

AUDIT COMMITTEE	AGENDA ITEM NO.
21 MARCH 2016	PUBLIC REPORT

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THE CODE OF CONDUCT FOR MEMBERS AND CONDUCT ARRANGEMENTS

R E C O M M E N D A T I O N S	
FROM : Kim Sawyer, Director of Governance	
1.	It is recommended that the Audit Committee review three options as its preferred Code of Conduct for Members and select the appropriate Code to recommend for adoption at the Annual Council meeting: <ol style="list-style-type: none"> a) Option 1 - the existing Code of Conduct with a minor amendment on other interests at para. 9.2 as set out in Appendix A b) Option 2 – the amended Code of Conduct based on the Local Government Association model as set out in Appendix B c) Option 3 – the amended Code of Conduct based on the DCLG model as set out in Appendix C.
2.	That the Audit Committee consider any comments from members to be tabled at the meeting prior to making their decision

1. ORIGIN OF REPORT

- 1.1 The Audit Committee on 22 September 2014, considered a report and recommendations from the Member working group on the Code of Conduct Review on proposals to revise the Code of Conduct. The Committee did not agree with the recommendations, and asked the Working Group to reconsider its recommendations.
- 1.2 The Code of Conduct for Members and Conduct Arrangements report is to be considered by the Audit Committee in line with its terms of reference 2.2.1.21 - Assisting the Council on the adoption or revision of the Code of Conduct.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The Council operates under the revised standards regime established under the Localism Act 2011. Like most authorities, the adoption of a revised code of conduct was introduced in a relatively short time-frame in collaboration with other authorities across Cambridgeshire.
- 2.2 In 2014 the Code of Conduct Working Group was tasked with reviewing the effectiveness of this Code and recommended to the Audit Committee a revised Code based on the Local Government Association model. The Audit Committee did not agree the recommendations and asked the Working Group to reconsider its recommendations. This report puts further options to the Committee.

3. ISSUES AND BACKGROUND

BACKGROUND TO ADOPTION OF EXISTING CODE

- 3.1 The Localism Act 2011 did away with the previous Local Government Act 2000 regime, itself a radical departure from what went before. The post 2000 Act regime consisted of a mandatory code of conduct and register of interests, prescribed investigation procedures, sanctions provisions that allowed for up to suspension locally and disbarment from being a councillor by a national Tribunal, and oversight by a government agency called Standards for England.
- 3.2 Instead, councils must now have a code of conduct but are free to draft it in whatever form it wishes provided that, when viewed as a whole, it is consistent with the seven principles of public life (sometimes known as the Nolan Principles).
- 3.3 Similarly, councils are free to define what interests must be registered and how Members are to act when a conflict of interest arises, provided that there is a minimum standard set by the introduction of 'disclosable pecuniary interests' (known as DPI's), differentiated from 'other interests'. Failure to abide by the registration of other interests or acting on a conflict of interests is a matter for the local code, but failure to comply with the DPI provisions was made a criminal offence.
- 3.4 Peterborough City Council adopted a code made up of general provisions, largely the same as the previous code and drafted in partnership with the councils of Cambridgeshire. The introduction sets out the principles of public life, part 1 sets out the general provisions and part 2 describes the types of interests that must be declared.

CODE OF CONDUCT REVIEW WORKING GROUP AND THE AUDIT COMMITTEE'S DECISION

- 3.5 In 2014, a Code of Conduct Review Group was set up to look at the Council's Members' Code of Conduct to explore whether any changes were required. It considered the following three options:
- a) Option 1 – retain the existing Code as set out in Appendix 1
 - b) Option 2 – amend the existing Code to replace part 1 of the code with the LGA template as set out in Appendix 2
 - c) Option 3 – amend the existing Code to replace part 1 with the DCLG indicative code as set out in Appendix 3
- 3.6 The Audit Committee on 22 September 2014 received a report from the Review Group recommending its preferred option (Option 2). The Committee rejected its recommendations for the following reasons:
- a) The LGA template was not best suited for PCC Members
 - b) The DCLG template should be given further consideration
 - c) The LGA template was too prescriptive in telling Members how to undertake their role such as in relation to their representation of the electorate
 - d) The LGA model was too repetitive in respect of the use of Nolan Principles and required a more meaningful approach.

- 3.7 Members of the Audit Committee requested the Code of Conduct Review Group to:
- a) revisit their recommendations over which Code of Conduct template to adopt
 - b) consider the comments above made by some Members of the Audit Committee in particular to the preferred DCLG Code of Conduct template; and
 - c) share the outcome of the Code of Conduct review with each political party for comment prior to any formal adoption.
- 3.8 A meeting of the Review Group was due to be held on 3 March 2016, but due to unforeseen circumstances, the Group were unable to meet to consider the options. However, the Chair of Audit Committee was keen that a report on the preferred template should be agreed, that the three options should be circulated to Members for comment and a report including the options should be presented to Audit Committee on 21 March 2016. Members' views will be reported to the Committee as a supplementary document.

INTEREST PROVISIONS OF THE CODE (PART 2)

- 3.9 The second part of the Code concerns Member interests and is split into "Disclosable Pecuniary Interests" and "Other Interests" to register and declare. Following a change in the descriptions of the Principles by the Committee of Standards in Public Life (CSPL) to clarify relationships with family and friends, it is recommended that whichever option is chosen, part 2 should be amended to include the following: "***You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships.***" (para 9.2 in the current code)
- 3.10 This amendment will better reflect the discussion about bias. This change both guides Members more directly in being aware of their need to deal with any conflict between their role as Member and any personal interest and, crucially for this discussion, means that acting other than in accordance with this principle would not just be an issue for the Council as a body but would be treated as a breach of the Code by the individual concerned.

4. CONSULTATION

- 4.1 There has been consultation with Members of the Council as described above.
- 4.2 Each of the Members of the Review Group were appointed on behalf of their political groups, acting as a conduit for further discussion within those groups to whatever extent each Member felt appropriate.

5. IMPLICATIONS

- 5.1. There are no significant financial implications arising from this paper.
- 5.2. The relevant legal or risk implications arising from the proposals are contained within the body of this report

6. BACKGROUND DOCUMENTS

- 6.1. All background documents used in the drafting of this report have been public documents and are largely referred to within the report.

7. APPENDICES

Appendix 1 – Option 1 – the existing Code with amendments to Part 2

Appendix 2 -- Option 2 – Code based on LGA template

Appendix 3 -- Option 3 –Code based on DCLG indicative code