

CARLISLE CITY COUNCIL

Report to:- **STANDARDS COMMITTEE**

Date of Meeting:- **25 JUNE 2007**

Agenda Item No:-

A1

Public

Title:- **THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007 - ADOPTION OF THE REVISED CODE**

Report of:- **DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

Report reference:- **LDS.41/07**

Summary:-

To consider the revised Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) Order 2007 and the procedure for adopting the revised code in place of the Council's current Code of Conduct and the consequential training of Members pursuant thereto.

Recommendation:-

That the Council be recommended to :

1. Adopt the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007 (Statutory Instrument No 1159 (2007)) without modification as the City Council's Code of Conduct in place of the Council's current code, with effect from the Council Meeting on the 17 July 2007. The new code is annexed as Appendix 1 for information.
2. Adopt the 10 General Principles as a non enforceable annexure to the code to remind Members and the public of the principles underlying the code. A copy of the General Principles is attached as Appendix 2.
3. Note that the Planning Code of Good Practice for Members of the Development Control Committee and the Protocol for the Use of E-Mail and Internet by Members will remain as local protocols for non statutory enforcement.

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: The Local Authorities (Model Code of Conduct) Order 2007 and relevant correspondence from the Standards Board for England

4. Note that letters have been sent to Parish Councils encouraging them to adopt the revised Code (with modifications as appropriate to their situation) at the earliest opportunity.
5. Note that the Director of Legal and Democratic Services is to provide training to City Council Members on the new code prior to its implementation on the 17 July next and will provide similar training to Parish Council Clerks and Chairs.
6. Agree that all Members be notified of the need to renew their Registrations of Interest under the revised code once adopted and that a copy of the code be provided to every Member of the Authority.

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June 2007

1. BACKGROUND

1.1 Further to report LDS.17/07 considered by the Committee on 21 February, the Government has now published a revised Model Code of Conduct for Members under the Local Authorities (Model Code of Conduct) Order 2007. The revised Code of Conduct was made on 2 April and came into force on the 3 May last. Every Local Authority must adopt the revised code (with or without local additions) within 6 months from the date on which it was made. This effectively means that it must be adopted by not later than the 1 October 2007, in default of which the provisions will apply automatically to authorities.

1.2 Once an authority has adopted the revised code it must :

- (i) ensure that copies of the revised code are available for inspection at the authority's office;
- (ii) publish notice of the adoption of the revised code in a local newspaper, and
- (iii) confirm for the Standards Board for England the date of adoption if it is adopted unamended. If amendments are made then the Standards Board will require to be provided with a copy.

2. SUMMARY OF CHANGES MADE

2.1 Although the revised Code of Conduct follows the same broad structure as the old code, it makes changes in certain areas, some of which were flagged up in the previous report to the Committee. The main changes are to :

- Simplify and clarify the drafting of the code, including making the language in which it is written gender neutral.
- Amend the rules in the code relating to prejudicial interests, so that a Member only has a prejudicial interest where it is greater than that of the majority of people in the ward affected by the matter, rather than merely greater than the interest of other people in the Council's area. This should allow greater participation by Ward Members in decisions affecting their Wards.
- Provide that the Code of Conduct will apply to Members' conduct in their private capacity only where such conduct has resulted in a criminal conviction. This follows the judgement of the High Court in the Livingstone case.
- Extend the general conduct rules to include new offences of bullying and of intimidation and victimisation in respect of persons involved in standards proceedings.

- Remove the offence of failing to report breaches of the code by other Members and introducing a new public interest defence in terms of breach of confidentiality.
- Allow Members with a prejudicial interest to speak at Council Meetings provided this is solely to allow them to make representations, answer questions or give evidence but not to vote. (Members must withdraw from the room after making such representations). This will also allow greater flexibility for Members to represent constituents on Ward issues.

3. APPLYING THE CODE TO DIFFERENT AUTHORITIES

- 3.1 Rather than providing different codes for different types of authority e.g. District and Parish Councils, the Government has prescribed a single mandatory composite code and then provided that particular provisions of the model shall not be mandatory for particular types of authority.
- 3.2 Each authority must adopt all of the mandatory provisions, may adopt any of the optional provisions and may also add to the model text provided that such additions are compatible with the mandatory provisions. Authorities may also adopt supplementary rules or guidance, not as part of the code, but as a local protocol for local non statutory enforcement. For example, the City Council has adopted a Planning Code of Good Practice for Members of the Development Control Committee and also a Protocol for the Use of E-Mail and Internet by Members.
- 3.3 To ensure consistency across authorities and assist Members to understand the revised code, the Standards Board for England recommend that Councils adopt the code without amendment. They also recommend that authorities consider adopting the 10 General Principles in Appendix 2 as a non enforceable preamble or annexe to the code to remind members and the public of the principles underlying the code. The recommendations in this report are that the City Council follows this advice and adopts the code without amendment and also the 10 General Principles as a non enforceable annexure.
- 3.4 The advice from the Standards Board is that Members will not need to give a new undertaking to observe the revised code (which is contained in the declaration of acceptance of office made after election), provided that they have previously given an undertaking to observe the former Code of Conduct, as that undertaking was to "observe the authority's Code of Conduct for the time being" which should be sufficient to cover any alterations or new codes which might be put in place. It does appear to be the case, however, that for safety's sake there will be a need for all Members to complete a new registration of interests declaration within 28 days of the new code being adopted and appropriate forms will be sent to Members to enable them to do this.

- 3.5. It has also been necessary to contact Parish Councils for which the authority has responsibility in respect of standards matters to advise them of the procedures and implications for each of them adopting a revised code themselves and discussions have already taken place with the Cumbria Association of Local Councils to agree the advice and support which needs to be given to Parishes on adoption procedures and training, particularly for Parish Clerks and Chairs.

4. **RECOMMENDATIONS**

That the Council be recommended to :-

- 4.1 Adopt the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007 (Statutory Instrument No 1159 (2007)) without modification as the City Council's Code of Conduct in place of the Council's current code, with effect from the Council Meeting on the 17 July 2007. The new code is annexed as Appendix 1 for information.
- 4.2 Adopt the 10 General Principles as a non enforceable annexure to the code to remind Members and the public of the principles underlying the code. A copy of the General Principles is attached as Appendix 2.
- 4.3 Note that the Planning Code of Good Practice for Members of the Development Control Committee and the Protocol for the Use of E-Mail and Internet by Members will remain as local protocols for non statutory enforcement.
- 4.4. Note that letters have been sent to Parish Councils encouraging them to adopt the revised code (with modifications as appropriate to their situation) at the earliest opportunity.
- 4.5 Note that the Director of Legal and Democratic Services is to provide training to City Council Members on the new code prior to its implementation on the 17 July next and will provide similar training to Parish Council Clerks and Chairs.
- 4.6 Agree that all Members be notified of the need to renew their Registrations of Interest under the revised code once adopted and that a copy of the code be provided to every Member of the Authority.

CARLISLE CITY COUNCIL

CODE OF CONDUCT FOR MEMBERS

Part 1

General provisions

Introduction and interpretation

1. — (1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State.

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

“meeting” means any meeting of—

(a) the authority;

(b) the executive of the authority;

(c) any of the authority’s or its executive’s committees, sub-committees, joint — committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. — (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3. — (1) You must treat others with respect.

- (2) You must not—
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006).
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature,

except where—

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. — (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Personal interests

8. — (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. — (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
 - (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
 - (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
 - (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

- 10. — (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the 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 your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12. — (1)** Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

- 13. — (1)** Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. — (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

ANNEXURE - THE TEN GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

