



AGENDA ITEM NO 4

STANDARDS COMMITTEE

6 MARCH 2007

**CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF
CONDUCT FOR LOCAL AUTHORITY MEMBERS**

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PURPOSE OF REPORT

1. To obtain the views of members of the Committee in relation to the government consultation in respect of the revised Model Code of Practice

BACKGROUND

- 2 The Local Government Act 2000 introduced the requirement that each local authority adopts a Code of Conduct governing the behaviour of its Members. Councils had until May 2002 to adopt a Code of Conduct.
- 3 The Code of Conduct covers areas of individual behaviour such as Members not abusing their position or not misusing their Authority's resources. In addition there are rules governing disclosure of interest and withdrawal from meetings where Members have relevant interests. Members are also required to record on the public register their financial and other interests.
- 4 Each Council's Code must include the provisions of the Model Code of Conduct approved by Parliament. Following the December 2005 discussion paper "Standards of Conduct in English Local Government: The Future", the Government has now issued a consultation on amendments to the current Code.

The Consultation Paper

- 5 The Consultation Paper includes a revised Model Code of Conduct and a draft set of the Regulations that will require Parliamentary approval in order to bring the revised Model Code into effect.
- 6 In addition to a number of amendments to the Model Code, the Government also

proposes combining into one consolidated Code the current four Codes that apply to Local Authorities, Parish Councils, the National Parks and the Police Authorities.

- 7 Finally, the consultation exercise seeks views on eight specific matters.
- 8 The proposed amendments to the existing Code of Conduct, along with the consultation questions, are summarised at Appendix 1 attached. The proposed Model Code of Conduct is attached at Appendix 2.
- 9 The consultation period ends on Friday 9 March 2007.

RECOMMENDATION

- 10 Members are asked to consider the proposed changes to the Model Code of Conduct, and the questions posed by the Department for Communities and Local Government, in order to provide the basis for a response from the Council.

AUTHOR

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BACKGROUND PAPERS

Standards of Conduct in English Local Government: The Future: Cabinet Office, December 2005

Report to Standards Committee, 8 May 2006: Standards Of Conduct In English Local Government: The Future: Office Of The Deputy Prime Minister

Consultation on Amendments to the Model Code of Conduct for Local Authority Members: Department for Communities and Local Government, January 2007

SUMMARY OF PROPOSALS, AND QUESTIONS CONTAINED IN THE CONSULTATION

1 Unlawful discrimination		
Current requirements	Proposals	Comments and Consultation
Members must promote equality	Members must not do anything which may seriously harm Authority's ability to comply with statutory duties with regard to equality (Section 2(2)(a))	Adjudication Panel concluded that it had no jurisdiction to make findings on unlawful discrimination
2 Bullying and intimidation		
Current requirements	Proposals	Comments and Consultation
	<p>New requirement that a Member must not bully any person (Section 2(2)(b))</p> <p>A Member must not intimidate (or attempt to intimidate) anyone who might be a complainant, a witness, or staff supporting any investigations or proceedings. Section 2(2)(c)</p>	
3 Disclosure of Confidential Information		
Current requirements	Proposals	Comments and Consultation
A member must not disclose information given to him in confidence, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so	Members will be able to disclose confidential information if the disclosure is reasonable and in the public interest, or made in good faith and does not breach any reasonable requirements of the Authority.	<p>This amendment is to ensure conformity with the European Convention on Human Rights.</p> <p>CONSULTATION QUESTION 1: <i>Does the proposed test on the disclosure of confidential information strike an appropriate balance between the need for confidentiality and the need / right to release information in the public interest?</i></p>

4 Behaviour outside official duties		
<p>Current requirements</p> <p>A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.</p>	<p>Proposals</p> <p>Members will only breach the Code in respect of private behaviour for which the Member has been convicted. This will include offences committed before taking office, but where the Member is convicted after taking office.</p>	<p>Comments and Consultation</p> <p>This change has been introduced following the High Court case relating to the Mayor of London.</p> <p>CONSULTATION QUESTION 2: <i>Is the amendment, which only covers private activities that have been found unlawful by a court, appropriate?</i></p>
5 Use of Position and resources		
<p>Current requirements</p> <p>Members must not use their position improperly to confer on or secure for themselves (or any other person), an advantage or disadvantage</p> <p>Members must ensure that Council resources are not used for political purposes “unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed”.</p>	<p>Proposals</p> <p>This is to be broadened to include using <u>or attempting to use</u> their position (etc)</p> <p>In future Members must: “Ensure that (Council) resources are not used improperly for political purposes, including party political purposes”</p> <p>A proposed new requirement that Members must have regard to the Local Authority Code of Publicity made under the Local Government Act 1986</p>	<p>Comments and Consultation</p> <p>CONSULTATION QUESTION 3: <i>Is the Code of Publicity serving a useful purpose? Should the provisions be promoted in other ways (eg through the LGA)? Should the Code be extended to cover Fire and National Park authorities (which are bound by the Code of Conduct)?</i></p>

6 Duty to Report		
Current requirements Members currently have a legal duty to report suspected breaches of the Code of Conduct.	Proposals The proposal is that this requirement is to be removed.	Comments and Consultation The present requirement is perceived to have encouraged trivial allegations.
7 Gifts and Hospitality		
Current requirements At the present time Members are not required to register any gift or hospitality over the value of £25, they must simply inform the Monitoring Officer.	Proposals It is now proposed that gifts and hospitality over the value of £25 will have to be included in the public register. The requirement to declare the gift or hospitality to a meeting will cease after 5 years, although the record of receipt will remain on the register of personal interest.	Comments and Consultation CONSULTATION QUESTION 4: <i>Does the proposal combine the need for transparency as well as proportionality in making public information with regard to personal interests?</i>
8 Bodies influencing public opinion or policy		
Current requirements Members have a 'Personal Interest' if they are members of, or have a position of control or management in, bodies which might influence public opinion or policy.	Proposals It is proposed that there will be a specified requirement to declare membership of, or positions of control or management in, a political party.	Comments and Consultation This is simply to clarify the current intent.

9 Interest of family and friends		
<p>Current requirements</p> <p>Members must regard themselves as having an ‘interest’ in a matter if a decision on it affects to a greater extent than other people in the area, the well-being or financial position of the Member, or a relative or friend.</p>	<p>Proposals</p> <p>It is proposed that the definition is extended to include any person with whom the Member has a “close personal association”.</p> <p>The definition of ‘relative’ (eg parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, etc) is being omitted, as it will be covered by the above new wording.</p> <p>In future, the requirement to declare an interest of a friend, family member, etc will only apply where the Member is aware, or ought to be reasonably aware, of the existence of the interest.</p>	<p>Comments and Consultation</p> <p>CONSULTATION QUESTION 5: <i>Does the proposed wording of friends, family and those with close personal relationships cover the breadth of relationships that ought to be covered, including – quote – “business associates and personal acquaintances”?</i></p>
10 Personal Interests		
<p>Current requirements</p> <p>Under the existing Code a Member has a personal interest in a matter if they would be affected more than other council tax payers or inhabitants of the authority’s area.</p>	<p>Proposals</p> <p>The proposal is that a personal interest will only arise where the matter might reasonably be regarded as affecting the Member to a greater extent than the majority of other council tax payers or inhabitants of the ward which is affected by the matter.</p>	<p>Comments and Consultation</p> <p>The intent is to allow Members more freedom to debate in meetings on issues that their communities would expect them to address – the intent is that a personal interest will no longer arise where interests are shared by a substantial number of inhabitants in the Authority’s area.</p> <p>Because elected Mayors do not represent Wards, the relevant test will be whether the issue affects the Mayor more than the majority of people in the ward affected by the</p>

		particular issue.
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11 Public Service Interests		
<p>Current requirements</p> <p>None</p>	<p>Proposals</p> <p>The proposal is for the introduction of a new category of interests which arises where a Member is also a member of another public body.</p> <p>Members would only have to declare a public service interest during a meeting if they speak on the issue (instead of at the start of the meeting as at present).</p>	<p>Comments and Consultation</p>
12 Prejudicial Interest – exemptions		
<p>Current requirements</p> <p>Currently there is a list of circumstances where a Member is deemed not to have a prejudicial interest.</p>	<p>Proposals</p> <p>That the following circumstances where a Member is deemed not to have a prejudicial interest should be added to the list:</p> <ul style="list-style-type: none"> ⇒ Indemnities under s101 of the Local Government Act ⇒ Setting of the Council Tax ⇒ Considering new Freeman. 	<p>Comments and Consultation</p> <p>CONSULTATION QUESTION 6: <i>Would it be appropriate for new exemptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?</i></p>

13 Prejudicial Interest – participation in meetings		
<p>Current requirements</p> <p>At present any Member with a prejudicial interest in any matter must withdraw from the room when the matter is being considered (unless dispensation has been obtained from the Standard Committee)</p>	<p>Proposals</p> <p>A Member will only have a prejudicial Public Sector interest if the matter under discussion relates to the financial affairs of the body, or approval, consent, license or permission (eg planning or licensing) for the body.</p> <p>A Member will not be considered to have a prejudicial interest if they attend a meeting to make representations, to give evidence or to answer questions, provided that the Committee agrees. After Members have made representations, given evidence or answered questions they will be required to withdraw from the room.</p> <p>All Members will still be subject to the requirement that they do not seek improperly to influence any decision.</p>	<p>Comments and Consultation</p> <p>CONSULTATION QUESTION 7: <i>Is the proposal to relax the rules to enable increased representations at meetings appropriate?</i></p>
14 Registering and declaring sensitive information		
<p>Current requirements</p> <p>At the present time a Member must register, and then declare at meetings, certain interests.</p>	<p>Proposals</p> <p>It is proposed that if the information being registered is likely to create a serious risk for the Member, or someone in their household, then that information will not appear in the public register. Also, there will be no requirement to declare the nature of 'sensitive information' at a meeting (though they will still need to declare that they have an interest).</p>	<p>Comments and Consultation</p>

15 Overview and Scrutiny		
<p>Current requirements</p> <p>The current Code does not allow Members to be involved in the scrutiny of any decisions of other Committees of which they are a member.</p>	<p>Proposals</p> <p>In future this will only apply where the Member was a member of, and present at, the Committee at the time the decision now being scrutinised was made.</p>	<p>Comments and Consultation</p> <p>The effects are twofold: first, if the Member was a member of the decision making committee but is no longer on that committee, then they can now participate in the scrutiny of that decision.</p> <p>Second, if the Member is still a member of the decision making committee, but was not present when the decision now being scrutinised was made, then they can now participate in the scrutiny of that decision.</p>
16 Gender neutral language		
<p>Current requirements</p>	<p>Proposals</p> <p>The new Code refers to 'he or she', 'him and her', etc.</p>	<p>Comments and Consultation</p> <p>CONSULTATION QUESTION 8: <i>Would other forms of wording - such as 'you' - be clearer and more accessible?</i></p>