

## STANDARDS COMMITTEE

A meeting of Standards Committee was held on 9 December 2008.

**PRESENT:** G Fell, (Chair);  
Councillors Carter, C Hobson, Lowes, and McPartland  
Independent Members: B Footitt, OBE and C Nestor  
Parish Council Members: Councillors I Bruce and B Macmillan

**OFFICERS:** M Braithwaite, C Davies and D Robinson

### **\*\*DECLARATIONS OF INTEREST**

There were no declarations of interest for this meeting.

### **\*\*MINUTES**

The Minutes of the Standards Committee held on 9 September 2008 were approved as a correct record.

## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

Members received a report of the Director of Legal and Democratic Services requesting approval to amend Section 16 of the current protocol on Member/Officer Relations. The relevant section deals with matters relating to correspondence between Members and Officers. Details of the current and proposed wording are set out below. It was felt that as the particular element of the protocol, which forms part of the constitution, was out of date and was unenforceable, the section should be reviewed.

### Current Wording:

'Correspondence between an individual member and an officer should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, and there should be no "blind" copies. This applies equally to the use of e-mails'.

### Revised Wording:

'Where correspondence has been marked "Private and Confidential" or "Not for Circulation" this should always be respected, and such correspondence should not be copied or forwarded to other people unless the original author consents. This applies especially to e-mails.

Where the requirements of 16.1 are knowingly disregarded, then the person failing to observe these requirements will be notified in advance that in future the 'Prevent Copy' facility will be used for e-mails that are private and confidential, or where the author does not intend them to be forwarded or otherwise circulated to other people. The 'Prevent Copy' facility should not be used as a matter of course for e-mails that are not "Private and Confidential" or "Not for Circulation".'

**RECOMMENDED** that the proposed amended wording as set out above be agreed and forward to the Corporate Affairs Committee for approval.

## **GIFTS AND HOSPITALITY**

Members received a report of the Director of Legal and Democratic Services that presented a proposed Gifts and Hospitality Policy. The Policy provided guidance for employees in regard to the receipt of gifts, invitations and hospitality provision of gifts and hospitality together with advice relating to the provision of gifts and hospitality to those outside of the Council.

The guidance, which had been drawn from the Code of Conduct, Audit requirements and existing local arrangements outlined the situations in which it may not or may not be appropriate to accept gifts or hospitality along with additional guidance for employees who work in a caring role.

**ORDERED** that the Gifts and Hospitality Policy be approved.

#### **STANDARDS COMMITTEES – NOTES FROM ASSEMBLY**

The Committee received for information, notes and observations provided by Mr Nestor on the content of the 7<sup>th</sup> Annual Assembly of Standards Committees held in October following attendance at the event by Mr Nestor and Councillor McPartland. Members were advised that copies of the presentations and handouts from the Assembly's breakout and plenary sessions were available as downloads from the Standards Board website.

**NOTED**

#### **REGULATION 17 – GUIDANCE ON STANDARDS COMMITTEE REFERENCES TO THE ADJUDICATION PANEL**

A copy of guidance issued by the Adjudication Panel for England was circulated for information in regard to the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008.

**NOTED**

#### **THE STANDARDS BOARD FOR ENGLAND – CASE REVIEW: 2008 DIGEST**

A copy of the latest edition of the Standards Board for England Case Review:2008 Digest was circulated to the Members for information.

**NOTED**

#### **CONSULTATION PAPER: COMMUNITIES IN CONTROL: REAL PEOPLE, REAL POWER, CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES**

The Committee received a report of the Director of Legal and Democratic Services which provided a summary of a Department of Communities and Local Government consultation document entitled "Communities in Control: Real People, Real Power: Codes of Conduct for Local Authority Members and Employees. Members were briefed on the salient aspects of the document focussing on the following three main areas on which views were sought:

- (a) proposed amendments to: The Members' Code of Conduct;
- (b) proposed amendments to the ten General Principles of Standards in Public Life and
- (c) a proposal for the introduction of a Model Code of Conduct for Local Government Employees.

Proposals for restructuring of the Code of Conduct would provide for division into two sections. The first would deal with Members' conduct when acting in an official capacity which reflected the current code. The second section would deal with Members' conduct in their non-official capacity. The report set out a series of consultation questions alongside the relevant paragraphs from the consultation document and invited Members' views thereon. A copy of the current Model Code of Conduct for Members was appended to the report together with a schedule of the proposed Core Values for the Employees Code of Conduct.

Copies of the summary report have been circulated to the two parish councils for them to respond directly to the DCLG on the relevant aspects of the consultation.

**ORDERED** that the following responses to the questions posed in the consultation document be submitted to the Department of Communities and Local Government:

Consultation Question 1

Do you agree that the Members' Code of Conduct should apply to a Member's conduct when acting in their non-official capacity?

Response:

Yes. It is important that elected Members' conduct themselves in their private lives in a way that leads by example. They should therefore be subject to the Code of Conduct both in respect of their official and non-official capacity.

Consultation Question 2

Do you agree with this definition of 'criminal offence' for the purpose of the Members' Code of Conduct? If not, what other definition would you support, for instance should it include police cautions? Please give details.

Response:

Yes. However, the Council expressed significant concerns that excluding certain minor offences or cautions for more serious offences such as shoplifting could give the impression that the Council, and the Code of Conduct, condones such behaviour.

The Council also expressed the view that in certain circumstances a greater degree of flexibility and discretion should be available to the Standards Committee. For example, whilst minor offences such as speeding and littering should normally be excluded from the remit of the conduct regime, there might be circumstances where these should be included: for example if the Council were running an anti-litter campaign or a campaign against parking in restricted areas, and a Member's conduct repeatedly attracted cautions or fixed penalty notices for such offences.

Similarly some serious offences, such as domestic violence, might not be taken to prosecution by the CPS where a civil action, such as obtaining a non-molestation order, had been obtained.

Consultation Question 3

Do you agree with this definition of 'official capacity' for the purpose of the Members' Code of Conduct? If not, what other definition would you support? Please give details.

Response:

Yes.

Consultation Question 4

Do you agree that the Members' Code of Conduct should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

Response:

Yes, but with similar reservations as those expressed in relation to Question 2 above. Again the Council felt that there should be a stronger element of discretion available where needed.

Consultation Question 5

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Response:

Yes, the Council was fully in agreement with this proposal.

Consultation Question 6

Do you think that the amendments to the Members' Code of Conduct suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

Response:

The Council was in agreement that the proposed amendments to the Members' Code of Conduct are required.

Consultation Question 7

Are there any aspects of conduct currently included in the Members' Code of Conduct that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

Response:

No.

Consultation Question 8

Are there any aspects of conduct in a Member's official capacity not specified in the Members' Code of Conduct that should be included? Please give details.

Response:

No, but clarification was sought as to whether the Code of Conduct applies equally to Members who are subject to suspension following a complaint made under the Code of Conduct. If there is any doubt as to this, it was the view of the Council that a Member's conduct should be subject to the requirements of the Code of Conduct during any period of suspension.

Consultation Question 9

Does the proposed timescale of two months, during which a Member must give an undertaking to observe the Members' Code of Conduct, starting from the date the authority adopts the Code, provide Members with sufficient time to undertake to observe the Code?

Response:

Yes.

Consultation Question 10

Do you agree with the addition of this new general principle, applied specifically to conduct in a Member's non-official capacity?

Response:

Yes.

Consultation Question 11

Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?

Response:

Yes, but the same reservations made in respect of Question 2 also apply to this question.

Consultation Question 12

Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

Response:

Yes.

Consultation Question 13

Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

Response:

Yes.

## Consultation Question 14

Should we apply the Employees' Code to firefighters, teachers, community support officers, and solicitors?

## Response:

Yes. The view of the Council is that the model Code of Conduct should apply to all employees as a minimum requirement. If the codes of conduct of individual groups of employees exceed the requirements of the Model Code, then this should not cause any problems. What would be problematic is if the Model Code did not apply to a group of staff, and their professional code did not meet the basic requirements of the Model Code. This would result in a two-tier system.

## Consultation Question 15

Are there any other categories of employee in respect of whom it is not necessary to apply the Code?

## Response:

See response to 14 above.

## Consultation Question 16

Does the Employees' Code for all employees correctly reflect the core values that should be enshrined in the Code? If not, what has been included that should be omitted, or what has been omitted that should be included?

## Consultation Question 17

Should the selection of 'qualifying employees' be made on the basis of a 'political restriction' style model or should qualifying employees be selected using the delegation model?

## Consultation Question 18

Should the code contain a requirement for qualifying employees to publicly register any interests?

## [Consultation Question 19 – see below for response

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?]

## Consultation Question 20

Does the section of the Employees' Code which will apply to qualifying employees capture all pertinent aspects of the Members' Code? Have any been omitted?

## Consultation Question 21

Does the section of the Employees' Code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

## Response to questions 16, 17, 18, 20 and 21

It is the view of the Council that there should be a single Code applicable to all officers. Whilst more senior officers might have more opportunities to use their position improperly, or compromise the impartiality of other officers, that is not to say that the same requirements are expected of all staff in the Council. The intent cannot be that it is acceptable for more junior officers, should the situation arise, to (for example) use their position improperly.

The same applies to the requirement to register personal interests: there should be one common requirement of all staff to declare personal interests.

## Consultation Question 19

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

Response

No, the Council considers the proposed requirements to be sufficient,  
Consultation Question 22  
Should the Employees' Code extend to employees of Parish Councils?

Response:  
Yes.