

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Corporate Services

Community Participation Committee : 29 November 2012

Subject: Standing Orders and Councillor's Code of Conduct

1. Purpose

- 1.1** To advise the Community Participation Committee (CPC) of key provisions of Council Standing Orders which are applicable to its work.
- 1.2** To advise the Committee of key provisions contained in the Councillor's Code of Conduct which are applicable to the conduct of those serving on a committee.

2. Conclusions and Recommendations

- 2.1** The committee is asked to note the provisions of Standing Orders relating to the work of the committee.
- 2.2** The Committee is asked to note the key provisions of the Councillor's Code of Conduct, as incorporated into the Councils' Guidance on Conduct at Meetings.

3. Background

- 3.1** The Community Participation Committee was set up as a formal sub-committee of Council. While it has no delegated authority to make decisions, its minutes go to Council, allowing Council to consider and ratify any recommendations from the Committee.
- 3.2** As the Community Participation Committee has been set up as formal committee rather than a working group, it is bound by the provisions of Standing Orders. The present Standing Orders were adopted by West Dunbartonshire Council at its meeting on 20 June 2012 and include the following component parts:-
 - Standing Orders for meetings
 - Officers delegated powers
 - Contract Standing Orders
 - Committee remits
 - Guidance on conduct in Chambers or committee
- 3.3** Standing Orders try to support fair and transparent committee processes, and to ensure that any problems which arise can be handled in a fair and logical manner. They are there to try and assist committees to reach the best decisions in the interests of West Dunbartonshire and its people.

3.4 The Ethical Standards in Public Life etc (Scotland) Act 2000 provided for the introduction of a Code of Conduct for local authority councillors and established a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the Codes. Much of the Code is based on the existing legal situation. It requires:-

- Registration of Member's Interests
- Declaration of an interest in cases where there is a conflict of interest
- Guidance on conduct at meetings, now incorporated as part of the Council's Standing Orders
- Guidance on relationship with Council employees
- Guidance on gifts and hospitality
- Guidance on confidentiality
- Guidance on use of Council facilities
- Guidance on taking decisions on quasi judicial or regulatory applications

3.5 Part of the Code of Conduct has been incorporated into the Council's Standing Orders as the guidance on conduct in chambers or committee. Strictly speaking, Councillors who serve on the CPC are bound by the terms of the full Councillor's Code, where as community members of the committee are only bound by the guidance on conduct in chambers or committee.

4. Main Issues

4.1 While the CPC generally tries to operate with as much informality as is possible, and to reach decisions by consensus, rather than voting, nevertheless it is a formal committee of Council. As such, Standing Orders apply to its work and it can only deal with matters delegated to it by Council. The remit of the CPC is set out in Appendix 1. Although the CPC do not have delegated powers to make decisions on behalf of Council, it has a wide remit. This reflects the fact that the Community Participation Committee is intended to be a central forum where the community can make its views known and influence Council decisions. Accordingly the CPC can receive reports and consider matters relating to the work of Council or any committee.

4.2 The remit of the CPC includes:-

- Getting the views of community based organisations and co-ordinating discussion and action of issues raised by community groups and forums.
- Find out about and influence Council participation, structures and policies.
- Promote and monitor community representation and public involvement in service department decision making processes, through Council, committees and other relevant structures.
- Encourage and support the development of local community based organisations.
- Provide and receive information of interest to the community.

4.3 If there is ever any doubt as to whether a matter can be competently considered by the Community Participation Committee, reference should be made to Appendix 1.

- 4.4** Councillors who serve on the CPC are bound by the Councillor's Code of Conduct issued by the Standards Commission for Scotland. Some of this code has also been incorporated into the guidance in chambers and at committees which forms part of Standing Orders. This guidance is applicable to all members of the Committee, including community members. The guidance is attached as Appendix 2.
- 4.5** While parts of the Councillor's Code of Conduct are only applicable to Elected Members, there are other parts which are equally applicable to community members serving on the CPC. These include:-
- 4.5.1** The key principles underlying the Code of Conduct which are attached at Appendix 3. This emphasises that decisions must be taken solely in terms of the public interest and Members must not act to gain financial or other material benefit for themselves, family or friends. There is a duty to act honestly and declare any private interest (this is why there is a Declaration of Interest Section at the beginning of the agenda). Moreover there is a need to respect all other committee members and employees and the role they play, treating them with courtesy at all times.
- 4.5.2** Confidentiality requirements – occasionally a committee, even the CPC may consider an item which is confidential and cannot be disclosed to the public. Only certain types of information defined in the Local Government (Scotland) Act 1973 can fall within the definition of “an exempt item”. The Code of Conduct emphasises that such information must not be disclosed or in any way used for personal or party political advantage, even if you hold the personal view that the information should be publically available.
- 4.5.3** Guidance on conduct at meetings – this emphasises the need to respect the Chair, your colleagues, council employees and any members of the public present during the meeting. It also states that you must comply with rulings from the Chair. Paragraph 4 of Appendix 2 emphasises the role of the Chair to ensure that the views and opinions of other participants (including the advice of officers) are allowed to be expressed and, at the same time, he or she has a responsibility for the proper and timely conduct of the meeting and for ensuring that the meeting is conducted in compliance with the Council's Standing Orders. It requires a balanced approach to ensure fairness to participants while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting. Members who are present at the meeting share the responsibility for the proper and expeditious discharge of business.
- 4.5.4** Like Standing Orders, the point of the Councillor's Code of Conduct is to help simplify the smooth running of meetings, to provide that proceedings are conducted fairly and to provide a clear means of resolving disputes. The key principle underlying both the Standing Orders and the Councillor's Code of Conduct is the principle of fairness.
- 4.6** The CPC is also bound by the Standing Orders for Meetings. The full Standing Orders can be viewed <http://wdccmis.west->

dunbarton.gov.uk/cm55/PublicDocuments.aspx however some of the key points worth noting as follows:-

- 4.6.1** The Local Government (Scotland) Act 1973 requires the committee, agenda and reports to be available to the public at least three working days in advance of the committee. This means that with one exception, the committee can only consider items already on its agenda. The only exception is where the Convener agrees to take a late item by reason of special circumstances and urgency. The test of urgency is whether the matter could wait to a further meeting of the committee.
- 4.6.2** West Dunbartonshire Council Standing Orders provide that the agenda should be issued nine working days in advance of the committee. This is to allow members of the committee the opportunity to clarify any points with officers in advance of the meeting and to allow political groups the opportunity to fully discuss reports prior to the meeting. Community members of the committee should also feel free to approach Council Officers in advance of committee meetings to seek clarification on any information contained in reports. The Policy Officer (Community and Consultation) is happy to co-ordinate any such requests.
- 4.6.3** The item on the CPC agenda relating to future agenda items is the opportunity for CPC members to get items onto a future committee agenda and to seek reports on such items. Given the wide, cross-cutting nature of the CPC remit it is essential that the committee is able to specify in advance which items it wishes to consider.
- 4.6.4** The item on Open Forum allows members of the public to ask questions. To ensure compliance with the Local Government (Scotland) Act 1973 requirement that only items on the agenda should be considered by the committee, there can be no debate or motions on such items.
- 4.6.5** Recommendations from CPC go to either Council or the appropriate committee. The minutes of the CPC go to Council which normally considers its recommendations. However if the recommendations of the CPC related to an issue which had been the subject of a decision by another committee and was within that committee's clear remit then the CPC could ask that its recommendation go to that other committee. Alternatively Council could remit the CPC's recommendation to the other committee. For example, a recommendation relating to a social work item would normally be considered by the Community Health and Care Partnership (CHCP) rather than Council.
- 4.6.6** When the minutes of the CPC come back to the next meeting of the committee, the committee is asked to agree the accuracy of the minute. This is not an opportunity to re-open discussion on the item. The only question is whether the minute is an accurate record of the decisions of the committee.
- 4.6.7** While the CPC normally tries to discuss items and achieve a consensus view, Standing Orders provide a procedure which applies where there is not consensus. What happens is that there is a motion, which is seconded.

There can then be questions and an amendment, again seconded. Once the motion and all amendments are on the table and questions have ceased the process moves to the stage of debate. At that point the opportunity for questions is limited to questioning the last speaker. The mover of the motion and amendments has ten minutes to speak and all other speakers are allowed five minutes. The movers of the amendments, then the mover of the motion are allowed to sum up for five minutes. The vote is then taken as follows. Assuming a motion and two amendments the last amendment goes against the main amendment in a vote. The winner then goes to a vote against the motion.

- 4.6.8** The function of the Convener is to ensure that the business progresses in terms of Standing Orders. The Convener has to allow members a fair opportunity to have their say, to ensure that the overall views of the committee are clear, but also needs to efficiently ensure that the business of the committee is attended to. Sometimes these two aims of allowing everyone to have their say and expeditiously dealing with the business can conflict. The Convener chooses who speaks and only one member of the committee is allowed to speak at any one time. Members of the committee require to respect the role of the Convener, whose decision on all matters within his or her jurisdiction is final.
- 4.6.9** If a meeting finishes before all the business has been completed then the remainder of the business will roll over to the next committee meeting.
- 4.6.10** As key purposes of Standing Orders are to provide for fair notice of issues and to provide a fair means of dealing with business, it is likely that “ambushes” or attempts to spring surprises on fellow committee members will be contrary to Standing Orders. This will probably not often be an issue at the CPC which tends not to be a political committee and generally tries to reach decisions by consensus.

5. People Implications

- 5.1** There are no people implications in this report.

6. Financial Implications

- 6.1** There are no financial implications in this report.

7. Risk Analysis

- 7.1** The main risk is that insufficient training may result in members of the committee failing to follow Standing Orders. This could result in doubt about the recommendations of the committee. As Standing Orders are designed to ensure fairness, failure to follow Standing Orders might also create a perception of unfairness.

8. Equalities Impact Assessment (EIA)

8.1 There are no equalities impacts relating to this report.

9. Consultation

9.1 Legal, Committee Support and Policy Officers of the Council have been consulted on the contents of this report.

10. Strategic Assessment

10.1 Fair and clearly understood Standing Orders and the promotion of the values of the Code of Conduct help to support the work of the CPC in improving the well-being of communities.

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Appendices: Appendix 1 – Remit of CPC from WDC Standing Orders
Appendix 2 – Guidance on Conduct, from WDC Standing Orders
Appendix 3 – Extract from Councillor's Code of Conduct

Background Papers:

Wards Affected: ALL