

CANNOCK CHASE COUNCIL

PARISH COUNCILS STANDARDS SUB-COMMITTEE

16 AUGUST 2006

REPORT OF THE MONITORING OFFICER

DRAFT GUIDANCE ON MEMBERS' CODE OF CONDUCT

1. Purpose of Report

- 1.1 To submit draft guidance on Members' Code of Conduct for consideration and approval.

2. Recommendations

- 2.1 That the draft Guidance on the Members' Code of Conduct attached at Annex 1 be considered and approved.
- 2.2 That, subject to recommendation 2.1, copies of the guidance be forwarded to the Clerk of each Parish and Town Council within the Cannock Chase District for distribution to Members.

3. Background

- 3.1 At the Sub-Committee meeting on 16 May 2006, the Members considered their work programme for the year and requested the Monitoring Officer to submit for consideration and approval Guidance on the Code of Conduct for Members.
- 3.2 Once approved by the Sub-Committee, it is intended that the guidance should be distributed to all Members of Parish and Town Councils within Cannock Chase District.

4. The Guidance

- 4.1 Under the provisions of the Local Government Act 2000, the Government issued a statutory Code of Conduct for Parish Councils which all Parish/Town Councils were required to adopt.
- 4.2 The Monitoring Officer confirms that each Parish/Town Council in the District has adopted the statutory Code as required.
- 4.3 The Standards Board for England issued a comprehensive guidance on the Code of Conduct in May 2002.

4.4 A draft guidance is attached at Annex 1. It is intended that the guidance, if approved, should be produced in the form of a small booklet which would make it easy for Members to carry with them when attending meetings.

4.5 There are 96 Parish/Town Councillors within the District and, if approved, it is proposed to print 150 booklets to allow for changes in representation in the future.

5. **Human Rights Act Implications**

5.1 There are no identified implications in respect of the Human Rights Act 1998 arising from this report.

6. **Legal Implications**

6.1 Under its Terms of Reference, the Parish Councils Standards Sub-Committee is responsible for:

- promoting and maintaining high standards of conduct by Members and co-opted Members of Parish and Town Councils within the District
- assisting Members and co-opted Members to observe the statutory code of conduct for Parish Councils and any local protocols.

6.2 It is considered that issuing guidance to Members of the Parish/Town Councils within the District in respect of the Code of Conduct falls within these areas of responsibility.

7. **Financial Implications**

7.1 The cost of producing the guidance in the form of a booklet is £72.24 which can be met from the existing budget of the Head of Legal and Democratic Services.

BACKGROUND PAPERS

None

PARISH AND TOWN COUNCILS
GUIDE TO MEMBERS' CODE OF CONDUCT

1. Guide

- 1.1 This is a short guide to the Code of Conduct (Code) issued by the Government under the Local Government Act 2000 (LGA 2000) and adopted by your Council.
- 1.2 The Code applies to elected and co-opted members and in this guide the word 'member' includes both of them.

2. Members

- 2.1 Once adopted by your Council, the Code applies to all members of your Council automatically.
- 2.2 You must agree in writing to observe it. If you fail to sign up to the Code within two months of being elected or co-opted, you will cease to be a member of your Council.
- 2.3 Anyone who considers a member to be in breach of the Code may complain in writing to the Standards Board for England (Standards Board).

3. The Code

- 3.1 The Code sets out the minimum standards of conduct that members must observe. There are two important provisions which bind members at all times. These are :
- you should not do anything which brings your Council or office into disrepute, and
 - you should not misuse your official position to your own advantage or to the advantage or disadvantage of others.
- 3.2 Otherwise the Code only applies when you are conducting the business of your Council or office, that is in your 'official capacity' as an elected or co-opted representative. It applies, for example, at meetings of your Council, meetings with other members and officers, and other public meetings and forums which you attend as a member.
- 3.3 If you are a member of another public authority, e.g. the police authority, you will be subject to the code which applies to that authority when carrying out that authority's business.
- 3.4 The Code will also apply to you if you are appointed to represent your Council on another body. However, where the other body is bound by legal obligations and duties which conflict with the Code, then the rules of that other body will apply e.g. as a trustee.

4. General Duties

4.1 The Code places a positive duty on you to :

- promote equality by not discriminating against others,
- treat others with respect,
- respect confidential information and only disclose it if authorised,
- inform the Standards Board if you reasonably believe that another member has broken the Code

and specifies that you should not :

- bring your Council or office into disrepute,
- misuse your official position to your own advantage or to the advantage or disadvantage of others,
- unduly influence any person who works for the Council,
- stop somebody seeing or getting copies of documents they are allowed to have, or
- misuse Council resources or authorise their misuse, in particular for unauthorised party political purposes.

5. Declaration of Interests

5.1 The Code requires you to declare at meetings of your Council any interests you may have. You will always have an interest in any matter entered on the Register of Interests. Use the Register as a reminder of your interests but remember not all your interest will be noted on the Register.

5.2 You must decide first whether or not you have a personal interest in the matter under discussion. If you do, then you must also consider whether that personal interest is also prejudicial. You cannot have a prejudicial interest unless you have a personal interest.

5.3 **A personal interest** is an interest that affects you more than most other people who live, work or own property in the area of your Council. You will also have a personal interest if your partner, relative or friend, or an organisation that they or you work for, is affected more than other people or organisations in the area.

5.4 You will usually know who is a 'friend' but in some circumstances it may be difficult to decide whether someone is a friend or an acquaintance. The Standards Board has provided some guidance by suggesting a series of questions you might find helpful :

- how often do you meet ?
- where do you meet ?
- do you regularly attend the same social events ?
- do you know each other's families ?
- are you close or connected in other ways ?

For example, if you only know someone through carrying out your duties as a Councillor and have no social contact with them, it is unlikely to amount to a friendship. Likewise, if you only know someone through belonging to the same political party or club and have no contact with them outside that environment, again it is unlikely to amount to a friendship.

- 5.5 If you have a personal interest, you must declare it and say what that interest is at any meeting where the matter is to be discussed or as soon as you realise that you have an interest in the matter.
- 5.6 If you have a personal interest, you can still take part in the meeting and vote unless your personal interest is also a prejudicial interest.
- 5.7 Whether your personal interest is a **prejudicial interest** is a matter for you to decide. You must ask yourself the question :
- “would a member of the public – if he or she knew all the facts – think that my interest was so important to me that it would affect my ability to make the decision in the public interest ?”
- 5.8 If the answer is ‘yes’, you have a prejudicial interest. Whether you think your interest will affect your judgement or not, even if you are determined not to allow your interest to affect your judgement, is irrelevant. You are required to assess what a member of the public will think.
- 5.9 If you have a prejudicial interest, then you must declare what that interest is, withdraw from the meeting by leaving the room and not try to influence the decision in any way.
- 5.10 Your Council can benefit from your personal experience if you have a personal interest but not if you have a prejudicial interest.
- 5.11 The Code says that in certain circumstances you may consider that you do not have a prejudicial interest in a matter if it relates to e.g. another public authority of which you are a member or hold a position of general control or management; a body on which you are your Council’s representative; or any allowances or payments made under the Local Government Act 1972.

6. Register of Interests

- 6.1 Within 28 days of your being elected or co-opted, you must give to the Monitoring Officer details of any interests you have which fall within the categories set out in the Code. You must do this in writing and the interests you declare will be recorded in a Register of Interest open for inspection by the public.
- 6.2 The categories in the Code include :
- your job or jobs (if more than one)
 - the name of your employer, the name of any firm in which you are a partner, or the name of any company for which you are a paid director
 - the name of any person who has made a payment to you in respect of your election as a member or any expenses incurred by you in carrying out your duties as a councillor

- the name of any corporate body which has a place of business or owns land in your Council's area in which you have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100th in the company
- any contracts for goods, services or works made between your Council and you, your firm (if you are a partner) or company (if you are a paid director or if you have a £25,000 shareholding (face value) or stake of more than 1/100th in the company)
- details of any land/property you own within your Council's area
- details of any land/property you lease rent or licence (if for longer than 28 days) from your Council
- membership of or position of control or management in :
 - (i) any body where you represent your Council
 - (ii) another public authority
 - (iii) companies, industrial and provident societies, and charitable bodies
 - (iv) bodies whose main purpose is to influence public opinion or policy, and
 - (v) trade unions or professional associations.

6.3 Bodies whose main purpose is to influence public opinion or policy include political parties and any associated organisations

6.4 Arrangements have been made for you to tell the Clerk to your Council who will then pass the information to the Monitoring Officer.

6.5 You must also give notice in writing, in the same way, of any changes or additions which should be made to your entries in the Register with 28 days of that happening.

7. Gifts or Hospitality

7.1 You must give details, which will be recorded in a public register, of any gifts or hospitality you have received if worth more than £25. If you receive more than one gift or hospitality from the same person or organisation which together total more than £25 you should also declare these.

7.2 You must give this information in writing to the Monitoring Officer within 28 days of receiving the gift or hospitality.

7.3 Again arrangements have been made for you to tell the Clerk to your Council who will then pass the information to the Monitoring Officer.

8. The Standards Board for England

8.1 The LGA 2000 set up the Standards Board as an independent body to oversee the ethical framework introduced by that Act.

8.2 Complaints to the Standards Board must be in writing. First, the complaint is assessed to determine whether it should be investigated. If not the complainant is informed of this and the

reasons why. If it is to be investigated, the complaint is passed to an Ethical Standards Officer (ESO) for investigation.

- 8.3 The ESO may investigate the complaint but also has the power to pass the complaint to the Monitoring Officer for local investigation.
- 8.4 If on completion of the investigation, the ESO concludes there has been a breach of the Code, the ESO's report may be passed to the Adjudication Panel for England or to the local Standards Committee for consideration and determination of what penalty, if any, should be imposed.
- 8.5 At Cannock Chase Council, complaints in respect of Parish or Town Councillors sent for local determination will be dealt with by the Parish Councils Standards Sub-Committee.

9. Monitoring Officer

- 9.1 The Monitoring Officer for Cannock Chase Council is also the Monitoring Officer for those Parish and Town Councils within the Cannock Chase District.
- 9.2 Currently the Monitoring Officer is Mrs. Aurna Kenny who is Head of Legal and Democratic Services at Cannock Chase Council.
- 9.3 If you need any advice on the code or any other matter relating to the ethical framework, please contact Mrs. Kenny on 01543 464401 or auronakenny@cannockchasedc.gov.uk