

**TRAINING ISSUES**

**(Report by the Director of Central Services and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 The Committee is tasked by its terms of reference to promote and maintain high standards of conduct by Members by giving advice and training on matters relating to the Code of Conduct. This function has taken on greater prominence recently given the coming into force, on 3rd May, 2007, of the Local Authorities (Model Code of Conduct) Order 2007.
- 1.2 At its last meeting, the Committee authorised the Director of Central Services and Monitoring Officer to compile a programme for the training of District, Town and Parish Councillors on the requirements of the new Code and expressed a preference for the Monitoring Officer to visit individual Parish Councils or host area-based training rather than general sessions (Minute No. 6 refers). This report suggests the approach to be taken by the Monitoring Officer towards training activity on the new Code of Conduct.
- 1.3 In response to Members' comments regarding the opportunity to reflect on case examples, a significant case in terms of the interpretation of the Code or Conduct and one with wider legal implications is also discussed.

**2. PROPOSED TRAINING ACTIVITY**

- 2.1 With the Committee's views in mind, the following training activity is proposed based on the successful formula adopted in previous years.
- 2.2 Traditionally each summer, the Monitoring Officer has invited newly elected Parish Councillors and co-opted Members to participate in a session on the Ethical Framework, Standards and the Code of Conduct. This invitation also is extended to existing Parish Councillors who might benefit from a reminder of the Code. It is proposed to retain this session to be held at Pathfinder House, Huntingdon to which a general invitation will be issued to all Town and Parish Councils.
- 2.3 The first Model Code came into force in November 2001. Early in 2002, the Monitoring Officer offered Parish Councils the opportunity to attend one of five training sessions at venues in Huntingdon, Yaxley, Kimbolton, St. Ives and Buckden. In recognition of the Committee's request, it is proposed to arrange similar sessions in St. Ives and St. Neots to which the Chairman/Vice-Chairman of Town and Parish Councils will be invited.
- 2.4 When issuing an invitation to these sessions, Parish Councils will be reminded that the Monitoring Officer and his colleagues are available to attend Parish Council meetings or Town and Parish Council meetings and to give advice on an ongoing basis. For instance, the

Monitoring Officer is attending the meeting of Little Paxton Parish Council on 4th October 2007 and is awaiting a response from Earith Parish Council following a similar approach.

- 2.5 Induction training for new District Councillors was held in late-June. Due to time constraints, the session on the Code of Conduct was postponed and it was agreed that the new Members could join one of the town and parish council sessions to be organised over the summer or the District Councillor sessions in September.
- 2.6 It is custom for the Chairman or Vice-Chairman of the Committee to attend each session. Dates for all training arrangements will be announced at the meeting.
- 2.7 It is proposed to run two sessions for District Councillors prior to scheduled evening meetings at Pathfinder House. The Overview and Scrutiny Panels (Service Delivery and Service Support) meet on 4th and 11th September 2007 and it is suggested that a “drop in” training session be offered on both evenings commencing at 5.15pm and 6.15pm respectively.

### **3. CASE STUDIES OR “CASE ALERT”**

- 3.1 Members may recall their wish to receive the editions of “Case Alert” published by the Standards Board for England to provide regular analysis of significant cases and best practice guidance. It was also the view of the Committee that the “Case Alert” would prove to be a useful training tool for Members.
- 3.2 Regrettably, the “Case Alert” does not appear to come through as regularly as Members would have hoped and the Committee have again requested the opportunity to discuss case scenarios at their meetings as a learning exercise.
- 3.3 It is perhaps premature, at this time, to research cases which have been considered under the new Model Code because most, if not all, will relate to breaches of the old code. By the next meeting in September, there may be examples to share with the Committee.
- 3.4 Until then, the following case illustrates the confusion which still exists amongst Members in relation to the declaration of personal and prejudicial interests. The circumstances and outcome of this case would not necessarily be varied by the changes to the model Code. The case also highlights the implications of Human Rights Legislation

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*“A member of the District Council was found to have taken part in the consideration of his own company’s planning application for flats and shop storage at a Council Development Control meeting. The Member was the Managing Director of the Company as well as a Company Shareholder and employee but he did not declare an interest at the meeting, nor withdraw from the room when the application was discussed. The Member did not believe that his wellbeing or financial position would be affected by the planning application.”*

The Minutes of the meeting record that:-

*“The Legal Practice Manager stated that Mr ..... intended to speak on this matter as a member of the public and not as a district councillor. He advised Mr ..... and the Committee that he could not prevent him speaking but that to do so would be in breach of the Local Government Code of Conduct and the Council’s own code.*

*The Member claimed that he had not sought to take advantage of his position but that the application was for affordable housing for the company’s employees, which he regarded as “social housing”. However, the test as to whether a Member has a prejudicial interest is an objective, not a personal, one.*

*The Code states that a Member has a personal interest if it relates to one of their interests in the register of interests, or if it could be regarded as affecting their financial position or wellbeing to a greater extent than others in the area of the authority. A Member also has a prejudicial interest if their personal interest is one that a member of the public would reasonably regard as so significant as to influence their judgement of the public interest.*

*The case tribunal found that the Member had both a personal and prejudicial interest. He was the Managing Director of the Company as well as a shareholder and employee and a decision on the application would affect his personal and financial wellbeing more than others in the area of the authority. The tribunal also found that a member of the public would be in no doubt that he had a prejudicial interest. He therefore should have withdrawn from the meeting when the application was considered.*

*The Member argued that it was unfair in terms of his own human rights that he had been denied the right to speak on the application as a result of his holding office. The tribunal found that the civil rights being referred to, were those of the company, which had the right to a fair and public hearing. They were free to send anyone to the meeting to make representations except the Member, who was prevented from doing so because of his position within the Council. The tribunal regarded this as a lawful restriction. There was also a question of whether this restriction infringed the Members right to freedom of expression. The tribunal decided that this was not an infringement of the Member’s human rights, as the restriction was in accordance with the law and “necessary in a democratic society for the protection of the rights of others”.*

*The case tribunal decided that the member had failed to comply with the Code of Conduct by failing to declare a personal interest, failing to withdraw from a meeting when a matter in which he had a prejudicial interest was considered and improperly seeking to influence the decision on the matter. The tribunal also decided that the Member had brought his office or authority into disrepute, particularly by choosing to ignore the advice of Council officers before and during the meeting.*

*The tribunal suspended the Member for one year in view of the seriousness of the breach.”*

## **Lessons from the Case**

This case supports the importance of applying the correct tests for personal and prejudicial interests. Members must consider whether a member of the public, with all the relevant facts, would reasonably regard the interest as significant enough to prejudice the Member's judgement of the public interest. The principle behind this is the need for decisions to be made with impartiality and independence, so that the public can have confidence in the decisions of the authority. Members must also remember that when they agree to take office, they agree to comply with the Code of Conduct, which might, at times, affect the exercise of their rights as private citizens.

### **4. DVD**

- 4.1 The Committee will recall that the Standards Board for England is producing a range of training materials on the new Code for local authorities to use including a DVD which is scheduled to be distributed in July. Thus far, the DVD has not been received but should it be available, this will be shown at the meeting.

### **5. CONCLUSIONS**

- 5.1 The Committee is requested to note –
- ◆ the training activity proposed by the Director of Central Services and Monitoring Officer on the new Code of Conduct; and
  - ◆ the case summary presented in Section 3 of the report.

## **BACKGROUND PAPERS**

Minutes of the meeting of the Standards Committee dated 14th June 2007.

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