

<b>STANDARDS COMMITTEE</b>			
<b>Report Title</b>	<b>Compliance with the Member Code of Conduct</b>		
<b>Key Decision</b>			<b>Item No.4</b>
<b>Ward</b>			
<b>Contributors</b>	<b>Kath Nicholson, Monitoring Officer</b>		
<b>Class</b>	<b>Part 1</b>	<b>Date: 9 NOVEMBER 2010</b>	

## **1. Summary**

This report deals with the way in which Members address the need to comply with the Lewisham Member Code of Conduct and seeks the Committee's views about whether any amendment to practice is required or further information brought to the Committee's attention

## **2. Purpose**

The purpose of this report is to give information about the extent of compliance with the Lewisham Member Code of Conduct and to seek from the Committee any views about how practice in Lewisham could be improved.

## **3. Recommendations**

To consider the information set out in this report and to consider whether to make any recommendations to the Council in respect of the effectiveness of the Member Code of Conduct.

## **4. Background**

4.1 On the 18<sup>th</sup> July 2007 the Council formally adopted a revised Code of Conduct. It complies with the statutory requirement to adopt a code which incorporates all the elements which are required by the Local Authorities (Model Code of Conduct) Order 2007. By virtue of section 51 Local Government Act 2000, authorities are required to adopt a Code within 6 months of the above Order being made.

4.2 The Lewisham Member Code of Conduct has appended to it a number of protocols:

- Member and Officer relations
- Member Use of IT
- Planning and Lobbying
- Code on Publicity

These protocols do not form part of the Code, but may be of assistance in deciding whether there has been a breach of the Code's main provisions.

## **5. Assessment of Current Practice**

Officers have looked at elements of practice by Lewisham members to establish whether practice fits the requirements of the Code.

### **5.1 A statutory requirement to undertake to comply with the Member Code of Conduct**

- (i) All members of the Council, (including those who are co-opted members) have signed a declaration that they undertake to comply with the Member Code of Conduct. Such a declaration is signed by members immediately following election (and very soon after appointment in the case of co-opted members). These declarations are held by the Monitoring Officer, and are in the appropriate format to comply with the Local Elections (Declaration of Acceptance of Office) Order 2001.

### **5.2 Declarations of Interest**

- i) One of the key features of the Member Code of Conduct is the requirement to declare a personal interest at any meeting where a member has such an interest, and to withdraw from the meeting and not seek to influence the decision further if the interest is a prejudicial one.
- ii) Broadly, a personal interest is one which affects the wellbeing or financial position of the member, their family relatives or friends (etc) more than it affects others in their ward. A prejudicial interest is a personal interest which a member of the public in possession of the relevant facts would reasonably think is so significant and particular that it is likely to affect the member's judgement of the public interest. Under the new Code even where a prejudicial interest arises members who are representing their constituents by making representations are able to address the Committee as long as they withdraw at the end of their representations. This has been invoked on one occasion.
- iii) An assessment has been conducted of the number of declarations that have been made since November 2009. The focus has been meetings of the Mayor and Cabinet (including Mayor and Cabinet (Contracts)) and the Planning Committees. The emphasis has been placed on these bodies as they are the major decision making forums. All declarations of interest

are minuted by the Committee Clerk in attendance and a review of the minutes shows the following results:

	<u>Declaration</u> (personal interest)	<u>Withdrew</u> (i.e. prejudicial interest)
Mayor & Cabinet	12	6
M&C (Contracts)	9	9
Planning Committees	10	4
Council	41	0

- iv) It is apparent that there is a clear awareness that members must consider whether to declare and withdraw, as the incidence of such practice shows.

As previously considered and agreed by this Committee a notice now appears at the front of each agenda which details the circumstances in which a personal/prejudicial interest can arise. Members have commented that they find this notice to be a helpful reminder and concise summary of their responsibilities on declaring interests.

### 5.3 Advice on Ethical Issues

- i) Some of the declarations/withdrawals referred to in paragraph 5.2 above followed a request for advice from the Monitoring Officer, or her representative. However, several were made without even an approach, as the member concerned was of the view that an interest existed without the need for such advice.
- ii) Where possible, if Code of Conduct issues arise, Monitoring Officer advice is incorporated into reports.
- iii) There is a body of evidence which demonstrates that members are aware of Code of Conduct issues as this is embodied in the number and nature of ad hoc requests for advice from the Monitoring Officer. A review of that file shows that councillors have sought advice on Code of Conduct issues arising.

The range of matters includes:

- advice to members in relation to the potential interests in considering planning applications and appropriate training provided to relevant members;
- advices to members on eligibility to stand in local election ;

- advice to all members in the run up to the general and local elections and the imminent local by-election ;
- advice to a member on a potential conflict of interest for him as a member of the Members Council of SLAM, and the Chair of a Council Select Committee.
- various advices to the Council's representative on the Local Education Partnership (LEP) ;
- advice to member on signing off report on Lewisham Credit Union of which he is a member;
- advice to members on the appointments to Catford Regeneration Partnership Ltd and the implications of such appointment ;
- advice on the acceptability of leaflet distributed by member during the election period ;
- advice to a member on his eligibility to chair two committees concurrently ;
- advice on whether members could continue to run surgeries during election period ;
- advice to members on registering receipt of gift and/or hospitality ;
- advice in relation to potential conflict of interest of the District Auditor ;
- advice to members on an appropriate response to lobbying from a tenderer bidding for a Council contract ;
- advice to a member in relation to her employment by a partner organisation

In all of the instances referred to the Monitoring Officer above, she believes that the advice given has been followed. A written record of all Monitoring Officer advice given is kept.

#### 5.4 Dispensation

There have been no applications for dispensation.

#### 5.5 The Members' Register of Interests

The need to register any of the following interests in the Member's Register of Interests is also a key feature of the Member Code of Conduct.

- (a) any employment, or business carried on by him/her;
- (b) the name of the person who employs or has appointed him/her, the name of any firm in which he/she is a partner, and the name of any company for which he/she is a remunerated director;
- (c) the name of any person, other than a relevant authority, who has made a payment to him/her in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (d) the name of any corporate body which has a place of business or land in the authority's area where the member has a beneficial interest in a class of securities of that body which exceeds the value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) a description of any contract for goods, services or works made between the authority and him/herself, a firm in which he/she is a partner, a company of which he/she is a director, or a body of the description in paragraph (d) above;
- (f) the interests of any person from whom they have received a gift or hospitality with an estimated value of at least £25;
- (g) the address or other description (sufficient to identify the location) of any land in which he/she has a beneficial interest and which is in the area of the authority;
- (h) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he/she is a partner, a company of which he/she is a remunerated director, or a body of the description in sub-paragraph (d);
- (i) the address or other description (sufficient to identify the location) of any land in the authority's area in which he/she has a licence (alone or jointly with others) to occupy for 28 days or longer

There are entries for all members and an annual reminder is also sent to all members about the need to keep this up to date. All members have submitted a completed Declaration of Interest which now includes a section requesting information in relation to gifts and hospitality.

## 5.6 Hospitality & Gifts

Under the Member Code of Conduct members are required to provide details of any gift or hospitality over the value of £25 and the source of such gift or hospitality that they receive as a member. The Code requires that within 28 days of receiving any gift or hospitality over the value of £25 that they notify the Monitoring Officer of the existence and nature of the gift or hospitality.

For the purpose of this review relevant entries for the previous year in the relevant section of the Register of Interests have been perused in an attempt to establish recent and current compliance with the requirements of the Code of Conduct. It appears that incidents of registration is quite common and the section is completed. This tends to indicate that members have a clear recognition of their need to make relevant entries.

## **6. Referrals to the Standards Board**

Perhaps the most telling indicator of the extent of compliance with the Member Code of Conduct is the number of complaints of breach made to the Council. Since May 2008 all written complaints that a member has breached the Code of Conduct are for the Standards Committee to consider initially. There has been one formal complaint which is reported elsewhere on this agenda.

## **7. Whistleblowing/Complaints**

If there were complaints of alleged breaches of the Code of Conduct by members, it may be that they would arise through the Council's whistleblowing policy, which is well embedded. This Committee has so far received seven annual reports on whistleblowing cases. As is evident from those reports none of the complaints have referred to members. Had they done so, the Monitoring Officer would have advised the complainant of their right to refer the matter to her for possible consideration by the Standards Committee.

## **8. Possibilities for Amended Practice to Enhance Compliance**

The data collected for this report would seem to indicate that there is generally good compliance with the Member Code of Conduct in Lewisham. However, there can be no room for complacency and the profile of the Code must be kept high.

## **9. Legal Implications**

The legal implications are contained in the body of the report.

## **10. Financial Implications**

There are no specific implications arising.

## **11. Crime and Disorder Implications**

The Code of Conduct deals with the promotion of the highest standards of behaviour, and the prevention of breaches of the Member Code of Conduct

which may well amount to criminal behaviour.

**13. Human Rights Act Implications**

There are no specific implications arising.

**14. Equal Opportunities Implications**

There are no specific implications arising.

**15. Environmental Implications**

There are no specific implications arising.

**16. Conclusion**

The Member Code of Conduct appears to be well embedded in Lewisham. Evidence seems to suggest a high level of compliance. Members of the Standards Committee are asked for their views on this data, and to make any further comments they consider appropriate to improve practice.