



PART B: RECOMMENDATIONS TO COUNCIL

REPORT TO: POLICY AND RESOURCES COMMITTEE

DATE: 1 APRIL 2010

**REPORTING OFFICER: COUNCIL SOLICITOR AND MONITORING OFFICER
ANTHONY WINSHIP**

SUBJECT: OFFICER CODE OF CONDUCT

WARDS AFFECTED: ALL

1.0 PURPOSE OF REPORT

1.1 To consider and recommend Council to approve a revised Officer Code of Conduct.

2.0 RECOMMENDATION

2.1 Council are requested to approve the revised Officer Code of Conduct with immediate effect for inclusion within Part 5 of the Council's Constitution.

3.0 REASON FOR RECOMMENDATION

3.1 The recommendation is supported by the following reasons:-

- (a) To ensure probity in the Council's decision making.
- (b) To provide appropriate advice and support to the Council's Officers.

4.0 SIGNIFICANT RISKS

4.1 No significant risks have been identified – see Risk Matrix (Annex A).

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 The Action Plan for implementation in relation to the Annual Governance Statement included reference to the need for a bespoke Officer Code of Conduct document. The Council's existing Officer Code of Conduct was prepared in 1995. There is also express legislative power for Central Government to introduce an Officer Code of Conduct.

- 5.2 The commitment of Central Government to the idea of a Code of Conduct for Local Government employees has manifested itself in the following way:-
- (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.
 - (i) 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.
 - (ii) 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.
 - (iii) 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.
- 5.3 (i) Ryedale has had an Officer Code of Conduct since March 1995. This Code is currently on the Council's intranet.
- (ii) 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.
- 5.4 Production of a local Code of Conduct for Officers is not intended to imply distrust but exists for the avoidance of doubt.
- 5.5 Although the March 1995 Officer Code of Conduct has been updated, it is in need of revision.
- 5.6 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.
- 5.7 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 as amended. 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.

5.8 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.

5.9 The terms and conditions of employment for Officers include those established by the National Joint Council for Local Government Services, as set out in the Scheme of Conditions of Service (commonly known as the Green Book) and includes the following provisions:

2.1 Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

2.2 Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.

5.10 Accordingly the proposed Officer Code of Conduct is consistent with the above provisions of the Green Book.

6.0 POLICY CONTEXT

6.1 This report does not alter the Council's Policy Framework but the issues contained within this report are required to be considered by Council because they affect the terms and conditions of employees of the Council and amend the Council's Constitution.

6.2 Sound corporate governance lies at the heart of the Council's ability to deliver and achieve its corporate priorities by supporting the Council's corporate plan objectives.

7.0 CONSULTATION

7.1 The trade union has been consulted on the contents of the proposed Code. The final decision to adopt any revised Code of Conduct for Officers sits with the full Council. The Employee Code of Conduct is a document contained within Part 5 of the Council's Constitution.

8.0 REPORT DETAILS

8.1 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.

8.2 It is important that the Officer Code is clear and straightforward as it will apply to Officers of the Council at all levels.

8.3 There is an argument for developing a detailed Code which seeks to address all issues an Officer 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 Officer 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.

- 8.4 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 B.
- 8.5 The changes to the Code of Conduct concentrate mainly on providing more clarity where necessary and on updating provisions in the light of legislative changes and experience. The opportunity has also been taken to reflect good practice principles expected to be included in the Government's model code for employees when finally published. The Code introduces a register of interests for the following staff:
- Corporate Management Team
 - Heads of Service and equivalent
 - Service Unit Manager
 - Staff in Politically Restricted Posts
- 8.6 Although the Members' Code of Conduct is not a parallel with the Officer's Code and other human resources policies and procedures cover the conduct of staff, the Officer Code was reviewed in the light of the Member Code of Conduct.
- 8.7 The Code will be a first point of contact for many staff, it will be available on the Intranet and will be made available to all new staff. It is, therefore, important that where requirements are set out in other policies, the Code signposts these requirements by reference and links to other documents.
- 8.8 Unlike the Register of Members Interests which is required to be maintained under the Local Government Act 2000 as amended, the Council currently has no well established arrangements for an Officer register of interests. The Audit Commission have recommended a register of Officer Interests as good practice, and this was initially recommended as part of the national code, although this was strongly resisted by many authorities who felt it was impractical to have a register for all staff. It was felt that for many staff, the cost of administering such a register would exceed the benefits. It is, therefore, proposed to introduce a register for those staff described above. This will be a system managed by Legal Services. Although there is a statutory requirement for the Members register of interests to be available for public inspection, there is no similar requirement for the Officer Code and as the register will contain personal data the Data Protection Act 1998 will need to be observed. The register will be accessible to certain officers where they have been asked to investigate ie Internal Audit Manager, Council Solicitor, Head of Organisational Development and Chief Executive, Corporate Directors, and to the relevant line manager where impropriety is alleged or suspected.
- 8.9 A revised Code of Conduct for Officers will not be effective unless it is coupled with a programme of awareness raising in relation to the content of the new code. This will take the form of inclusion within the Council's induction programme for all new starters. The requirements in relation to the new register of interests will be the subject of presentations to senior staff through the Council's management teams. The final decision to adopt any revised Code of Conduct for Officers sits with the full

Council. The Employee Code of Conduct is a document contained within Part 5 of the Council's Constitution.

9.0 IMPLICATIONS

9.1 The following implications have been identified:

a) Financial

This report has no financial implications.

b) Legal

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. There are no issues which need to be brought to the specific attention of Members, other than those highlighted in the report.

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.

c) Other (Equalities, Staffing, Planning, Health and Safety, Environmental, Crime & Disorder)

The report has no significant implications.

10.0 NEXT STEPS

10.1 Subject to the recommendation of the Policy and Resources Committee the Officer Code of Conduct will be submitted to Council for final approval.

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Background Papers:
None

Background Papers are available for inspection at:
N/a.