annexes 1-3 to this report with suggested amendments highlighted in red.
- 1.4 The proposed changes have also been shared with the Council's three designated Independent Persons and any feedback from them will be shared with members at the meeting. If, subject to any changes they recommend, Members of the panel resolve to put forward these changes, they will be considered by the Council on 18 October 2016.

2. Recommended changes

- 2.1 Annexes 1-3 to this report set out the text of the existing documents with all suggested amendments highlighted in red. The following tables summarise the key changes that have been put forward and why.

Table 1 – Suggested Amendments to Waverley Code of Conduct

Where	What	Why
Paragraph 1	That individuals may seek advice from the Monitoring Officer or Deputy Monitoring Officer about whether the code of conduct applies in any given situation.	To manage expectations and to encourage early consultation and communication with the Monitoring Officer or Deputy Officer which will often enable early and informal resolution of issues.
Paragraph 2	Explicit statement on keeping Waverley Exempt documents confidential.	For the avoidance of doubt.
Paragraph 2	Clarification that bullying or harassment is not acceptable under the code.	In the interests of transparency. To make explicit what is already referred to by cross-references between this code and the member/officer protocol. In line with best practice advice
Paragraph 5	Clarification that detail needs to be given in respect of interests registered and that the register needs to be updated if circumstances change.	To promote public transparency. To support the Monitoring Officer in providing advice to members on the implications of their interests. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.

Paragraph 5 (and DPI annexe)	Clarification that disclosable pecuniary interests refer to past and potential future matters as well as present ones.	In line with best practice advice. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.
Paragraph 6	Inclusion of statement on the importance of declaring of interests that are non-pecuniary but which members judge may nonetheless undermine their ability to make an open-minded and objective decision and that members should declare and withdraw when this is the case.	In line with best practice advice. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.

Table 2 – Suggested Amendments to The Arrangements for dealing with Standards Allegations

Where	What	Why
Paragraph 1	Simplification of introduction. Deletion of detailed description of Council's duties.	To convey the key facts to the reader in plain English.
Paragraph 3	Clarification that name and address of complainant will only be withheld in exceptional circumstances.	In response to feedback received from members. In the interests of fairness and transparency. To set realistic expectations for complainants and. In line with Local Authority best practice.
Paragraph 4	Inclusion of specific criteria Monitoring Officer will refer to in determining the validity of a complaint.	In line with best practice advice and in line with legislation. To ensure the process by which complaints are accepted or rejected is clear and transparent.
	Additional guidance about who is notified and when at the commencement of the process.	To address gaps in existing guidance. In line with best practice advice.
	To clarify that allegations of a criminal nature, including the non-disclosure of disclosable	To reflect and be transparent about existing practice.

	pecuniary interests, may be shared with the Police or other regulatory agencies.	
Paragraph 7	To clarify that meetings of the Hearing Panel will be made in public but that papers will not be made available in advance.	In line with best practice advice and to reflect and be transparent about existing practice.
Paragraph 11	Clarification about role of the Independent Persons.	To reflect the IP protocol the Council is already working to. To ensure all parties understand who may contact the IP and why.

Table 3 – Suggested Amendments to the Members’ Planning Code of Good Practice

Where	What	Why
Paragraph 2	Clarification that interests should be declared under ‘declaration of interests’ item.	For the avoidance of doubt.
	Inclusion of statement encouraging members to advise Democratic Services in advance wherever possible.	To provide sufficient time for officers to consult the Monitoring Officer where needed. To give committee officers the best chance to provide the right support and advice to committee chairmen and members.
	Deletion of cross-reference to paragraph 4(1) of code of conduct.	To avoid confusion / simplify the guidance.
Paragraph 3	Addition of sentence to clarify the guidance on predisposition vs predetermination.	To provide clearer guidance to members in light of the Localism Act.
Paragraph 4	Clarification on circumstances under which it would not be appropriate for a member to call in a planning application (where the member has a DPI or may be biased).	For the avoidance of doubt.

Paragraph 5	Clarification that officers should attend formal meetings with applicants, developers or groups of objectors.	For the avoidance of doubt. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.
Paragraph 7	Clarification that although simple membership of a community interest group may not lead to a non-pecuniary interest, that specific office (for example chairmanship or vice-chairmanships) of the same group is likely to.	For the avoidance of doubt.
Paragraph 8	Clarification that members with a disclosable pecuniary interest or where there is a risk of the appearance of bias should not attend site visits.	For the avoidance of doubt. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.

Recommendation

It is recommended that the Standards Panel

1. notes any comments or observations received from the Council's designated Independent Persons on the three revised documents; and
2. agrees, subject to any changes they wish to make, to recommend to Council changes to be made to the Waverley 'Member Code of Conduct', 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice'.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Robin Taylor

Telephone: 01483 523108

E-mail: robin.taylor@waverley.gov.uk