



REPORT TO: OVERVIEW AND SCRUTINY COMMITTEE

DATE: 2 JULY 2009

REPORTING OFFICER: COUNCIL SOLICITOR AND MONITORING OFFICER

SUBJECT: OFFICER CODE OF CONDUCT

WARDS AFFECTED: ALL

1.0 PURPOSE OF REPORT

1.1 To brief Members on the issues relating to the production of an Officers' Code of Conduct.

2.0 RECOMMENDATIONS

2.1 Members are asked to:

- (i) Receive the report;
- (ii) Given the delay in the Government coming forward with a Code of Conduct for local government employees Committee is asked to support the proposed way forward recommended by the Council Solicitor outlined in the report and progress the introduction of an up to date Officers Code of Conduct.

3.0 BACKGROUND

3.1 The Action Plan for implementation in 2008/09 in relation to the Annual Governance Statement included reference to the need for a bespoke Officer Code of Conduct document. This requirement was identified notwithstanding the existence of an Officer Code of Conduct for the Council and the express legislative power for Central Government to introduce an Officer Code of Conduct.

3.2 The commitment of Central Government to the idea of a Code of Conduct for Local Government employees has manifested itself in the following ways:-

- (i) Section 82 of the Local Government Act 2000 introduced a power for the Secretary of State to issue by order a Code of Conduct for local government employees. This provision came into force on 28 July 2001;
- (ii) In August 2004, the then Office of the Deputy Prime Minister issued the consultation paper, *A Model Code of Conduct for Local Government Employees*. The paper consulted on a draft code defining the minimum

standards of conduct that employees of relevant authorities would be expected to observe on carrying out their duties.

- (iii) In October 2008, the Department for Communities and Local Government published the consultation paper *Communities in control: Real people, real power Codes of Conduct for local authority members and employees*. The consultation period ended on 24 December 2008.
- (iv) As at the date of writing this report and notwithstanding two consultation papers on the subject, there has been no indication that the Secretary of State will issue by order a Code of Conduct for local government employees in the foreseeable future.

3.3 Ryedale has had an Officer Code of Conduct since March 1995. This Code is currently on the Council's intranet.

3.4 The 1995 Officer Code of Conduct was produced as a response to the Local Government Management Board publication of the same title which was published in 1994 which sets out the minimum standards which should apply to issues affecting local government employees in England and Wales. The Associations within local government and UNISON have endorsed the Code of Conduct produced by the Board and the local Code follows closely the guidelines put forward in the national document. Production of a local Code of Conduct for Officers is not intended to imply distrust but exists for the avoidance of doubt.

4.0 INTRODUCTION

4.1 Although the March 1995 Officer Code of Conduct has been updated, it is in need of revision.

4.2 Members are advised that an Officer Code of Conduct fulfils at least the following three functions:-

- (i) It establishes minimum standards of conduct for employees.
- (ii) It establishes a mechanism for Officers declaring and registering interests.
- (iii) It establishes rules in relation to gifts and hospitality.

4.3 Members are advised that the principle of declaration of interests by Officers is in certain circumstances prescribed by law under Section 117 of the Local Government Act 1972. Officers are obliged to give written notice when they have a direct or indirect pecuniary interest in a contract. Indirect interests arise where the Officer owns shares in a company, is a partner or in the employment of a Contractor or is the spouse or a person with such an interest.

4.4 Section 117(2) of the Local Government Act 1972 also provides that an Officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration. A contravention of the provisions of Section 117 of the 1972 Act is a criminal offence attracting a fine on summary conviction not exceeding £2,500.

5.0 POLICY CONTEXT

- 5.1 The production of the Annual Governance Statement and achievement of the Action Plan is in accordance with Council policy.

6.0 REPORT

- 6.1 As indicated above the Government has taken many years to issue a draft Officer Code for consultation and it could be some time yet before that is finalised. It is, therefore, recommended that the Council proceeds to develop and adopts its own updated Code without further delay.
- 6.2 It is important that the Officer Code is clear and straightforward as it will apply to employees of the Council at all levels.
- 6.3 There is an argument for developing a detailed Code which seeks to address all issues an employee may face. However, it is almost impossible to include guidance on every possible circumstance and there is a danger that, if something new arises which is not covered, an employee can argue that they had received no advice on this and could not be expected to know what to do and this can carry some weight in disciplinary processes.
- 6.4 The approach adopted has, therefore, been to go for a much more high level approach, focused on Core principles supported by guidance on a number of key areas. It then signposts employees to other policies, procedures, etc which they need to be aware of. A copy of the draft Code is attached as Annex 1. Further work is required on the draft code prior to consideration by the Policy and Resources committee. It is intended to take the final code to the Policy and Resources committee for approval on the 1 October 2009.

7.0 LEGAL IMPLICATIONS

- 7.1 A Code of Conduct for Officers is a key document to ensure the good governance of the Council and provides clear direction to employees on the standards of conduct expected of them.
- 7.2 The Government issued a revised draft Officer Code of Conduct for consultation in October 2008. This has been awaited for many years and it may be some time before any final document is agreed. It is, therefore, necessary for the Council to agree its own Code, which can be reviewed if necessary when any final framework is issued.

8.0 RISK ASSESSMENT

- 8.1 See below:

RISK	MITIGATION
<p>Failure to have an up to date Code of Conduct for Officers potentially places the Council at risk of inappropriate behaviour by employees</p>	<p>Introduce an up to date Officers' Code of Conduct</p>
<p>Failure to have clear advice to employees on appropriate behaviour makes dealing with inappropriate conduct more difficult to address</p>	<p>Introduce a clear Code of Conduct for Officers and issue to all employees</p>

9.0 CONCLUSION

9.1 That Officers proceed to update the Officers' Code of Conduct.

Background Papers:

None

OFFICER CONTACT:

Please contact Anthony Winship, Council Solicitor, if you require any further information on the contents of this Report. The Officer can be contacted at Ryedale House, Telephone 01653 600666 ext. 267 or e-mail: anthony.winship@ryedale.gov.uk