

## STANDARDS COMMITTEE – 15TH MARCH 2010

### Report of the Monitoring Officer

#### ITEM 6 REVIEW OF GUIDANCE ISSUED BY THE MONITORING OFFICER

##### Purpose of the Report

To enable the Committee to review the guidance issued by the Monitoring Officer and Standards and Monitoring Support Officer to councillors.

##### Recommendation

That the recent guidance issued by the Monitoring Officer and Standards and Monitoring Support Officer is noted and any subjects for future guidance are identified.

##### Reason

To enable the Committee to review the guidance issued to councillors.

##### Background

The Committee normally receives six-monthly reports on the guidance notes issued by the Monitoring Officer and the Standards and Monitoring Support Officer. The purpose of the guidance notes is to provide general advice on issues which are known to be of concern to members or which officers believe would be of benefit to members. Reviewing the guidance will enable the Committee to consider how the guidance contributes to the Committee's functions of promoting and maintaining high standards of conduct by councillors and advising and assisting them in complying with the Members' Code of Conduct.

Two guidance notes for members have been issued since the Committee's meeting on 28th September 2009. The guidance notes are circulated to councillors and relevant officers. Issued guidance notes are kept in a library on the Council's intranet for members and officers to refer to. Further guidance notes will be issued to members when appropriate subjects are identified.

The two most recent guidance notes for members can be found in the appendix to this report. They cover:

- guidance for members, following changes to Cabinet and scrutiny committee membership, on the requirements of the Code of Conduct, rules on pre-determination and bias and the Constitution in relation to the different roles of Cabinet and scrutiny;
- guidance for members on disclosing interests, particularly at full Council meetings so that the disclosure provides the information required by the Code of Conduct.

Given the current frequency with which guidance notes are issued it is recommended that the Committee continues to receive reports every six months to enable it to review the guidance.

### Financial Implications

There are no direct financial implications associated with this report.

### Risk Management

The risks associated with the decisions the Committee is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Members are unaware of matters of issues relating to the Members' Code of Conduct and standards more generally	Medium	Medium	Further guidance notes will be issued to members when appropriate subjects are identified. Training and advice are provided to members.

Background Papers: None

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## **ADVICE TO COUNCILLORS – SCRUTINY AND CABINET**

Following the recent changes to Cabinet and scrutiny committee membership the following brief advice note summarises the requirements of the Code of Conduct, rules on pre-determination and bias and the Constitution in relation to the different roles of Cabinet and scrutiny.

### *Scrutiny by former members of Cabinet*

Paragraph 11 of the Code of Conduct states that you will have a prejudicial interest in a matter being considered by a scrutiny committee where the matter relates to:

- a decision taken by the Cabinet, and
- you were a member of the Cabinet when the decision was taken, and
- you were present at the meeting when the decision was taken, irrespective of how you voted or what you said at the meeting.

It is therefore a requirement of the Code of Conduct that former members of Cabinet must disclose a personal and prejudicial interest in these circumstances and are not able to take part in the scrutiny of decisions they have made as members of the Cabinet.

For a prejudicial interest to apply, the matter being scrutinised should be clearly a decision which you were involved in making. This provision of the Code is intended to prevent councillors being involved in reviewing decisions which they were involved in. A prejudicial interest would not apply where the matter being scrutinised is a more recent decision for which previous decisions which you were involved in provide the background. A prejudicial interest is also unlikely to apply to the involvement of scrutiny in providing views to Cabinet on decisions before they are taken. For example, a former member of the Cabinet would have a prejudicial interest in the scrutiny of the operation or effectiveness of a policy agreed while he or she was a member of the Cabinet but not when scrutinising the adoption of a revised or replacement version of the policy. However, you should be aware of circumstances where you have been strongly personally associated with a particular policy or decision in the past which is being scrutinised and where issues of pre-determination and bias may need to be considered.

### *New members of Cabinet*

New members of the Cabinet may have been involved in the preparation of scrutiny reports which are submitted to Cabinet. The Code of Conduct does not state that a personal or prejudicial interest exists in this case. However, members of the Cabinet who were members of a scrutiny panel which submits a report to Cabinet or who otherwise have been closely involved in the preparation of a report should not participate in the Cabinet's decision-making on it because they would reasonably be regarded as having pre-determined the matter. Membership of the scrutiny committee which submitted the report alone would not prevent you from taking part in the consideration of the report because this would not amount to sufficient involvement to result in pre-determination.

### *Cabinet Support Members and Champions*

The Constitution prevents Cabinet Support Members from being members or acting as reserve members of any scrutiny committee.

Some councillors appointed as member champions are not members of the Cabinet or Cabinet Support Members. Those councillors are able to be members of scrutiny committees and to act as reserves. However applying the principle set out in paragraph 11 of the Code of Conduct means that member champions should not participate in the scrutiny of any decision relating to their member champion role made since their appointment. In these circumstances you should state that you have a personal interest as a member champion and that your role means that you have predetermined the matter.

If you have any questions relating to these issues please contact:

Simon Jackson (Monitoring Officer) on 01509 634699 or e-mail [simon.jackson@charnwood.gov.uk](mailto:simon.jackson@charnwood.gov.uk) or  
Michael Hopkins (Deputy Monitoring Officer) on 01509 634785 or e-mail [michael.hopkins@charnwood.gov.uk](mailto:michael.hopkins@charnwood.gov.uk).

Michael Hopkins  
May 2009  
Revised September 2009

## Disclosing interests at Full Council meetings

The purpose of this note is to provide councillors with guidance on disclosing interests, particularly at Full Council meetings. The disclosure form used at Council meetings has also been amended to assist councillors in providing this information.

The Code of Conduct requires that you make disclosures at each meeting regarding any interests you have in matters to be considered at the meeting. In making those disclosures you must ensure that your disclosure indicates both the existence of the interest (i.e. disclose that you have either a personal or a personal and prejudicial interest) and nature of the interest (i.e. why they have an interest in the matter).

The purpose of disclosing interests is to support an open and transparent system of decision-making by making a councillor's interests apparent to members of the public and the press. You should therefore also be clear as to the specific item to which your interest relates rather than referring to all items on the agenda for the meeting.

For example, a declaration is sufficient that states, 'I have a personal interest in item x as this application relates to land that borders property owned by a friend of mine' or 'I have a personal interest in item y because I am a member of one of the lobby groups that has made representations about it.'

There is one exception to this. In cases of personal interests arising from bodies to which you have been appointed by the Council or other public bodies, you only need to disclose a personal interest at meetings if you speak on the matter.

If your interest is a personal and a prejudicial you must also withdraw from the meeting during the consideration of the matter and not seek improperly to influence a decision on it.

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Simon Jackson (Monitoring Officer) on 01509 634699 or e-mail [simon.jackson@charnwood.gov.uk](mailto:simon.jackson@charnwood.gov.uk) or

Michael Hopkins (Deputy Monitoring Officer) on 01509 634785 or e-mail [michael.hopkins@charnwood.gov.uk](mailto:michael.hopkins@charnwood.gov.uk).

Michael Hopkins  
January 2010