

**REPORT TO: DUNDEE CITY COUNCIL – 15 MAY 2003**

**REPORT ON: THE ETHICAL STANDARDS IN PUBLIC LIFE ETC (SCOTLAND) ACT 2000**

**REPORT BY: DIRECTOR OF SUPPORT SERVICES**

**REPORT NO.: 326-2003**

**1. PURPOSE OF REPORT**

1.1 The purpose of this Report is to advise the Council about a Guidance Note and Dispensations Note issued by the Standards Commission and of the action being taken as a result.

**2. RECOMMENDATIONS**

2.1 The Council is recommended to note the contents of this Report.

2.2 The Council is also recommended to appoint the Director of Support Services as Proper Officer for the purposes of Regulation 3 of the Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 as amended.

**3. FINANCIAL IMPLICATIONS**

3.1 There are no financial implications arising directly out of this Report.

**4. LOCAL AGENDA 21 IMPLICATIONS**

4.1 There are no Local Agenda 21 implications arising directly out of this Report.

**5. EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 There are no equal opportunities implications arising directly out of this Report

**6. MAIN TEXT**

6.1 The Ethical Standards in Public Life etc (Scotland) Act 2000 introduced a new ethical framework for public life in Scotland.

6.2 The Councillors' Code of Conduct which was issued to all Councillors following the election on 1 May was made as a result of the Act. It sets out the standards of conduct expected of Councillors.

**7. THE GUIDANCE NOTE**

7.1 The Standards Commission for Scotland which is responsible for the enforcement of the Code has now issued a Guidance Note. It was also issued to all Councillors following the election.

7.2 In the Guidance Note the Standards Commission:-

7.2.1 reminds Councils of the importance of high standards of conduct as a key part of arrangements for corporate governance and, in this connection, commends the advice given by Audit Scotland in its Code of Audit Practice dated July 2001.

- 7.2.2 advises Councils that they have a part to play in ensuring that the public are made aware of the new ethical framework in Scotland and how it is to be regulated. With this in mind, the Commission advises Councils to facilitate the process by ensuring that information about the Act, the Councillors' Code of Conduct and the roles of the Commission and its Chief Investigating Officer is widely available at their various offices and public buildings, including public libraries, and directly or through links on their website. The Director of Support Services is arranging for this to be done.
- 7.2.3 points out that Councils should expect co-opted Members (in the City Council's case the Church and Teacher representatives on the Education Committee) to comply with the Code of Conduct as a condition of their appointment. The Director of Support Services will seek such confirmation from the co-opted Members nominating bodies.
- 7.2.4 says that Councils should strongly encourage attendance by all of their Councillors and senior officials at training and induction sessions on ethical standards as soon as possible after 1 May and make suitable arrangements for periodic refresher courses for Councillors. The Director of Support Services is arranging for such a Briefing to be provided.
- 7.2.5 asks Councils to ensure that Councillors have early access to advice from nominated senior officers on the new framework in general and on the Code of Conduct in particular. The Chief Executive and the Director of Support Services (who is also the Monitoring Officer) will be happy to advise Councillors on any issues arising.
- 7.2.6 points out that a manual Register of Councillors' Interests must be available for public inspection no later than 1 June 2003, that the Register should also be available for inspection by the public electronically on the Council's website by 31 August 2003 and that the information should also be available at other Council offices and buildings, including public libraries. In addition the Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 as amended requires every Council to have a Proper Officer for the purpose of carrying out certain duties in relation to the Registration of Interests. It is recommended that the Director of Support Services should be the Proper Officer for these purposes. The Director of Support Services will also arrange for the Registers to be made publicly available.
- 7.2.7 points out that Councillors are required to update their entries in the Register of Interests within one month of their circumstances changing and asks that Councillors should be issued with a reminder to keep their entry in the Register under review at least every six months. The Director of Support Services will arrange for such reminders to be sent.
- 7.2.8 Along with the rules which require registration of interests there are also rules which require Councillors to declare interests at meetings which they attend. Interests which require to be declared may be financial or non-financial. Most of the interests to be declared will be personal interests but occasionally Councillors will have to consider whether the interests of other persons require them to make a declaration. This would also apply to membership of certain Outside Bodies. This issue is dealt with in more detail at paragraph 8. Declaring a financial interest has the effect of prohibiting any participation in discussion and voting. Declaring a non-financial interest may not prohibit discussion and voting depending upon the circumstances. The Director of Support Services will give further guidance on these issues at the Briefing referred to in paragraph 7.2.4.

## **8. THE DISPENSATIONS NOTE**

- 8.1 Councillors serve on various bodies as a result of express nomination or appointment by the Council or otherwise by virtue of being a Councillor. Membership of statutory Joint Boards or Joint Committees which are composed exclusively of Councillors does not raise any issue of declaration of interest in regard to Council business. However in relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations Councillors must declare a non-financial interest in any item of business affecting the outside body which comes before the Council thereafter Councillors must decide whether to speak and vote.
- This issue will be further discussed at the Briefing referred to in paragraph 7.2.4 above. However in some cases the Standards Commission has granted general dispensations. This means that Councillors can speak and vote on matters affecting any of the Outside Bodies listed in the Dispensations Note coming before the Council. The dispensations came into effect on 1 May 2003. Again a copy of the Dispensation Note was issued to all Councillors after the election.
- 8.2 In order to benefit from the dispensation relating to Outside Bodies the Councillor must have been nominated or appointed by the Council (that is it does not apply to appointments in a personal capacity) and the Councillor must have registered an interest as a member of that body.
- 8.3 The dispensation relating to Outside Bodies does not apply in respect of a matter of a quasi-judicial or regulatory nature where the Outside Body is applying to the Council for a licence, consent or approval, is making an objection or representation concerning a licence, consent or approval or is the subject of a statutory order of a regulatory nature made or proposed to be made by the Council.
- 8.4 The Councillor is required to declare his or her interest at all meetings where matters relating to the body in question are to be discussed irrespective of whether or not the body in question is the subject of a dispensation. The Director of Support Services will be happy to advise Councillors about the appropriate form of declaration but, in general, a Councillor should specify the Outside Body of which he or she is a member and the nature of the interest in the item being discussed.
- 8.5 In addition to the general dispensations Councillors may wish to apply for individual dispensations on an ad hoc basis. Again, the Director of Support Services will be happy to advise Councillors of the procedures here where necessary.
- 8.6 The Director of Support Services is in discussions with the Standards Commission about the effect the Dispensations Note has on Councillors who are appointed to outside bodies but at this stage it appears that the general dispensation will apply to the following.
1. Angus and City of Dundee Tourist Board
  2. Dundee College Board of Management
  3. NHS Tayside Board  
as devolved public bodies and
  4. Broughty Ferry Lifeboat Disaster Fund
  5. Carolina House Trust

6. Childrens Panel Advisory Committee
7. City of Dundee Educational Trust
8. City of Dundee Sports Council
9. Dundee and Angus Joint Structure Plan
10. Dundee Festival Trust
11. Dundee University Court
12. Highland Forces and Cadets Association
13. Mars Training Ship Fund
14. Morgan Trust
15. Postwatch Scotland
16. Webster and Davidson Mortification for the Blind

as public bodies.

Councillors who are appointed to these bodies may therefore speak and vote on issues affecting the bodies coming before the Council unless paragraph 8.3 applies.

- 8.7 In addition as mentioned at paragraph 8.1 membership of the Tay Road Bridge Joint Board, Tayside Contracts Joint Committee, Tayside Fire Board, Tayside Joint Police Board and Tayside Valuation Joint Board does not give rise to any issue of declaration of interest in regard to Council business. The same applies to the Fleming Trust. Again Councillors who are appointed to these bodies may therefore speak and vote on issues affecting the bodies coming before the Council. Paragraph 8.3 does not apply.
- 8.8 Where paragraphs 8.6 and 8.7 do not apply and a Councillor believes that the nature of the interest is irrelevant or without significance the membership of the Body should still be declared as a non-financial interest but if in the particular circumstances and knowing all the relevant facts the Councillor believes that a member of the public acting reasonably would not consider that the Councillor might be influenced by the interest the Councillor can nonetheless speak and vote.
- 8.9 It appears that this applies to the following outside bodies
1. Ardler Village Trust
  2. Association for Public Service Excellence
  3. Broughty Ferry Benevolent Trust
  4. Campaign for Rail Enhancement
  5. Citizens Advice Bureau
  6. Dovetail Enterprises
  7. Dundee City Sports Association for the Disabled

8. Dundee City Developments Limited
9. Dundee Contemporary Arts Limited
10. Drug and Alcohol Action Team (Dundee)
11. Dundee Heritage Trust
12. Dundee International Womens Centre
13. Dundee Legal Advice Association
14. Dundee Partnership
15. Dundee Repertory Theatre
16. Dundee Schoolchildrens Holiday Fund
17. Dundee Ice Arena
18. Dundee Science Centre
19. Dundee Society for the Visually Impaired
20. Dundee Voluntary Action
21. East of Scotland European Consortium
22. Grey Lodge Settlement Association
23. Royal Scottish National Orchestra Society Limited
24. Scottish Accident Prevention Council
25. Scottish Council for Deafness
26. Tayside Business Gateway Limited
27. Tayside Association for the Deaf
28. Tayside Criminal Justice Partnership
29. Tayside Council on Alcohol
30. Travelling Peoples Advisory Group
31. WaterAid (Tayside)
32. Whitehall Theatre Trust

8.10 The position regarding COSLA, Nuclear-Free Local Authorities (Scotland) and the Prison Visiting Committees for Castle Huntly, Noranside and Perth has been referred to the Standards Commission and Members will be advised of the Commission's view as soon as it is received.

- 8.11 A particular issue of concern is whether Councillors who are appointed by the Council as Members of the Outside Bodies referred to at paragraphs 8.9 and 8.10 could speak and vote when a request for financial assistance was received from the Body concerned, for example a request for a revenue grant or annual revenue funding. The Director of Support Services has asked the Standards Commission for specific guidance on this issue but, in the meantime, Councillors may wish to defer decisions on appointments to these bodies until clarification is received.
- 8.12 The Standards Commission have also issued a Dispensations Note in respect of Councillors who are Council house tenants in order to allow them to participate in Council business relating to Council housing. The general dispensations came into effect on 1 May 2003. The Note was also given to all Councillors following the election.
- 8.13 The following points must be borne in mind.
- 8.14 In order to benefit from the dispensation relating to Council houses a Councillor must have registered an interest in the tenancy of Council housing accommodation, including any garage.
- 8.15 The dispensation relating to Council houses does not apply to any Councillor who is in arrears of rent in respect of his or her Council house or garage.

## 9. **CONSULTATION**

- 9.1 The Chief Executive and the Director of Finance have been consulted in the preparation of this Report.

P McIlquham,  
Director of Support Services

Date 6 May 2003

## **NOTE**

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above Report.

1. The Councillors' Code of Conduct
2. Guidance Note to Local Authorities in Scotland dated 31 March 2003 – The Standards Commission for Scotland
3. Dispensation Note to Local Authorities in respect of financial and non-financial interests dated 31 March 2003 – The Standards Commission for Scotland
4. The Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 as amended