

Subject:	<i>Review of the Code of Conduct and the Arrangements regarding the Register of Members' Interests</i>		
Date of Meeting:	14 September 2010		
Report of:	<i>Monitoring Officer</i>		
Contact Officer:	Name: Liz Woodley	Tel: 29-1509	
	E-mail: liz.woodley@brighton-hove.gov.uk		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets the council's existing Code of Conduct and the Arrangements regarding the Register of Members' Interests and recommends amendments to the Arrangements.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the Code of Conduct and Arrangements regarding the Register of Members' interests and recommends to council that the Arrangements regarding the Register of Members Interests be updated and amended as proposed in paragraphs 3.3.5 and 3.3.6.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council's Scheme of Delegation imposes on the Standards Committee responsibility for promoting and monitoring high standards of conduct within the council, and for monitoring the operation of the Codes of Conduct, associated registers and declarations of interest. At its meeting on 22 June the Committee approved a work programme which included at the September meeting a Review of the Code of Conduct and the Arrangements regarding the Register of Members' Interests.

3.2 The Code of Conduct

- 3.2.1 Under section 50 of the Local Government Act 2000 the Secretary of State may issue a model code as regards the conduct which is expected of members and co-opted members of local authorities in England. Local authorities must adopt a code which incorporates the mandatory provisions of the model code and may incorporate other provisions which are consistent with the model code. The council adopted a new Code of

Conduct on 15 May 2008 to coincide with the introduction of Executive arrangements. A copy is attached as appendix 1. The legislative framework referred to above leaves little scope for the council to amend the Code.

3.2.2 Apart from an additional paragraph – paragraph 15 – the council’s code follows the model code. Paragraph 15 allows members to register on a voluntary basis membership of private clubs which are otherwise not registerable. Failure to register such an interest does not amount to a breach of the code.

3.3 **Arrangements Regarding the Register of Members’ Interests**

3.3.1 Paragraph 13 of the Code of Conduct requires all Members (Councillors and co-optees) to register prescribed personal interests within 28 days of the adoption of the code, or (if later) within 28 days of their election or appointment to office. This is done by providing written notification to the council’s Monitoring Officer.

3.3.2 There is an ongoing requirement to keep the information up to date. Members must within 28 days of becoming aware of any new registrable personal interest or change to any registered interest, give written notification to the Monitoring Officer.

3.3.3 Where Members consider that the information relating to any of their registrable personal interests is sensitive information, and the Council’s Monitoring Officer agrees, they need not include that information when registering that interest, or, as the case may be, a change to that interest. “Sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with him/her may be subjected to violence or intimidation.

3.3.4 The register of interests is available for public inspection both online and in hard copy, although the online version only contains the home address of any Councillor where he/she has requested that it be included. The current hard copies of the public registers for Councillors are kept by Democratic Services in Room 120 King’s House.

3.3.5 On a regular basis, Democratic Services send reminders to elected members to update their register of interests. The procedure for so doing is attached at Appendix 2. In the Arrangements regarding the Register of Members’ Interests, there are a number of references to the Standards Board for England. The Board now operates under the name “Standards for England” and it is suggested that all references to the Standards Board for England be changed to Standards for England. Similarly the website for Standards for England should be substituted for SBE.

3.3.6 Annex 1 of the Arrangements gives guidance on some frequently asked questions. SfE has updated its guidance, and it is proposed that that the following comprehensive guidance in relation to gifts and hospitality be

substituted for the existing question 2. SfE issued the guidance in October 2009.

“Gifts and hospitality” are covered by paragraphs **8** and **13** of the Code.

What do I have to do?

- You must register any gifts or hospitality worth £25 or over.
- You must also register the donor (for example, the person, company or body) of the gift or hospitality.
- You only have to register gifts that you receive in connection with your official duties as a member. You do not have to register other gifts and hospitality, such as birthday gifts from family.
- Ask yourself “Have I been given this because I am a member?” If the answer is “yes” then you must register the item.
- You should register an accumulation of small gifts you receive from the same donor over a short period that add up to £25 or more.
- You must register the gift or hospitality and its donor within 28 days of receiving it, and if an accumulation, when it gets to £25.

What are the implications?

- You will have a **personal interest** in a matter if it relates to, or is likely to affect, the donor of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the donor and how the business under consideration relates to that donor. You must then decide whether that interest is also a prejudicial interest.
- If more than three years have passed since you registered the gift or hospitality, you will no longer have to declare a personal interest in a matter that relates to or is likely to affect the donor.

For further information on interests see our fact sheet on personal and prejudicial interests.

What happens if I do not know the value of the gift?

- We suggest you register it anyway as a matter of good practice.

Do I have to register gifts or hospitality I do not accept?

- No, but you may wish to do so as a matter of good practice.

What does “hospitality” mean under the Code?

- Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

Do I have to register the interests of the donor of the gifts or hospitality?

- No. We believe the Code only requires you to register the gift or hospitality worth £25 or over, received in connection with your official duties, and the donor of that gift or hospitality.

Do I have to register the gifts or hospitality given to the civic mayor or chair of a council?

- Yes. Wholly-owned companies are separate bodies from the authority.

What about official gifts or hospitality given to the civic mayor or chair of a council?

- There are no special rules for those who serve as mayor or chair of an authority.
- Gifts that are clearly made to the authority do not need to be registered.
- Gifts made directly to a mayor or chair's charity appeal also do not need to be registered.
- We take the view that there is no requirement under the Code to register hospitality, if that hospitality has been extended to the office holder for the time being rather than the individual.

3.3.7 The above guidance addresses some of the issues that have been raised in the last year at the Standards Committee, such as "Do members have to register gifts and hospitality that they have refused?"

3.4 OPERATION OF THE CODE OF CONDUCT:

3.4.1 Members who have a personal interest in any business of the authority and who attend a meeting at which that business is considered must disclose the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent. As with all rules, there are exceptions to the rule about disclosing interests. Where the interest arises solely from membership of, position of control or management on:

- any other body to which the Member was appointed or nominated by the authority;
- any other body exercising functions of a public nature, for example a school governor, the interest need only be declared if and when the member speaks on the matter, provided that he/she does not have a prejudicial interest.

3.4.2 Each agenda issued by the Council contains the following item of business: -

Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the

Members regard the interest as prejudicial under the terms of the Code of Conduct.”

Notwithstanding the careful phrasing of the item, declarations of interest are not always as comprehensive as they might be.

4. CONSULTATION:

- 4.1 The Chairman and Monitoring Officer have been consulted and support the proposed amendment to the Annex to the Arrangements regarding the Register of Members’ Interests.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Adherence to the code of conduct minimises the financial risks for Members and the Council.

Finance Officer consulted: Anne Silley

Date: 23 August 2010

Legal Implications:

- 5.2 These are addressed in the body of the report.

Lawyer consulted: Liz Woodley

Date: 24 August 2010

Equalities Implications:

- 5.3 There are no direct equalities implications arising from the report.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from this report.

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 There are no risk or opportunity management implications arising from this report.

Corporate / Citywide Implications:

- 5.7 There are no corporate/citywide implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

1. Code of Conduct.
2. Arrangements Regarding Register of Members' Interests.

Background Documents:

1. None.

Documents In Members' Rooms:

1. None.