

CODE OF CONDUCT FOR MEMBERS
WDA/22/13

Recommendation

That:

1. a Code of Conduct for Members be adopted;
2. delegated powers of the Authority be granted to the Monitoring Officer to consult with the constituent councils and agree an appropriate mechanism for dealing with complaints at a local level; and
3. the Authority lobby the Government to have joint waste disposal authorities included as a relevant authority for the purposes of the Localism Act 2011.

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CODE OF CONDUCT FOR MEMBERS**WDA/22/13****Report of the Chief Executive****1. Purpose of the Report**

- 1.1 This report advises Members of the changes brought about by the Localism Act 2011 and specifically its impact on this Authority in relation to promoting and maintaining high standards of conduct for its Members. The report seeks Members' approval to a number of recommendations that would strengthen the Authority's arrangements.

2. Background

- 2.1 The Localism Act 2011 (the Act) imposed new duties on local authorities and as a result, the Standards for England was abolished in April 2012. The remaining elements of the previous Standards regime were revoked on 1 July 2012.
- 2.2 In place of those requirements, relevant authorities have the following duties:
- (i) Duty to promote and maintain high standards of conduct by elected and co-opted members.
 - (ii) Duty to adopt a Code of Conduct based on Lord Nolan's Seven Principles of Public Life.
 - (iii) Duty for the local authority to require registration and for members to register disclosable pecuniary interests and such other interests as the local authority may determine.
 - (iv) Duty to have arrangements in place to investigate allegations and to reach decisions in relation to allegations.
 - (v) Duty to appoint at least one independent person whose views must be sought before a decision is reached regarding an allegation of breach of the code.

- 2.3 For the purposes of the Act, the constituent councils in Merseyside are relevant authorities however the Merseyside Waste Disposal Authority is not.
- 2.4 In view of this, the arrangements in place at this Authority have been reviewed.

3. Review of Arrangements

- 3.1 Prior to the enactment of the Localism Act 2011, this Authority relied upon the Codes of Conduct for Members in place at each of its constituent councils for promoting and maintaining standards of conduct.
- 3.2 This arrangement worked well as all constituent councils had adopted the model Code of Conduct which expressly referred to Members conduct when appointed to outside bodies such as this Authority
- 3.3 In response to the Act, constituent councils have reviewed and revised their own arrangements and this review has considered the impact of those changes on the Authority. Having sought legal advice and following consultation with the councils, the following issues have been identified:
 - 3.1.1 The degree to which the current Codes of Conduct apply to councillors when acting in their capacity as a Member of this Authority is open to interpretation. For example, with the exception of Liverpool City Council, the Codes refer only to Members' conduct at their own council meetings and would not necessarily or obviously apply to MWDA meetings.
 - 3.1.2 For the purposes of the Act, this Authority is not a 'relevant authority,' and therefore there is no obligation to adopt a Code of Conduct and the criminal offences defined by the Act do not apply.
 - 3.1.3 It is also worth noting that in the list of Disclosable Pecuniary Interests set out in the regulations, specific reference is made to interests being in 'the area of the relevant Authority.' In effect, this means there is no existing requirement in constituent council Codes to disclose interests where a Member is on a board with wider boundaries, i.e. Merseyside.
- 3.4 Given the above issues it is apparent that a weakness now exists in the Authority's arrangements and having met with each of the Monitoring

Officers for the five constituent councils, the following proposals for strengthening arrangements are being proposed:

- MWDA to establish its own Code of Conduct for Members, a draft of which is attached at Appendix 1. The Authority is not obliged to adopt such a Code however, if agreed, Members will be required to comply with the Code and sanctions for non-compliance will be determined by their own District procedures..
- Where appropriate, that constituent councils be asked to review their Codes of Conduct with a view to incorporating some reference to Members' conduct when acting in a role on an outside body. The wording in Liverpool's Code of Conduct could be suffice as it includes within its scope: "When you act as a representative of your authority (a) on another relevant authority, you must, when acting for that other authority, comply with that authority's code of conduct; or (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject."
- Subject to this Authority's approval of its own Code, that constituent councils be asked to attach it as an Annex to their own Codes of Conduct and that the Authority adopts a procedure (attached at Appendix 2) which allows for close collaboration should a complaint arise. The procedure acknowledges that MWDA does not have its own political party structures and therefore the Monitoring Officer's role would be to assess the complaint and gather appropriate evidence before liaising with the relevant Monitoring Officer for the constituent council to use their own local procedures and political structures to consider and implement any sanctions or disciplinary action.
- MWDA to lobby central government to include joint waste disposal authorities as a relevant authority for the purposes of the Localism Act.

3.5 Clearly a number of the proposals outlined above will require action and co-operation from each of the councils and preliminary consultation with constituent council monitoring officers has received a positive response , however, it remains within the Authority's remit to put in place its own

Code of Conduct for Members and this report seeks approval to adopt such a Code.

4. Draft Code of Conduct for Members

- 4.1 The Code of Conduct for Members attached at Appendix 1 has been drafted as if the MWDA was a 'relevant authority,' and is consistent with the Nolan principles of selflessness; integrity; objectivity; accountability; openness; honesty and leadership.
- 4.2 The Code includes the list of Disclosable Pecuniary Interests defined in the regulations and the following wording has been added to clarify the position with regard to the reference to a relevant authority:

"Whilst Merseyside Waste Disposal Authority is not listed as a "Relevant Authority" in the above act, the following list of Disclosable Pecuniary Interests should be treated as if it were for the purposes of this Code."
- 4.3 In reviewing the arrangements, Members will be aware that a representative of Halton Borough Council has been appointed to the MWDA board. It should be noted however that this Member does not have voting rights and therefore the arrangements currently in place, i.e. the Members' own Code of Conduct and the Authority's Procedural Rules should be sufficient in this instance.
- 4.4 In establishing a Code of Conduct for Members, it is recognised that this Authority does not have its own political party structures; and therefore the sanctions; that might be available to Members at their constituent council. For this reason, the Monitoring Officer is in the process of consulting with the constituent councils to establish a procedure to allow collaboration should a complaint arise.
- 4.5 The draft procedure is attached at Appendix 2 and Members are asked to delegate powers of the Authority to the Monitoring Officer to finalise the procedure following the outcome of that consultation.

5. Register of Interests

- 5.1 Should Members be minded to approve the Code of Conduct attached at Appendix 1, the Monitoring Officer will be required to establish and maintain a register to record each Member's disclosable pecuniary interests and any other interests as defined in the Code.
- 5.2 The definition of disclosable pecuniary interests includes not only the pecuniary interests of the individual Member but also the pecuniary

interests of the Member's spouse or civil partner or someone with whom the Member is living with as if they were husband and wife or civil partners.

- 5.3 In relation to the "other interests", only the interests of the Member need to be registered.
- 5.4 The draft Code does not propose the establishment of a register of gifts and hospitality, although it does provide that gifts worth in excess of £50 should not be accepted.
- 5.5 Members are required by the Code of Conduct to register their interests within 28 days of becoming a Member. Where a Member is re-appointed to the Authority, the Member is required to register any interests not already registered. Where a matter arises at a meeting which relates to a pecuniary interest which has not been registered, the Member must declare and then register that interest within 28 days of the matter arising.
- 5.6 Subject to the Authority's approval of the draft Code of Conduct, Members will be provided with forms to complete so that the new register can be compiled. Each year around the time of Authority's AGM, further forms will be sent to Members to ask if they wish to update the Register. It is a matter for Members to determine if they wish to do so.

6. Lobbying

- 6.1 Whilst the Authority can implement its own voluntary arrangements with the support of the constituent councils, there remains an omission in the Localism Act 2011 which prevents the Authority from having any legal recourse in the event of a breach.
- 6.2 In order to rectify this issue and strengthen the Authority's arrangements, it is proposed that the government be lobbied to amend the Act so that waste disposal authorities are included as a relevant authority.

7. Risk Implications

- 7.1 The following risks have been identified:

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Failure to promote and maintain the conduct of Members	1	5	5	Adopt a voluntary Code of Conduct for Members and lobby government for inclusion in Localism Act

Failure to maintain open and transparent decision-making processes.	1	5	5	Implement and maintain a register of interests for Members
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8. HR Implications

8.1 There are no HR implications associated with this report.

9. Environmental Implications

9.1 There are no environmental implications associated with this report.

10. Financial Implications

10.1 There are no financial implications associated with this report.

11. Conclusion

11.1 Members are asked to note the Authority's position with regards to the implications of the Localism Act 2011; to approve a voluntary Code of Conduct for Members; and to authorise the Monitoring Officer to lobby the government to include this Authority as a relevant authority for the purposes of the Act.

The contact officer for this report is: Mandy Valentine
7th Floor
No 1 Mann Island
Liverpool L3 1BP

Email: mandy.valentine@merseysidewda.gov.uk

Tel: 0151 255 2523

Fax: 0151 227 1848

The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.