

EAST RIDING OF YORKSHIRE COUNCIL

Report to: The Council
9 October 2019

Wards: All

Code of Conduct Review 2019

Report of the Monitoring Officer

A. Executive Summary

The Committee on Standards in Public Life report into Local Government Ethical Standards, which was published in January 2019, contained a number of recommendations to local authorities and the Government, including a number of proposed amendments to Codes of Conduct.

In light of these recommendations and following the local elections in May 2019 consultation has been undertaken with all Members of, and all political groups on, the Council. Further to that consultation, the Standards Committee reviewed the Authority's Code of Conduct at its meeting on 30 July 2019 (Minute 679 refers) and recommended that: Full Council adopt the version of the Code as attached to this report; that the revised version be published on the Council's website and circulated to town and parish councils in the East Riding for information and potential adoption, and that research be undertaken to ascertain the requirements placed on Members and Officers of other local authorities in respect of the registration of gifts and hospitality in order to inform the 2020 Code of Conduct review.

B. Corporate Priorities

Growing the Economy
Helping Children and Young People Achieve
Promoting Healthy Lifestyles
Protecting the Vulnerable
Valuing the Environment

C. Portfolio

Community Involvement and Council Corporate Services

D. Recommendations

It is recommended:

- (i) that Council adopt the version of the Code of Conduct as attached at Appendix 1;
- (ii) that the revised version of the Code of Conduct be advertised on the Council's website;

- (iii) that a copy of the revised version of the Code of Conduct be circulated to all town and parish councils in the East Riding for information and potential adoption, and
- (iv) that research be undertaken to ascertain the requirements placed on Members and Officers of other local authorities in respect of the registration of gifts and hospitality in order to inform the 2020 Code of Conduct review.

E. Equality Implications

There are no equality implications.

1. Background

- 1.1 In accordance with the requirement of the Localism Act 2011, at its meeting on 4 April 2012, the Council resolved to adopt a new Code of Conduct and the content of a new Members' Register of Interests.
- 1.2 Under the former standards regime, one Model Code of Conduct [the Model Code of Conduct 2007] was applicable to every Member of every local authority and every town/parish council across the country. The Localism Act 2011, however, provided that the content of a new Code and new Register of Interests were matters for each relevant authority to determine. The new Code, setting out the conduct expected of voting Members when acting in their official capacity, simply had to be 'consistent' with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The Code was, and still is, however, required to include the provision each Authority considers appropriate in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests, which this Council has chosen to refer to as non-pecuniary interests.
- 1.3 The Code of Conduct adopted by the Council in April 2012 was broadly reflective of the old Model Code, which was considered to remain fit for purpose in respect of the general 'common sense' provisions concerning:-
 - the treatment of others (you must treat others with respect, you must not bully any person)
 - acting so as not to bring (or be deemed to have brought) the office of Councillor or the Authority into disrepute
 - dealing appropriately with confidential information
 - not using the position of Councillor improperly
 - the reasonable and appropriate use of the authority's resources

Amendments were required to the provisions relating to interests, however, in order to ensure compliance with the Localism Act's reference to pecuniary and other interests.

- 1.4 In light of the issue of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which defined pecuniary interests more widely than had been anticipated, at its meeting on 25 July 2012 the Council made a small number of technical revisions to the previously adopted Code of Conduct and the content of the Register of Interests. Given that a failure to register a pecuniary interest and/or participation by a Member in, or voting on, a matter at a meeting in which they have a pecuniary interest had become, and currently remains, a criminal offence, it was considered prudent to revise the Code in order that Members were/are absolutely clear about what constitutes a pecuniary interest.

- 1.5 The Code/Register of Interests remained unchanged until 22 November 2017 when the Council, on the recommendation of the Standards Committee, determined:-
- to amend the paragraph of the Code of Conduct concerning the effect of having a pecuniary interest on participation in a meeting to include that Members must not participate in the discussion of, or vote on, a matter in which they have a pecuniary interest, including addressing a meeting of which they are not a Member, and
 - to make a number of minor amendments to the Register of Interest, to, for example, replace reference to regional and local development agencies with local enterprise partnerships etc., and to remove the requirement to register any person employed by the Authority who is a member of their family
- 1.6 At the meeting on 23 January 2018 the Council determined, again following a recommendation from the Standards Committee, to require Members with pecuniary interests to withdraw from the meeting room rather than just retire to the public gallery.
- 1.7 It is noted that town and parish councils within the East Riding's administrative boundary could, and still can, choose to adopt their own Code of Conduct or to adopt the Code of Conduct adopted by this Council. The majority adopted the same version as East Riding of Yorkshire Council, although some chose not to. Following each amendment by this Authority all town and parish councils are notified of the changes for consideration and potential adoption.
- 1.8 In January 2019 the Committee on Standards in Public Life (CSPL) published its review of Local Government Ethical Standards. Within the report was a number of recommendations to local authorities and the Government concerning proposed amendments to Codes of Conduct.
- 1.9 The Standards Committee considered a report detailing the CSPL recommendations at its meeting on 12 March 2019. As a consequence of those recommendations a number of suggested amendments to the Code of Conduct were proposed, to be the subject of consultation with the political groups on the Council following the elections in May 2019.
- 1.10 That consultation has now been undertaken. In light of that consultation the Standards Committee was requested to review the Authority's Code of Conduct and make a recommendation to full Council in respect of proposed revisions.
- 1.11 At its meeting on 30 July 2019 (Minute 679 refers), the Standards Committee resolved to recommend to the Council for adoption the version of the Code of Conduct as attached at Appendix 1 to this report. It was further resolved to recommend that the revised version of the Code be advertised on the Council's website and that details be circulated to town and parish council's in the East Riding for information and potential adoption. In addition, in order to inform the 2020 Code of Conduct review, the Committee resolved to recommend that research be undertaken to ascertain the requirements placed on Members and Officers of other local authorities in respect of the registration of gifts and hospitality.
- 1.12 As agreed at the meeting on 12 March 2019, the Standards Committee will undertake an annual review of the Code of Conduct at the same time as the annual review of the Committee's process and procedures, with wider consultations with the public, parish and town councils and neighbouring authorities in 2020 and every three years thereafter.

2. Considerations including Options

2.1 The relevant recommendations made by the CSPL to central Government and best practice recommendations to local authorities in respect of the Code of Conduct are as follows:-

- Best practice recommendation 1 – Local Authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
- Best practice recommendation 2 – Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
- Recommendation 5 – The definition of pecuniary interests should be amended to include unpaid directorships, trusteeships, management roles in a charity or a body of a public nature and membership of bodies that seek to influence opinion or public policy.
- Recommendation 6 – Councils should be required to establish a Register and Councillors should be required to register any gifts and hospitality received over a value of £50 or over £100 in a single year from a single source.

2.2 In respect of Best Practice recommendation 1 concerning bullying and harassment, the CSPL found that whilst most Codes of Conduct included a prohibition on bullying and harassment only a minority included specific behaviours that would amount to bullying.

2.3 The East Riding's existing Code of Conduct includes a prohibition against bullying but not against harassment and does not include a definition. As such, it is proposed to amend the requirement not to bully any person so that the provision reads as follows:-

“You must not bully or harass any person and you must not intimidate any person who is involved in any complaint about any alleged breach of this Code of Conduct.”

2.4 It is further proposed that the following definitions be added:-

“Bullying is defined as offensive, intimidating, malicious or insulting behaviour; an abuse of power or authority in a way that intends to undermine, humiliate, unfairly criticise or injure someone.”

“Harassment is defined as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.”

It is not proposed to include examples at this time, as it is considered that this could erroneously give the impression of being an exhaustive list.

2.5 In respect of Best Practice recommendation 2 concerning compliance with investigations and the making of malicious allegations, the CSPL stated that Councillors should not seek to disrupt standards investigations by, for example, not responding to requests for information or refusing to confirm their attendance at a Standards Hearing, and that Councillors should also not seek to misuse the standards process by making allegations against another Councillor for the purpose of political gain.

2.6 As such, it is proposed that the following requirements be added to the Code of Conduct:-

“You must comply with any formal investigation into allegations that you may have breached any of the provisions of this Code of Conduct.”

“You must not make any trivial or malicious complaint against any other Member alleging a breach of any of the provisions of this Code of Conduct.”

2.7 In relation to Recommendation 5, whilst this recommendation is directed to central Government – as it concerns an amendment to The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 – it is proposed to add as a non-pecuniary interest the requirement to register *“Any role as a trustee”*. The Code of Conduct already includes a requirement to register as non-pecuniary interests the membership of bodies exercising functions of a public nature, bodies directed to charitable purposes and bodies whose principal purposes include the influencing of public opinion or policy, along with any voluntary work undertaken. It would seem an appropriate extension to include trusteeships.

2.8 In respect of Recommendation 6 concerning the registration of gifts and hospitality, the Code currently requires Councillors to record individual gifts and hospitality of a value of £25 or over. The Code makes no reference to offers of gifts and hospitality that are refused. The Officers’ Register, however, requires refused offers to be registered. There is, therefore, a disparity between the two. It is recommended that the Members’ Code of Conduct be amended to make it clear that offers that have been refused should also be registered.

2.9 It is proposed that the requirement to register ‘Any person from whom you have received in your capacity as a Member a gift or hospitality that amounts to the value of at least £25’ as a non-pecuniary interest on the Register of Interest be removed and that the following provision be added instead as a general obligation:-

“You must, within 28 days of receipt, register offers of gifts or hospitality with a value of £25 or more which have been offered to you in your capacity as a member of the authority from any person or body other than the authority.”

2.10 It is also proposed to amend the section in relation to non-pecuniary interests as follows:-

“You have a non-pecuniary interest in any business of the authority where -

- a) it is likely to affect any of the bodies listed in paragraph 3(1)(ii) of the Code
- b) it is likely to affect any person or body from whom you have within the last six years and in your capacity as a member accepted an offer of gifts or hospitality with a value of £25 or more, or
- c) the decision in relation to the business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, rate payers or inhabitants of the Ward affected by the decision.”

2.11 All political groups and all Members have been consulted on the proposed amendments.

2.12 All Members expressed contentment with the proposed amendments relating to bullying, harassment, compliance with investigations, not making trivial or malicious complaints, and the requirement to register trusteeships as a non-pecuniary interest.

- 2.13 The only comments submitted as part of the consultation concerned the registration of gifts and hospitality. The Liberal Democrat and Independent Groups suggested that the value should be increased to £50 and it was queried whether it was really necessary to register gifts that had been offered but not accepted. As noted above, this is recommended to ensure parity with the Officers' Register, which requires all offers to be recorded.
- 2.14 In light of the comments noted at paragraph 2.13, the Standards Committee resolved to recommend the version of the Code of Conduct as attached at Appendix 1, which refers to £25 and which includes the registration of offers of gifts and hospitality, but that research be undertaken to ascertain the requirements placed on Members and Officers of other local authorities in order to inform the next Code of Conduct review in 2020.
- 2.15 A copy of the proposed revised Code of Conduct is attached at Appendix 1.

3. Conclusion

- 3.1 The Council is asked to: adopt the version of the Code of Conduct as attached at Appendix 1 to this report; agree that the revised version of the Code be advertised on the Council's website and a copy circulated to town and parish council's in the East Riding for information and potential adoption, and that research be undertaken to ascertain the requirements placed on Members and Officers of other local authorities in respect of the registration of gifts and hospitality in order to inform the 2020 Code of Conduct review.

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Background Papers Local Government Ethical Standards review, carried out by the Committee on Standards in Public Life (CSPL)
Localism Act 2011
Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
East Riding of Yorkshire Council Code of Conduct

**EAST RIDING OF YORKSHIRE COUNCIL
MEMBER CODE OF CONDUCT**

(1) Introduction and Interpretation

- (1) This Code applies to you as a Member of this authority when you act in your role as a Member and it is your responsibility to comply with the provisions of this Code.
- (2) You are a representative of this authority and the public will view you as such, therefore your actions impact on how the authority as a whole is viewed and your actions can have both a positive and negative impact on the authority.
- (3) The public expect Members to act in an open and transparent manner.
- (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 all Members and co-opted and appointed Members of the authority.

'Family' means Spouse, Civil Partner, any person with whom you are living as a Spouse or Civil Partner, parent, grandparent, child, grandchild or sibling.

'Bullying' is defined as offensive, intimidating, malicious or insulting behaviour; an abuse of power or authority in a way that intends to undermine, humiliate, unfairly criticise or injure someone.

'Harassment' is defined as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

(2) General Obligations

- (1) You must treat others with respect.
- (2) You must not bully or harass any person and you must not intimidate any person who is involved in any complaint about any alleged breach of this Code of Conduct.
- (3) You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute.
- (4) You must not disclose information given to you in confidence by anyone or information acquired by you which you believe, or ought to be aware, is of a confidential nature, except where :-
 - (1) You have the consent of the person authorised to give it;
 - (2) You are required by law to do so;

- (3) Disclosure is to made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- (4) The disclosure is:-
 - (a) Reasonable in the public interest; and
 - (b) Made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) You have consulted the Monitoring Officer prior to its release.
- (5) You must not prevent another person from gaining access to information to which that person is entitled by law.
- (6) You 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.
- (7) When using or authorising the use by others of the resources of the authority you must:-
 - (1) Act in accordance with the authority's reasonable requirements.
 - (2) Ensure that such resources are not used improperly for political purposes (including party political purposes).
 - (3) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (8) You must comply with any formal investigation into allegations that you may have breached any of the provisions of this Code of Conduct.
- (9) You must not make any trivial or malicious complaint against any other Member alleging a breach of any of the provisions of this Code of Conduct.
- (10) You must, within 28 days of receipt, register offers of gifts or hospitality with a value of £25 or more which have been offered to you in your capacity as a Member of the authority from any person or body other than the authority.

(3) Registration of Interests

- (1) You must before the end of 28 days beginning on the day on which you become a Member of the authority or within 28 days of any change in an interest or becoming aware of any new interest notify the Monitoring Officer of:
 - (i) The following **Pecuniary Interests** of yourself, your spouse or civil partner, any person with whom you are living as husband or wife or any person with whom you are living as if they were a civil partner:
 - (a) Any employment, office, trade, profession or vocation carried on for profit or gain.

- (b) Any payment or provision of any other financial benefit (other than from the authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
 - (c) Any contract which is made between any of the above named persons (or a body in which any of the above named persons have a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
 - (d) Any beneficial interest in land which is within the area of the authority.
 - (e) Any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer.
 - (f) Any tenancy where (to your knowledge) the landlord is the authority and the tenant is a body in which any of the above named persons have a beneficial interest.
 - (g) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which any of the above named persons has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
- (ii) The following **Non-Pecuniary** interests of yourself:
- (a) Bodies to which you are appointed or nominated by the authority (ie outside body appointments) other than bodies in which the authority has an interest.
 - (b) Bodies exercising functions of a public nature of which you are a Member (including local enterprise partnerships, other councils, public health bodies, school governing bodies).
 - (c) Bodies directed to charitable purposes of which you are a Member (including the Lions, the Masons, a Parochial Church Council; not just bodies registered with the Charity Commission).
 - (d) Bodies whose principal purposes include influence of public opinion of policy (including any political party or trade union) of which you are a Member.
 - (e) Any voluntary work undertaken by you.
 - (f) Any role as a trustee.

- (2) You need only notify the Monitoring Officer of any interests of which you are aware pursuant to paragraph (3)(1) above.
- (3) Where you become a Member of the authority as a result of a re-election or re-appointment you only need to disclose interests not already entered on the register.
- (4) Where the nature of the interest is such that you consider that the disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation, (and the Monitoring Officer agrees) details of the interests will not be included in any published version of the register of interests save that the register will state you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011.

(4) Non - Pecuniary Interests

- (1) You have a non-pecuniary interest in any business of the authority where either:-
 - (a) It is likely to affect any of the bodies listed in paragraph 3(1)(ii) of the Code;
 - (b) it is likely to affect any person or body from whom you have within the last six years and in your capacity as a Member accepted an offer of gifts or hospitality with a value of £25 or more, or
 - (c) the decision in relation to that business might reasonably be regarded as affecting your wellbeing, or financial position, or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, rate payers or inhabitants of the Ward affected by the decision.
- (2) A relevant person is:-
 - (a) A member of your family or any person with whom you have a close association, or
 - (b) A person or body who employs or has appointed such persons, any firm of which they are a partner or any company of which they are Directors.
- (3) Where you have a non-pecuniary interest in any business of the authority and you attend a meeting of the authority at which that 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.
- (4) Sub paragraph (3) only applies where you are aware or ought reasonably to be aware of the existence of the interest.
- (5) Where you have an interest but by virtue of paragraph 3(4) it is not registered in the authority's register of interests you must indicate you have a non-pecuniary interest but need not disclose the sensitive information to the meeting.

(5) Pecuniary Interests

- (1) You have a pecuniary interest in any business of the authority where you, your spouse or civil partner, any person with whom you are living as husband or wife or any person with whom you are living as if they were a civil partner have an interest that falls within sub paragraph (3)(1)(i) above.

(6) Effect of Pecuniary Interest on Participation

- (1) Where you have a pecuniary interest in any business of the authority and you attend a meeting at which the business is considered you must then:-
- (a) Disclose the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent, subject to sub-paragraph (c) below.
 - (b) Withdraw from the room or chamber where the meeting considering the business is being held.
 - (c) Not participate in discussion of, or vote on, the matter at the meeting (participate includes addressing a meeting of which you are not a member).
 - (d) If the pecuniary interest is a sensitive interest as set out in sub-paragraph (3)(4) above you need only disclose the fact that you have a pecuniary interest.