

2 Ethics and Standards

2.1 Code of Conduct

The Council has adopted the new national model code of conduct for principal local authorities. A copy of the Council's code can be found in Part 5 of the Constitution.

All Members (including co-opted members with voting rights) have undertaken to abide by the code and its provisions.

Guidance on the code is contained in the Constitution at <http://www.stockton.gov.uk/resources/legres/cons/const8/part8word.doc>

Specific advice about the code can be obtained from the Director of Law and Democracy, who is also the Council's Monitoring Officer or the Head of Legal Services, who is the Deputy Monitoring Officer.

Any person may submit an allegation that a Member has breached the Council's code of conduct in writing to the Standards Board for England. Currently, the Standards Board receives all such formal complaints, and has the responsibility for determining whether or not an allegation should be investigated. If the Standards Board decides that a matter should be investigated (rather than deciding that no action is necessary), it will then be referred to an Ethical Standards Officer (who is appointed independently of the Standards Board). The Ethical Standards Officer may decide that no action needs to be taken, On the other hand the Ethical Standards Officer may decide to investigate the matter and then refer the outcome of the investigation to the Council's own local Standards Committee for it to determine whether and what action should be taken. Alternatively the Ethical Standards Officer may refer the allegation to the Council's Monitoring Officer (the Director of Law and Democracy), for him to arrange to investigate the matter and report the outcome to the Authority's Standards Committee.

The Council's Standards Committee is chaired by an Independent person and has two other independent members, together with two parish council representatives and five Borough Councillors.

The Standards Committees's general responsibilities are promoting and maintaining high standards of conduct by the Members and co-opted Members of the authority and to observe the authority's code of conduct.

The Committee's specific functions are to advise the authority on the adoption or revision of the code of conduct, monitor the operation of the code of conduct and to advise and train Members and co-opted Members of the authority on matters relating to the code of conduct.

The committee also has the duty to determine cases of alleged breaches of the code of conduct which have been referred to it for consideration.

The Standards Committee is also responsible for performing these functions in relation to the Town/Parish Councils in the Authority's administrative area.

2.2 Member-Officer Protocol

The purpose of this protocol is to offer guidance to Members and Officers on their respective roles and their working relations with one another, in order to help them to perform their duties and fulfil their responsibilities more effectively.



The Protocol must be read and applied in the context of all relevant legislation and national and local codes of conduct and the Council's Policy on confidential reporting. A full copy of the Members' Code of Conduct which include the Members/Officer Protocol, is reproduced in the Constitution which can be accessed by following the link www.stockton.gov.uk/resources/legres/cons/const5/pt5cos.doc.

Members

There are a number of crucial roles for Elected Members. Four, in particular, can be summarised as follows:

- to provide strong leadership for communities and to share in the policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Executive's policy proposals and their implementation;
- to monitor and review the Authority's performance in implementing approved policy and in delivering services;
- to represent their constituents, promoting and communicating the interests of those who elected them within the Council decision making processes and dealing with their day to day problems and concerns as they arise;
- to represent the Authority externally on joint committees, and on key partner and other outside bodies.

Officers

Both the traditional and legal position of local authority Officers is that they are employees of, and serve the whole Council. Officers support and advise the Council, and the constituent parts of its decision-making machinery; implement Council decisions and may themselves take decisions formally delegated to them through the approved Scheme of Delegation. All Officers are required to be politically neutral,

Within this context, it is important to recognise the differing roles of certain Officers:-

- The Chief Executive, Assistant Chief Executive, Corporate Directors of Service and Director of Law & Democracy (who is also the Monitoring Officer) form the Corporate Management Team, which provides a formal interface between Members and Officers and has a leading role in relation to policy co-ordination and performance management.
- Heads of Service and other Chief Officers are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.
- Officers within services themselves are primarily accountable to their Service Heads and when assisting Members should always do so within the parameters of whatever authority they have been given by their Service Head.

2.3 Declarations of Interest

Members (including co opted members with voting rights) should consider whether they have a personal interest in any of the items as defined in the Council's Code of Conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in any of the items, he/she must then consider whether; the item falls within one of the exempt categories (paragraph 10 (2) (c) of the Code); the item affects their financial position or the financial position of any person or body through whom the Member has a personal interest; or whether the item relates to an approval, consent, licence, permission or registration that affects the member or any person or body through whom the Member has a personal interest and whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 (1) of the code of conduct).

Unless any of the exemptions specified in paragraph 10(2)(c) of the code of conduct apply, or the matter does not fall within one of the categories referred to above, a Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held:-

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

A Member must within 28 days of becoming aware of any changes to his/her interests, as specified on the register of interests, provide details of that change to the Director of Law & Democracy as Monitoring Officer, using the change of interests form supplied for that purpose.

2.4 Gifts and Hospitality

The entertainment of clients or customers as it is commonly and reasonably offered by many contractors and consultants is not unacceptable in itself. However, offers of gifts,



favour and hospitality to elected members should always be treated with extreme caution. If such gifts, favours or hospitality could be reasonably perceived as forms of inducement to favour the purchase of a particular product/service, award of contract etc., then it could expose you or the Council to criticism or comment and you should therefore tactfully but firmly refuse the offer.

If there is the slightest doubt in your mind about whether or not to accept what has been offered, then do not accept it, or at the very least before accepting it, take advice from the Director of Law & Democracy.

Specific guidance on gifts and hospitality can be found in Part 8 of the Constitution <http://www.stockton.gov.uk/resources/legres/cons/const8/part8word.doc#giftshospitality>

Gifts and hospitality received, with a value of £25 or more must be registered in the Member's register of interests maintained by the Monitoring Officer.

2.5 Members Sickness

Statutory Sick Pay

The Council is responsible for paying Statutory Sick Pay (SSP) to Members who receive, basic allowance or special responsibility allowance (but not financial loss allowance) for up to 28 weeks of sickness absence in any one period of incapacity for work.

SSP replaces a Member's entitlement to State sickness benefit which is not paid as long as the Council is paying SSP.

SSP is treated like salaries/wages in that it is subject to PAYE Income Tax and National Insurance contributions.

A Member who is sick for 4 or more consecutive qualifying days (even if they are not working days) in a row will qualify for Statutory Sick Pay, UNLESS, he or she falls into one of the following groups:

- is over State pensions age
- average weekly earnings are less than £87 (monthly £377)
- sickness commences within 57 days of previous claim for one of the State benefits
- a Member is off sick during the maternity disqualifying period
- a Member has already been due 28 weeks' Statutory Sick Pay from a former employer and the gap between the first day of PIW and the first day of SSP is 8 weeks or less
- is sick while abroad outside the European Community
- is in legal custody

These are the only groups which are excluded from Statutory Sick Pay. A Member who falls into one of these groups and has been sick for 4 or more consecutive qualifying days, will be sent an "exclusion form", SSP1(e). The form tells the Member why Statutory Sick Pay is not being paid and part of it is a claim form for the Member to complete and forward to the local office of the DSS so that State sickness benefit can be claimed.

When the Council's liability to pay Statutory Sick Pay comes to an end, a Member who is still sick may be able to claim State benefit. For this purpose a Member will be supplied with a "transfer form", SSP1(T). The form explains why SSP will no longer be paid and part of it is a claim form for the Member to complete and forward to the local office of the DSS. To ensure that Members receive any Statutory Sick Pay entitlement, the following procedure should be followed in relation to notification of sickness absence and the evidence required of incapacity.

First Day of Absence

A Member who is sick must notify the Democratic Services (Tel: 01642 526192) on the first working day of absence. A telephone call from the Member or a relative or friend will be sufficient.

It is important that the Member indicates the first day of incapacity for duty even though it may not have been a working day (Saturday, Sunday and Public Holiday).

Fourth Day of Absence

A Member who is unable to return to duty after a further two days must notify the Resources Cashier of continuing ill health.

More than seven calendar days

A Member who is sick for more than seven calendar days must visit his/her Doctor immediately and submit his/her medical statement (sick note) to the Democratic Services as soon as possible.

Continuing Sickness

Medical statements must be submitted as often as a Member is required to visit his/her Doctor. These statements should be sent to the Resources Cashiers (if State sickness benefit is being claimed the medical statement should be forwarded by the Member to the local office of the Job Centre Plus).

Returning to Duty

When fit to return to duty and where more than one Doctor's statement has been necessary, a Member must before returning to duty, obtain a final Doctor's statement of fitness. This should be submitted to the Democratic Services.

In addition, a Member will be required to sign a copy of the Council's Self Certification Form which covers the first seven days of absence.

Calculation of Earnings

Payment of sick pay is based on average weekly earning claimed. Normally this is calculated over the previous 8 weeks (or 2 months). If irregular claims for allowance are made the last



and possibly earlier payments have to be used to calculate the average earnings. Since payment of allowances made, for example, 6 months prior to the period of sickness might not reflect a Member's current activities or earnings, it would be in a Member's interest generally to claim allowances on a regular basis.

2.6 Fraud and Corruption

Fraud Detection

In every organisation there is the potential for fraud to be committed against it by either external or internal personnel. This Council has recognised these dangers and taken appropriate action. As well as having fraud investigation staff in such services as Housing Benefits and Council Tax there are well publicised contact telephone numbers and regular articles in Stockton News and Keeping You In Touch to remind the public and staff of our determination to detect and counteract fraudulent activities. Four manuals targeted at different staffing levels have been produced which are available for perusal by all on the Internal Audit website <http://sbcintranet/62926/Audit/Fraud/>. To allow for employees who do not have easy access to the website, the manual entitled 'Employees Guide on Responding to Fraud & Corruption' is also available in hard copy at all major reception areas and public libraries.

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2.7 Confidential Reporting Policy

Whistle Blowing

Employees/Members are sometimes the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council; or they may fear harassment, victimisation or other reprisals. In these circumstances it may be easier to ignore the concern rather than report what may be just a suspicion of malpractice.

The Confidential Reporting Policy has been introduced to enable employees, and other persons working for the Council on Council premises, together with suppliers and those providing services under a contract with the Council to confidentially voice serious concerns over alleged malpractice and alleged wrongdoing within the Council.

Officers have been nominated in each service for the purpose of dealing with concerns raised by employees or other persons under this policy. The nominated officers are currently as follows:

Development & Neighbourhood Services

Sharon Lonergan & Sue Daniels

Children, Education and Social Care

Betty Johns, Margaret Madden & Tony Beckwith

Law & Democracy/Policy, Performance and Communications

Nigel Hart

Resources

Judi Asquith, Susan Mulligan & Colin Ward

You do not have to contact a nominated officer in your own service area if you do not wish to do so, you can contact any of the named officers.

Full details of the confidential reporting policy can be found <http://sbcintranet/62926/107383/?view=Display&version=1>

2.8 Restrictions on Voting

Community Charge/Council Tax

Section 106 of the Local Government Finance Act 1992 introduced restrictions on voting by elected Members who were two months in arrears in the payment of Community Charge or Council Tax.

Section 106(1) and provide that a Member who is two or more months in arrears with payment of Community Charge or Council Tax must declare his/her arrears and not vote at meetings on any calculation required by chapters III (for setting amounts of Council Tax), IV (the issue of precepts) or (limitation of Council Tax or precepts); in short on matters concerning budgetary requirements and the level of Council Tax. Sub-section (2) (b) and (c) widen the restriction to any decision which might have a bearing on the calculation and to matters concerning collection, enforcement and penalties of Council Tax and Community Charge.

Members' Responsibility/Liability

The onus is on the Member to disclose that he/she is in arrears and failure to do so could render him/her liable to prosecution.

Any Member who is in doubt about the state of his/her Council Tax or Community Charge account should obtain details from the Corporate Director of Resources.

If a Member fails to comply with Section 106(2) of the 1992 Act he/she shall, for each offence be liable on summary conviction to a fine not exceeding level 3 (currently £1,000), (unless he/she proves that he/she did not know that the Section applied at the meeting or that the matter was the subject of consideration at the meeting).

2.9 Publicity

The Council must not issue publicity on its own behalf which, in whole or part, appears to be designed to affect public support for a political party. This includes material which refers to a political party or to persons identified with it, or which promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another. In particular, party political logos must not be used and party political names should not be used except where they are necessary in describing a stance or position.

Publicity produced and issued using Council services or facilities should not generally publicise individual Councillors unless they are acting on behalf of or representing the Council. It should normally be concerned with the Council's discharge of its functions and



its key corporate messages. However, in the interests of public accountability, there will be circumstances where it will be appropriate in order to promote the Council's corporate view or stance on a particular matter, to report the statements or activities of individual Members. Normally, such statements or activities will be those of a Cabinet Member or Committee Chair, on matters relating to their portfolio but there may occasionally be situations where it is justifiable to refer to the Group Leaders for instance. Previous examples of this included Local Government Reorganisation and the Eaglescliffe/Ministry of Defence issues. In these circumstances, the Authority will bear the costs involved in producing such publicity.

Members acting as spokespersons for the Council, when responding to the press and media and making public statements on behalf of the Council should liaise with the Authority's Public Relations Officer. Tel: 01642 526097