

ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

REVIEW OF EMPLOYEES' CODE OF CONDUCT

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for proposed revisions to the Employees' Code of Conduct (Attached at Appendix E).

Recommendation

That the revised Code of Conduct for Employees detailed at Appendix E be approved.

1. Background/Issues

1.1 The current Employees' Code of Conduct was implemented on 1 February 2007 following approval by the Audit and General Purposes Committee and Council. A copy is attached at Appendix A.

1.1 At the Audit and General Purposes Committee meeting on 7 November 2006, consideration was given to the recommendations of the Employees Consultative Committee of 5 October 2006 and in particular the trade unions' stated opposition to Section 6 (Outside Commitments) and their view that this should be reviewed.

1.2 In relation to Section 6, the Audit and General Purposes Committee resolved that the Code should be approved subject to the addition of the following paragraph 6.1.2

"Any Corporate Director must have good reason for not approving the work."

This was subsequently incorporated into the approved Code.

1.3 At the subsequent Employees Consultative Committee meeting on 22 January 2007, *"the continued opposition of the trade unions to Section 6 (Outside Commitments)"* was noted.

1.4 Following an internal audit in March 2012 it was recommended that the Code of Conduct should be reviewed.

1.5 On 20 April 2012 the Head of HR and the then Chair of the Employees Consultative Committee, Councillor Shenton, met with the trade unions to discuss the Code and proposed revisions. Several issues were raised by the trade unions in connection with the 'Gifts and Hospitality' section as follows:

- (a) Employee access to the policy should be improved by it being included in the A-Z listing of Policies and Procedure on eVoice;
- (b) The current practice of allowing 'small gifts of office equipment' should be reconsidered as this is a form of advertising;
- (c) Clarification is required around cash tips traditionally accepted by refuse collectors from service users at Christmas time;

- (d) Consideration should be given to allowing employees to accept gifts from councillors and representatives of outside organisations and specifying a value under which acceptance is permitted;
 - (e) Clarification is required on acceptance of gifts of perishable nature (eg, flowers, confectionary) and the arrangements for passing these to a good cause/the Mayor's Charity;
 - (f) Consideration should be given to the policy only applying to those employees who are in a position to influence decisions regarding the awarding of contracts.
- 1.6 Following this, the trade unions placed an item on the agenda of the Employees' Consultative Committee of 25 June 2012 requesting details of progress being made regarding the re-drafting of the Gifts and Hospitality section of the code taking into account the concerns raised. At the meeting the Head of Central Services reported he was in the process of obtaining further clarification from the various authorities and it was agreed a report would be submitted to the next meeting.
- 1.7 In August 2012, a summary of the position as established by the Head of Central Services (Appendix B) was forwarded to the trade unions, with a request that they seek a legal opinion from trade union lawyers regarding the acceptance of cash 'tips' by local authority employees, together with details of any recent Gifts and Hospitality Policies or Guidance agreed and implemented at other authorities, with a view to discussing the issues further.
- 1.8 No response was received but on 10 October 2012 the Chair (then Councillor Taylor) and the Head of HR had a further meeting with the trade unions to discuss the issues that had been raised and the Head of Central Services' advice.
- 1.9 Further to this, on 11 October 2012 a revised Code was considered by Executive Management Team and a report submitted to the 17 October 2012 meeting of the Employees' Consultative Committee updating the Committee on the issues raised by the trade unions and the Officers' responses (see Appendix C). The Committee resolved that further discussions take place with the trade unions on how the Code is implemented.
- 1.10 On 18 December 2012 the Head of Central Services issued guidance to all employees on the procedures to be followed regarding the acceptance of gifts and hospitality (Appendix D).
- 1.11 The Staffing Committee has responsibility for the amendment of all employment policies and at its meeting on 13 March 2013 the Committee resolved to include a review of the Employees' Code of Conduct in its work schedule as this was an audit recommendation and it was considered that further clarification was required in relation to guidance for staff on Gifts and Hospitality.
- 1.12 Following the departure of the Head of Central Services, the role of Monitoring Officer has been assigned to the Audit Manager who, in conjunction with the council's Legal Team and the Head of HR, further reviewed the Gifts and Hospitality section of the Code, taking into account good practice and the council's legal obligations including those relating to the requirements of The Bribery Act 2010. The Head of HR and the then Chair of the Employees' Consultative Committee (Councillor Shenton) met with the trade unions on 10 December 2013 to discuss the latest proposed changes to the Employees' Code of Conduct, incorporating a revised 'Gifts and Hospitality' section (Appendix E).

- 1.13 At the meeting the trade unions referred to the issues they had raised in October 2006 regarding their opposition to the section of the Code that requires employees to register private work and indicated that they “*would only accept the Code if this section was amended to the effect that employees should not be required to register private work unless the employee believes there is a conflict*”. They were also of the view that the proposed section 16.2 of the revised Code (Misconduct Outside Work) should be deleted.
- 1.14 Recent enquiries have indicated that all other authorities in Staffordshire have now implemented policies that prohibit employees from accepting cash tips.
- 1.15 The proposed revisions to the Code and the issues raised were discussed at the Employees Consultative Committee meeting on 24 March 2014. The Committee recommended that the proposed revised Code of Conduct be adopted other than the proposed approach to employees accepting cash tips (ie, that this be prohibited). The Committee considered that the current approach to this should not be changed. The trade unions reiterated their view that employees should not be required to register/obtain approval for ‘private work’ and that they could only accept this on the basis that the decision on whether to register was left to the employee and should be on the basis that the employee should decide whether or not they had a conflict of interest and only register if they felt a conflict existed.
- 1.16 There are various pieces of legislation in relation to Gifts & Hospitality. These are set out in Section 117(1) & (2) of the Local Government Act 1972 which forbid an officer ‘to accept any fee or reward’ whatsoever other than proper remuneration (i.e. there is no discretion in this matter). The Bribery Act 2010 which defines the act of Bribery as ‘the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. The reward could relate to money, payment in kind, goods or services.’ The Council also commits an offence under the Act if it fails to take steps to prevent Bribery. By updating the policy in respect of the acceptance of Gifts & Hospitality and not allowing money in the form of ‘cash-tips’ to be accepted is one of the steps taken to safeguard the Council and its employees against allegations of Bribery and minimise the risk of legal action being taken against either party.

2. Legal and Statutory Implications

- 2.1 The council must ensure compliance with the relevant provisions of:
- The Local Government Act 1972
 - The Prevention and Corruption Acts 1906 and 1916
 - The 2004 ODPM Model Code of Conduct for Local Government Employees
 - The Bribery Act 2010

3. Equality Impact Assessment

- 3.1 The code of conduct applies to all employees.

4. Financial and Resource Implications

- 4.1 None.

5. Major Risks

5.1 See 1.16 and 2.1.

6. List of Appendices

Appendix A - Current Employees Code of Conduct

Appendix B - Summary of legal position re Gifts and Hospitality

Appendix C - Report to Employees Consultative Committee of 17 October 2012
summarising issues raised by trade unions and officers' responses

Appendix D - Guidance on Gifts & Hospitality issued to all employees on 18 December
2012

Appendix E - Proposed revised Employees Code of Conduct (proposed changes shown as
tracked changes)

7. Earlier Committee Resolutions

Employees Consultative Committee – 5 October 2006

Audit & General Purposes Committee – 7 November 2006

Employees Consultative Committee – 22 January 2007

Employees Consultative Committee – 25 June 2012

Employees Consultative Committee – 17 October 2012

Staffing Committee – 13 March 2013

Employees Consultative Committee – 24 March 2014