

North Tyneside Council

Report to Standards Committee

Date: 19 June 2014

ITEM 9

Title: Code of Conduct
for Members - Public
Engagement Update

Report from Directorate: Chief Executive's Office

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Governance and Employment

Wards affected: All

1.1 Purpose:

To provide a report on the Code of Conduct Engagement process recently undertaken with representatives of the Residents' Panel and Young Councillors.

1.2 Recommendation(s):

The Committee is recommended to:

1. note the findings and conclusions of the report; and
2. request that thanks be forwarded from the Committee to all participants to recognise the contributions made.

1.3 Information

The Committee at its December 2013 meeting requested that a public engagement exercise be undertaken to gauge the public's perception of Member behaviour and the requirement for the Authority to have a Code of Conduct and the requirements placed on Members by a Code of Conduct.

Engagement events were organised and took place in late April and June 2014. Participants were invited from the Residents Panel and the Young Councillors. Both events were successful and positive feedback was received from the participants in relation to how the events were organised and run.

During the events the participants were given small tasks and questions to answer in order to facilitate discussion and debate. Those tasks/questions related to:

- a) identifying the behaviours and qualities that they expected of Members;
- b) considering whether the behaviour and qualities should apply to Members all the time; and finally
- c) considering whether a Code of Conduct governing Member's behaviour was necessary or were there other methods/processes that would be better such as political group disciplinary procedures or the ballot box.

1. Behaviours and qualities

To undertake this initial task the participants were split in to 3 groups. Each participant was asked to identify for themselves the behaviour and qualities that they considered that Members “who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax” should have. A group discussion led by an Officer then drew together the responses of the individual participants and a comparison with the ten General Conduct requirements of Code of Conduct for Members was made.

Attached at Appendix 1 are the responses received and the comparison made with the Code of Conduct. The Authority’s Code of Conduct for Members and Co-opted Members is attached at Appendix 2 for information.

The majority of the behaviours and qualities identified by the engagement groups link directly to the General Conduct requirements of the Code of Conduct. Most behaviours and qualities identified linked directly to either the requirement to treat others with respect (Paragraph 1 of the Code) or not to bring the Council or yourself (as a Councillor) into disrepute (Paragraph 4 of the Code). These behaviours and qualities were followed up, in terms of popularity, by the requirement to be impartial and not to do anything that compromises the impartiality of anyone who works for the Authority (Paragraph 3 of the Code).

The requirement not to secure improper advantage or disadvantage for oneself or others (Paragraph 5 of the Code) was identified as the next most popular along with the requirement not to bully, intimidate or improperly influence (Paragraph 2 of the Code). These were followed by the requirement to not prevent access to information people are legally entitled to (Paragraph 8 of the Code) and the requirements in relation to confidentiality (Paragraph 9 of the Code).

None of the behaviours and qualities identified by the Groups linked directly to the following paragraphs of the Code:

Paragraph 6 – You must comply with any Protocol adopted by the Authority;
and

Paragraph 10 – You must not take scrutinise a decision you were in involved in.

It is understandable that the above Paragraphs, whilst important, were not identified as they are of a more technical nature and relate to the operation of the Authority rather than directly to behaviours and qualities of individuals who are elected to the Authority.

The engagement groups identified a number of other behaviours and qualities that are listed in Appendix 1 which were not linked to the General Code of Conduct. Those behaviours and qualities could be used as a reference of the further expectations that the public have of Members over and above the Code of Conduct. The Committee may wish to consider this further.

2. Should the behaviours and qualities apply to Members all the time?

The Groups were asked “Would you expect the behaviours and qualities you’ve identified to apply to councillors all the time when they are a councillor, including outside their official role as a councillor?”

All participants in both engagement sessions were of the view that the behaviours and values that they had identified and which were reflected in the Code of Conduct should apply to Members all of the time.

It was explained that the current version of Code of Conduct applied to Members when they act in the capacity of a Councillor or purport to act in such a capacity and not, by reference to an explanation of the relevant case law, in their personal and private lives. The participants were then asked with the benefit of the explanation of the relevant case law and the circumstances that led to its development, whether the view they had previously expressed had changed.

The following responses were received.

Many people have employment contracts which mean they will face disciplinary action if they bring the organisation into disrepute, why shouldn't the same apply to councillors
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Councillors take payment and are representing people, so they must not bring the organisation into disrepute.

They [councillors] are figureheads and they have a right to a private life, but they must behave appropriately in their private lives.
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Its not like councillors say its 7:30pm do I still have to comply with the Equality Act?
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Similarly I don't see how you can divorce the Nolan principles; behaviour has to be consistent and run right through.

Councillors who are out socialising, and don't want to enter into a discussion, just need to be able to say please give me your contact details and I'll be in touch.

The participants recognised and understood the need to Members to have private lives un-connected with their roles as Councillors. However, at both engagement events the view was expressed that the Code of Conduct should apply to Members all of the time and not when they are acting or purporting to act in the capacity of a Member.

3. Is a Members' Code of Conduct needed?

Finally, the participants were asked 'Do you think the Council needs to have a Members' Code of Conduct?' Other methods of dealing with behaviour issues were suggested such as dealing with it through the Members political party disciplinary processes or on when the Members is seeking re-election through the ballot box.

All participants in both engagement sessions except one were of the view that the Authority needs to have a Code of Conduct for Members.

In addition the following responses were received:

I think anyone wanting to apply to be a councillor should be given a copy of the code, so that if they feel they can not comply, they can withdraw.

I don't think they need a code because people's own morals should keep them right and for years we had councillors without a code.
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We only get to vote every four years and only a small proportion of people vote so that is not a strong enough sanction.
If you ask people why they don't vote they'll say it's because they don't trust councillors.
If you don't have the code you are re-enforcing the idea that there isn't accountability, yes we have the ballot box, but it's too long to wait.
You can not expect parties to regulate themselves, especially when you see how they behave in Council.
Could there be a recall facility?

4. Conclusions

The responses received from the two engagement sessions, which was made up from representatives across the age spectrum reflect, support and provide re-assurance that the provisions and requirements of the Code of Conduct for Members and Co-opted Members, that the Authority has adopted, meet the expectations of the public in relation to how Members should behave.

There is also a clearly perceived need for a Code of Conduct for Members.

The participants also expressed the view that the Code of Conduct for Members should apply all of the time and not when a Member is acting, or purporting to act, in the capacity of a Member. This view is not in line with the current law. The current position with respect to the dis-application of the Code to a Member's private life originated in case law and was incorporated in to statute when the Localism Act 2011 was enacted. To re-apply the Code of Conduct for Members all of the time would require a change in primary legislation.

1.4 Appendices:

Appendix 1 – Responses to behaviours and qualities of elected Councillors.
Appendix 2 – Code of Conduct for Members and Co-opted Members.

1.5 Contact officers:

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1.6 Background information:

Reports to and Minutes of Governance Committee Meetings

Stephen Ballantyne
Report author.....

Code of Conduct for Members Public Engagement Events: 30 April 2014 and 2 June 2014

In the engagement events the participants were requested to consider individually “What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?. The responses received are detailed below. In small groups the participants were asked to give examples of the qualities and behaviours identified and with the assistance of an Officer compare their responses with the ten General Conduct requirements in the Authority’s Code of Conduct for Members.

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Considers other people’s feelings when making decisions	Treating all people with fairness and as equals	Treat Others with Respect
Listen to other peoples opinions		
Work with opposition parties for the benefit of all residents		
Respectability/ Respect of all	Non judgemental	
Engage with resident effectively	Knowing what you are talking about	
Commitment to equality and diversity		
Polite and accepting of what everyone has to say	Good listening skills	
Listen to and acknowledge other people’s views	Listen to all groups of people. Not to dismiss them because of the “group” they belong to	

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Conduct of Council Meetings not “rigged” but open		Not prevent access to information people are legally entitled to
Openness not self interest.		
Law abiding		Not bring Council or self (as Cllr) into disrepute
Acting like unruly 6 year olds in meetings is unacceptable		
Conduct in Council Meetings more adult		
Tit for tat communications in local papers doesn't show the Council is a good light		
Forget party politics		
Public conduct beyond reproach		
Un-corruptable	Don't take bribes	
Integrity	Do the right thing No money scandals Keeps their promises Acts democratically and within the law Keeps to Codes and policies	

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Honesty	Tell the truth Believing the truth yourself Proper motives for undertaking the role of Councillor	
Commitment	Tenacity/not giving up	
Decorum	Conduct themselves with respect for NTC	
Diplomatic	Work together – don't argue	
Honourable	Honest – standing by what you have said	
Calm	Not hot headed Don't blow top Don't snap Explain and communicate effectively	
Not to use their role to spend finance only on their own constituency		Not secure improper advantage or disadvantage for self or others
Not to use their position for the benefit of their family and friends		
Thinking of community to ensure work done for benefit of all		

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Independent minded – not allowing politics to get in the way	Not worried about the rest of the Borough in decision making	Be impartial
Impartiality		
Councillors must act in the best interests of all residents		
Fair		
Impartiality		
Must not bully anyone		Not bully intimidate or improperly influence
Non discriminative/prejudged	Can't bring in personal views which can discriminate	
Trustworthy	Confidentiality	Confidentiality

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Leading by example		Not linked to General Conduct requirements
Treat every pound as precious		
Project the region with pride		
Organised	Prepared Manages time well Papers in order	
Presentable/Smart	Clean, smart. Dressed appropriate to what they are doing	
Willing to help		
Continuity		
Friendly	Polite Mannered	
Confident	Don't be afraid to share your opinion	
The ability to see the big picture		
Commitment	Turn up at meetings Do the job effectively	
Take it seriously to be taken seriously		
Accountability	Reference back to electorate/stakeholders	

What behaviours and qualities do you expect of elected councillors – who are making decisions that affect the lives of everyone in North Tyneside and decide how to spend your council tax?	Could you give an example of what you mean by the quality/behaviour identified?	Comparison with Code of Conduct for Members – Relevant Paragraph
Introduce themselves to the General Public and seem interested in questions put forward to them		
Availability	Making themselves known to the electorate More opportunity needed for residents to engage and interact with Members	
Knowledge of Issues		
Knowledge of local area and people	Awareness of the Authority. Need to know where things are in Borough	
Listen and understand the problems of NT residents and be prepared to take action and provide feedback		
Prepared to use personal skills		
Commitment to equality and diversity		
Puts the people first but knows where best to make cuts if necessary	Resourceful – using existing resources wisely Put community above everything else Setting achievable goals	
To ensure the most vulnerable within North Tyneside are seen as a priority in spending		

North Tyneside Council

Code of Conduct for Elected Members and Co-opted Members

North Tyneside Council (“the Authority”) has adopted the following code which has effect from 4 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Authority when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Authority (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Authority.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Authority with a right to vote but who is not one of its elected members.

The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

Part 1 - General Conduct

1. You must treat others with respect, including Authority officers and other elected members.
2. You must not bully any person (including specifically any Authority employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.
5. 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 any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Authority which seeks to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct and which is listed in Annex 4 to this Code.
7. When using or authorising the use by others of the resources of the Authority, you must act in accordance with the Authority’s reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.

9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Authority which is subsequently subject to scrutiny by an overview and scrutiny committee of the Authority, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Authority in order to reach a view as to its merits or effectiveness.

Part 2 - Registration of interests

11. You must register in the Authority's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:
 - (a) any Disclosable Pecuniary Interest as set out in Annex 2;
 - or
 - (b) any other interest held by you as set out in Annex 3.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Authority; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)

12. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

Part 3 – Non-registerable interests

13. You will have a non-registerable personal interest when you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 14 to a greater extent than most inhabitants of the area affected by the decision.

14. The persons referred to in paragraph 13 are:
- (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) "A member of your family" means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
 - (b) You have a "close association" with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).
15. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 13) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

Part 4 - Non-Participation in Authority Business

16. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 17 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must :
- (a) Declare that fact to the meeting;
 - (b) Not participate (or further participate) in any discussion of the matter at the meeting;
 - (c) Not participate in any vote (or further vote) taken on the matter at the meeting; and
 - (d) Leave the room whilst the matter is being discussed.
17. The criteria for the purposes of paragraph 16 are that:
- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
 - (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 14 or in any of your register entries; or
 - (c) The matter concerns a request for any permission, licence, consent or registration sought by yourself or any of the persons referred to in paragraph 14 or in any of your register entries.
18. If an Authority function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by you in that way which meets the criteria set out in paragraph 17, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraph 16 to 18 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)

19. Paragraphs 16 to 18 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Authority:
 - (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
 - (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
 - (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
 - (d) an allowance, payment or indemnity given to members;
 - (e) any ceremonial honour given to members; and
 - (f) setting council tax or a precept under the Local Government Finance Act 1992.

Annex 1 to Code of Conduct

Nolan's Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Annex 2 to Code of Conduct

Disclosable Pecuniary Interests

(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)

Please Note: The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):-

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your 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.

Contracts - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Authority:

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land which is within the area of the Authority.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge):

- (a) the landlord is the Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities of a body where:

- (a) that body (to your knowledge) has a place of business or land in the area of the Authority; and
- (b) either:

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (ii) 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Annex 3 to Code of Conduct

Other Registerable Personal Interests

The other interests which you must register under paragraph 11(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Authority;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Authority.

Note: These mean only your interests and not those of your spouse or civil partner

Annex 4 to Code of Conduct

Associated Protocols

The Authority has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

- Planning Code of Practice for Members and Officers (Part 8.3)
- Protocol on Member Access to Information and the Authority's Documents (Part 8.4)
- Protocol on Roles of the Elected Mayor and Chair of Council (Part 8.5)
- Protocol on Member/Officer Relations (Part 8.6)
- Protocol on the Use of the Authority's Resources and Support for Members (Part 8.7)
- Protocol on Press, Publicity and Publications (Part 8.8)
- Protocol on Members' Role as a Local Representative (Part 8.9)
- Protocol on Members' Role as a Decision Maker and Regulator (Part 8.10)
- Protocol on Members' Role as a Corporate Employer (Part 8.11)
- Protocol for Members with Special Responsibilities and Senior Officers (Part 8.12)