



AGENDA

STANDARDS COMMITTEE

Tuesday, 25th November, 2008, at 10.30 am
in the Wantsum Room, Sessions House,
County Hall, Maidstone

Ask for: **Mary Cooper**
Telephone **01622 694354**

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes and apologies
2. Declarations of Interest
3. Minutes of the meeting held on 22 May 2008 (Pages 1 - 2)
4. Role of the Standards Committee (Pages 3 - 30)
5. Department for Communities and Local Government (DCLG) Consultation Paper on the Code of Conduct for Members (Pages 31 - 78)
6. Member Development (Pages 79 - 82)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Monday, 17 November 2008

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

This page is intentionally left blank

KENT COUNTY COUNCIL

STANDARDS COMMITTEE

MINUTES of a meeting of the Standards Committee held at Sessions House, County Hall, Maidstone on 22 May 2008.

PRESENT: Miss R MacCrone (Chairman), Mr L Christie, Mr D S Daley, Mr P A Gammon, and Mr J F London.

IN ATTENDANCE: The Director of Law and Governance, Mr G Wild; The Head of Democratic Services and Local Leadership, Mr P Sass; and Democratic Services Manager (Council, Governance and Appeals) Mrs M Cooper.

UNRESTRICTED ITEMS

20. Declarations of Interest

There were none.

21. Minutes

(Item 1)

RESOLVED that the Minutes of the meeting held on 30 April 2008 are correctly recorded, subject to the deletion of Mrs N Ahmed in those present and the addition of the word 'allegedly' before 'breached' in Minute 14(1), and that they be signed by the Chairman.

22. Final presentation on Web-site Publication

(Item 4)

RESOLVED that:-

- (a) the information contained on the Standards Committee web page be approved; and
- (b) the Committee's thanks be passed to Tracey Gleeson for all her assistance.

23. Appointment of Standards Sub-Committees

(Item 5 - Report by Head of Democratic Services and Local Leadership)

RESOLVED that:-

- (a) an Assessment Sub-Committee be set up comprising three Members of the Standards Committee, subject to there being at least one elected Member and at least one Independent Member present, with the following Terms of Reference:-

“To consider initial complaints that a Member or co-opted Member is alleged to have breached the Code of Conduct and decide whether (a) the complaint appears to show a breach of the Code and (b) whether the complaint merits investigation.”; and

- (b) a Review Sub Committee be set up comprising three Members of the Committee, subject to there being at least one elected Member and at least one Independent Member present, with the following Terms of Reference:-

“If so requested by the original complainant, to review any decision of the Assessment Sub Committee to take no action in respect of allegations”;

- (c) the Committee noted that any Member who serves on the Assessment Sub-Committee cannot serve on the Review Sub Committee in respect of the same complaint; and
- (d) the Committee agreed that Mr P Gammon, Mr L Christie and Mr J London will serve on the Assessment Sub Committee in respect of the forthcoming meeting scheduled for 3 June 2008.

24. Members' Annual Reports

(Item 6 – Report by Head of Democratic Services and Local Leadership)

(Mrs F Leathers, Chairman of the Remuneration Panel, was in attendance for this item)

- (1) The report contained comments from the Remuneration Panel following their consideration of Members' Annual Reports on 12 May 2008.
- (2) Miss R MacCrone, seconded by Mr Daley, moved that the names of the two County Councillors who had failed to complete their annual reports within the required timescales should be named in the Standards Committee Annual Report to the County Council.

For 5, Against 1

- (3) RESOLVED that

- (a) the report be noted; and
- (b) the report of the Remuneration Panel be included in the Annual Report of the Standards Committee to the County Council on 19 June 2008 including the names of the two County Councillors who had failed to complete their annual reports within the required timescale.

25. Standards Committee Annual Report to County Council

(Item 7 - Report by Head of Democratic Services and Local Leadership)

RESOLVED that the Annual Report to the County Council covering the period June 2007 to June 2008 should include details of Members Annual Reports, Complaints received during this period, details of the new Regulations and the proposed future work of this Committee.

By: Miss R MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee - 25 November 2008

Subject: The role of the Standards Committee

Summary: To consider and discuss the role of the Standards Committee in relation to the promotion of the ethical standards agenda.

Unrestricted

Background

1. The Committee is invited to consider its current and possible future role in the promotion of high ethical standards across KCC and whether Members wish to pursue the introduction of one or more of a number of proposed enhancements to the work and activities of the Committee. This report provides information about a research study carried out by Lancashire County Council in 2006 in relation to an enhanced role for their Standards Committee. Also appended to this report, for Members' information, is a document from the Standards Board for England entitled "The role and make-up of Standards Committees".

2. The Committee's existing terms of reference are contained within appendix 2 of part 2 of the Constitution and include reference to promoting and maintaining high standards of conduct by Members (including co-opted Members); assisting Members through advice and training to observe the Code of Conduct; and monitoring the operation of the Code of Conduct and advising the Council on its operation and revision.

The Committee's existing role

3. The Committee's existing role in the promotion of high standards of conduct by both elected and co-opted Members within KCC is a positive one. The Committee has dealt effectively with the introduction of the revised Code of Conduct in June 2007 and also ensured that the authority was well-placed to take on the role of local determination of alleged breaches of the Code of Conduct from May of this year. The Committee's annual report to the full Council is good practice, with the sixth such report having been presented to Council in June 2008. Excellent co-operation and effective joint working exists between the Committee and the Independent Remuneration Panel, with particular emphasis on the completion by each Member of their individual annual reports. The Committee has taken a keen interest in the progress on Member Induction and Development and all 3 Group Leaders have attended meetings of the Standards Committee to hear about its work and to help guide future work in relation to maintaining and promoting high ethical standards.

Expanding the Committee's role

4. In 2006, Lancashire County Council undertook a research study with 12 other authorities (including KCC) into the role of Standards Committees and, in particular, how those authorities were meeting the ethical agenda. A summary of the responses received is attached at Appendix 1. The Committee will note the range of activity across the authorities surveyed, including internal and external communication; the use of the Audit Commission self assessment toolkit; and the development of a work

programme, which includes meetings with Group Leaders, the Chief Executive and senior managers.

5. Attached at Appendix 2 is a publication from the Standards Board for England entitled "The role and make-up of Standards Committees". Reference is made in the document to the Committee's wider role in relation to the governance of the authority, although Members will be aware of the existence of the Governance and Audit Committee, which complements the work of this Committee.

6. This is an initial discussion report on the possible expansion of the Committee's role in relation to the promotion of high ethical standards across KCC. The views of the Committee are sought as to the way forward. Any changes to the Committee's terms of reference will, of course, have to be agreed by the full Council.

Recommendation:

7. The Committee's views are sought with regard to enhancing the role of the Standards Committee in relation to promoting and maintaining high ethical standards across KCC

Miss R MacCrone – Independent Chairman of the Standards Committee

Peter Sass – Head of Democratic Services and Local Leadership

November 2008

Extract from Lancashire County Council report on the role of Standards Committees

1. Has your Committee given formal consideration to general issues of ethical governance?
 - The Committee receives reports of case decisions of interest at every meeting.
 - Considers complaints made under the Code of Conduct every 6 months and compares these to the statistics provided by the Standards Board.
 - Reviews of Register of Interests, Register of Gifts and Hospitality and Whistleblowing Policy every 12 months.
 - Review of certain codes and protocols in the Constitution every 12 months.
 - Regular receipt of reports regarding declarations of interest and Councillors attendance at Committees.
 - The Committee is briefed on the amount of Freedom of Information requests received, whistleblowing complaints and the proposed ethical element to the Comprehensive Performance Assessment in order to ensure compliance with appropriate guidelines and requirements of corporate governance.
 - The Committee considers the way in which the Register of Councillors Interests is made available for inspection
 - Response to Standards Board Papers.
 - Some Committees consider the conduct of Officers and formulate protocols in respect of this.
2. Assessment of ethical standards within the Authority.
 - Receives complaints about Members.
 - Reviews complaints made on a 6 monthly basis and by regular ethical audits.
 - Preparing an ethical audit (Audit Commission).
 - Received presentation from Audit Commission's representative.
 - 'Self-assessment' survey carried out.
 - Full ethical audit currently being carried out using Audit Commission's toolkit.
3. Raising awareness of the ethical agenda within the Authority
 - Internal newsletter, Intranet pages, handouts, briefings and e-learning.
 - Chair of Standards Committee has regular meetings with the Leader of the Council to talk about Standards issues and is co-opted onto the Audit Committee (this was the case for 1 County Council and 1 Unitary Authority surveyed).
 - Articles in Council's newspaper that is delivered to all households about the nature of the Standards Committee's work.

- Key developments in ethical arena included in a 4 times yearly bulletin distributed to all Councillors.
- Responds to all consultative papers issued by the Standards Board.
- An Officer Working Group chaired by the Monitoring Officer has as one of its standing items the increase of awareness and acceptance of ethical governance within the Council.
- Compiled a mandatory Code of Conduct for senior officers.

4. Do you have work plans for your Standards Committee?

- Detailed ever changing work plan prepared in draft at least 9 months in advance.
- No defined work plan.
- A work programme is set out yearly and included in the programme is meetings with Group Leaders, the Chief Executive and Senior Officers at least once a year.

5. Does your Committee have a purely regulatory role or a wider supportive role?

About half of the authorities who replied to the survey had a purely regulatory role and half had a wider role.

THE ROLE AND MAKE-UP OF STANDARDS COMMITTEES

Contents

Introduction

Functions of standards committees

Size and composition

Independent members

Parish and town council representatives

Other members

Supporting standards committees

Operation of standards committees

contents

introduction	2
functions of standards committees	3
Adopting the Code of Conduct	4
Publicising adoption of the Code of Conduct	5
Training members on the Code of Conduct	5
Monitoring the effectiveness of the Code of Conduct	6
Giving standards committees a wider role	6
Granting dispensations	7
Politically restricted posts	8
size and composition of standards committees	9
independent members	10
Choosing an independent member	10
Skills and competencies of independent members	12
Recruiting independent members from another standards committee	13
Ceasing to be an independent member	13
The role of the chair	13
Induction of independent members	14
Remuneration for independent members	15
Indemnities for independent members	15
Complying with the Code of Conduct and the register of members' interests	15
parish and town council representatives	16
Choosing parish and town council representatives	16
other members of standards committees	17
Executive members on the standards committee	17
Elected members on the standards committee	17
Substitute members	17
supporting standards committees	19
The role of the monitoring officer	19
operation of standards committees	20
Validity of meetings	20
Agendas and reports for standards committee meetings	20

introduction

This guidance is on the Standards Committee (England) Regulations 2008 (the regulations). It gives our view on the role and make-up of standards committees. The regulations are mandatory. This guidance must be taken into account by your authority. It is aimed primarily at members of standards committees and monitoring officers but will also provide a useful reference tool for all members and officers.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English and Welsh police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Members of parish and town councils may also find this guide useful.

The Local Government Act 2000 says that your authority must set up a standards committee. The regulations set out the rules governing the size and composition of a standards committee and should be read alongside this guidance.

Throughout this guidance we use the term ‘independent member’ to describe members appointed by the authority under Section 53(4)(b) of the Local Government Act 2000, and Regulation 5 of the regulations.

You may also like to consult our guidance **Local assessment of complaints** available from our website www.standardsboard.gov.uk.

You can contact the Standards Board for England on **0845 078 8181** or email enquiries@standardsboard.gov.uk

functions of standards committees

The main role of a standards committee is to promote and maintain high standards of conduct throughout its authority. One of the aims of setting up a standards committee is to create a sense of 'ethical well-being' in the authority.

The Standards Board for England believes there needs to be a culture of high standards in every authority. Each authority has the opportunity to reinforce its position as a leader in standards of conduct, setting an example to other bodies it works with, and to the community at large.

Standards committees, and indeed monitoring officers, are at the heart of the standards framework. They promote, educate and support members in following the highest standards of conduct and ensuring that those standards are fully owned locally.

Standards committees have a key role to play in creating an ethical organisation and setting an example for their councils. Indeed, creating and maintaining an ethical organisation is not just about adopting and enforcing the Code. It is also about relationships, both internally between members and authority staff, and externally with members of the public and other stakeholders. It is about how the authority relates to the community and other stakeholders, and improves the service it provides.

Standards committees have the following functions:

Main functions

- to promote and maintain high standards of conduct for members
- to help members to follow the Code of Conduct

Specific functions

- to give the council advice on adopting a local Code
- to monitor the effectiveness of the Code
- to train members on the Code, or arrange for such training
- to assess and review complaints about members
- to conduct determinations' hearings
- to grant dispensations to members with prejudicial interests
- to grant exemptions for politically restricted posts

The functions set out in this section should be included in the committee's 'terms of reference'. Standards committees can also undertake other functions as they consider appropriate.

The Audit Commission has recommended that authorities set up audit committees. The role of the standards committee should complement the role of the audit committee. While the audit committee

functions of standards committees

should oversee the financial processes, standards committees should take the lead on promoting good ethical conduct. It is important that committees are clear about their roles and responsibilities, and that there are clear distinctions in their terms of reference. This will avoid confusion, disputes and possible duplication.

If you change the terms of reference of your standards committee, you must send a copy of the amended terms of reference to us. We are happy for you to email this to us at enquiries@standardsboard.gov.uk

Adopting the Code of Conduct

Your authority must have adopted a local Code of Conduct by 1 October 2007, or as soon as possible after this date. In order to adopt a Code your standards committee must become familiar with the Model Code. Your local Code must include all of the provisions of the Model Code, and these cannot be changed. All of the provisions in the Model Code automatically apply, even if you do not adopt them all in your local Code. Your authority may also adopt extra provisions in its Code to suit local circumstances as long as those provisions are consistent with the Model Code.

You can amend and readopt your local Code at any time as long as it still contains all of the mandatory provisions of the Model Code.

We believe that all members should be judged by the same standards.

If you add provisions to the Model Code, you should be aware that members will be

assessed against these extra provisions. If you do add extra provisions, we advise you obtain legal advice to make sure these provisions can be enforced and do not breach any relevant law or regulation, such as the Human Rights Act.

Standards committee members can act as examples to other members by supporting the adoption of the Code, and by discussing ethical issues widely with their colleagues. They should lead by example in declaring the existence and nature of their interests at meetings, and by supporting and promoting attendance at training events. This will help keep the principles which govern the conduct of members and the Code at the centre of the authority's culture and values.

Publicising adoption of the Code of Conduct

When your authority has adopted a Code of Conduct or a revised Code, the monitoring officer must publish a notice in one or more local newspapers. This notice should say that a Code has been adopted and that it is available for public inspection. If your council publishes its own paper and prints a notice in that paper, it must also print a notice in another local paper. The notice must say that it can be seen by members of the public at all reasonable hours. We would expect you to place the notice on your website, with links to your complaints' process and forms.

Parish and town councils have the same duty as principal authorities to publish a notice in one or more local newspapers

functions of standards committees

when they have adopted the Code. Your authority can help the parish and town councils in your area to do this. Advertising can be expensive, so bear in mind that one advertisement can publicise Codes for several authorities in your area, for example, several parish and town councils.

If you decide to do this, the advertisement could simply list the authorities in the area that have adopted the Code and where it is available for the public to view. The advertisement should be placed in a publication covering all of the authority's area. Your authority can also advertise the Code on its website. But it must additionally publish its Code in one local newspaper, which excludes the newspaper in your own council.

If you make amendments to your Code, you must send a copy of the Code you have adopted to the Standards Board for England. If you add provisions to the Model Code, you should highlight any changes before sending them to us.

We are happy for you to email amended Codes to us at enquiries@standardsboard.gov.uk

Training members on the Code of Conduct

Standards committees are responsible for training members on matters relating to the Code of Conduct, or for arranging appropriate training to be provided. Training is an excellent way for your authority to set out the standards of conduct it expects from its members.

The training should ensure that members know about the workings and implications of the Code, as they are required to sign an undertaking to comply with it.

It would be good practice for standards committees to issue guidance notes or memos through their minutes to run alongside the Code. These could include guidance or protocols on local issues and an explanation of any extra provisions proposed to be added to the Code. This guidance could also be included in a members' handbook and placed on your website.

If your authority is responsible for any parish or town councils, it must also make sure that training is available to members of those councils. You may want to consult county associations to see if they provide any training.

We strongly encourage different tiers of local government to work together on ethical matters, particularly with training. This is because all members should know their rights and responsibilities, regardless of the type of authority.

Standards committees may like to base the training around some examples of potential ethical misconduct. This will allow members to see some of the provisions in action. Case summaries of completed investigations into misconduct are available on our website at www.standardsboard.gov.uk.

Alternatively, you can consult our *Case Review* publication which is also available on our website.

functions of standards committees

Monitoring officers should be able to provide their standards committee with the training materials published by the Standards Board.

Monitoring the effectiveness of the Code of Conduct

Standards committees need to monitor how effectively members are adhering to the Code of Conduct, the type of complaints received and how quickly these complaints are dealt with. This will help identify where problems are and what should be included in future guidance and training. Monitoring officers may provide overview reports to the committee highlighting these issues.

Monitoring officers will also make quarterly and annual returns to the Standards Board for England on the operation of the Code in their authority and the standards framework locally.

The Standards Board consulted authorities to determine how they will tell us that the local arrangements are working. We have designed a monitoring system based on what standards committees need locally. The system enables authorities to provide information to the Standards Board as simply as possible. Authorities will be able to use the system locally for their own records, to keep standards committees informed of the authority's ethical activities.

Giving standards committees a wider role

The Local Government Act 2000 allows your authority to give the standards committee extra functions to give them a wider governance role. Some standards committees do take on extra functions.

These may include:

- dealing with the protocol for members and authority employees' relations
- receiving reports on complaints procedures and/or reports from the Local Government Ombudsman or external auditors
- setting up the independent remuneration panel
- commenting on recommendations on members' allowances
- advising the council on the appointment of independent members

We believe that giving standards committees wider-reaching responsibilities is a positive step and will help promote confidence in local democracy. It will also provide a workload which is regular and interesting, and should in turn aid the recruitment and retention of independent members.

Authorities should review their constitutions regularly, at least once every five years. A constitution should be a living document provided to members, available

functions of standards committees

to the public and staff, and placed on your website. You may want to consider making the standards committee responsible for ensuring the constitution is designed to reduce the opportunity for misconduct and to promote effective governance. This will also mean that processes are properly accountable to both members and the public, and that relations with outside organisations are properly managed.

A wider role for standards committees can also be valuable for the following reasons:

- a work programme prevents ethics slipping off the agenda
- periodic ethical audits highlight any systemic weaknesses
- standards committees provide a useful structure for learning from the experiences and cases in other authorities
- standards committees can provide support to relevant officers when faced with a highly politicised environment

Granting dispensations

Members can apply to their standards committee for a dispensation to allow them to attend meetings where they would otherwise be excluded because they have a prejudicial interest. This can happen when more than 50% of the council or a committee would be prevented from taking part in a meeting because of prejudicial interests, or when the political balance of the council or committee would be upset.

Dispensations must be applied for in writing individually, and not as a group or authority. If the standards committee approves the application, it must grant the dispensation in writing and before the meeting is held.

Only the standards committee can grant the dispensation and will do so at its discretion. Standards committees will need to balance public interests when granting dispensations. They will have to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of authority members. If a failure to grant a dispensation will result in an authority or committee not achieving the minimum number of members required for the group, this may be sufficient grounds for granting a dispensation.

However, paragraph 12(2) of the 2007 Model Code of Conduct enables members to represent their community and speak on issues important to the community and themselves, even when they have a prejudicial interest. This is to support members' roles as community advocates.

If members have a prejudicial interest, under paragraph 12(2), they will be able to make representations, answer questions or give evidence relating to that business. This is provided that members of the public are also allowed to attend the meeting for the same purpose.

functions of standards committees

Note: there is a problem with the drafting of the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002. The political balance criterion for granting dispensations is linked to an authority being able to comply with its duty under the Local Government and Housing Act 1989.

This duty requires the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings, either of the authority or its committees. For this reason, it is difficult to envisage circumstances in which the criterion would be met.

Politically restricted posts

The Local Government and Public Involvement in Health Act 2007 imposed new duties in relation to politically restricted posts under the Local Government and Housing Act 1989 on standards committees. These are outside the scope of this guidance, but should be included in the standards committee's terms of reference.

size & composition

You must have at least three people on your standards committee. It must include at least two members of the authority and at least one independent member. At least 25% of the members of the standards committee must be independent members.

Please see the section on **Parish and town council representatives** on **page 16** for further information.

The chair of the standards committee must always be an independent member. You may therefore also want to appoint an independent member to act as vice chair of the committee in case the chair is unable to attend.

If your authority has executive arrangements, you are permitted to have one executive member on the standards committee. However, this executive member must not be the elected mayor or leader.

As the standards committee carries out a number of functions including the assessment of complaints and determination hearings, we recommend that your authority has at least six members on your standards committee. This is because different members will be required to carry out the different functions to avoid conflicts of interest.

If your authority is responsible for any parish or town councils, at least two representatives from those parish or town councils must be appointed to your standards committee and they cannot also be members of your authority. A parish or town council representative must sit on the standards committee at all times when parish matters are being discussed.

independent members

Independent members are important in helping increase public confidence in local government. They provide a clear signal that the standards committee acts fairly and impartially. Independent members also bring a wider perspective from their outside experiences. There is no limit to the number of independent members you can have on your standards committee. Indeed some authorities may wish to have a majority of independent members.

Your authority decides how to select independent members and how long an independent member should sit on the committee. We recommend that you set a fixed period of four years. This will be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that they could be perceived as losing their independence.

When re-appointing an independent member, you should bear in mind that we recommend that independent members should serve no longer than two terms, which is a maximum of eight years. It may be helpful for independent members to be appointed for differing lengths of time so that the experience they gain is not all lost simultaneously.

Choosing an independent member

Independent members must be chosen in a fair and open way.

A person can only be an independent member if that person:

- has not been a member or employee

of your authority within the five years before the date of appointment

- is not a member or officer of that or any other relevant authority. Please see the section **Recruiting independent members from another standards committee** on **page 13** for further information on when this does not apply
- is not a relative or close friend of a member or employee of your authority
- has applied for the appointment
- has been approved by a majority of the members of the council
- the position has been advertised in at least one newspaper distributed in your authority's area, and in other similar publications or websites that the authority considers appropriate. The decision on which other publications or websites to use may be something that the authority delegates to the standards committee.

The regulations say that a 'relative' means:

- a partner (a spouse, civil partner or someone a person lives with in a similar capacity)
- a parent
- a parent of a partner
- a son or daughter
- a stepson or stepdaughter
- the child of a partner
- a brother or sister
- a brother or sister of a partner

independent members

- a grandparent
- a grandchild
- an uncle or aunt
- a nephew or niece
- the partners of any of the people mentioned above

The regulations do not provide a specific definition of a close friend. The Standards Board for England's publication the *Case Review 2007* includes a section on defining a close associate, which might be helpful in identifying a close friend. The *Case Review 2007* is available at www.standardsboard.gov.uk.

The regulations require a majority of all members of the authority to approve the appointment. However, we believe that in practice, a report only needs to go to full council when selecting independent members. If so, we recommend that the monitoring officer ensures the majority of members approve, not just those attending the meeting.

We recommend that the power to assist the recruitment of independent members is delegated to the standards committee by the authority and is included in the committee's terms of reference. A standards committee may appoint a sub-committee to take on some of its functions, for example, if your standards committee is asked to advise members of the council on the appointment of independent or parish members. If so, then the standards committee may set up a sub-committee of suitably trained members to shortlist and interview candidates and make recommendations to council. The sub-committee may find it

helpful to have the monitoring officer and a human resources officer present to provide advice and assistance.

An individual's membership of a political party does not automatically bar them from being an independent member of a standards committee. However, the more politically active an independent member is the less likely they will be seen as being independent. You should consider public perception before making an appointment of this sort.

If you are finding it difficult to attract suitable people to become independent members, you should review the criteria in your advertisement to make sure they are reasonable. For example, you should make sure that the time you are asking the member to invest is reasonable for the role.

You may also want to consider additional methods of attracting candidates. This could include:

- placing articles in the local press about the role of an independent member
- placing advertisements on your website or on your local radio station
- placing flyers in libraries, adult learning centres or places of worship
- advertising through other authorities' partnerships or through the local voluntary or community sector
- approaching your citizen's panel
- the personal approach. For example,

independent members

contacting neighbouring authorities which may have more suitable candidates than they can appoint.

- approaching a person who is an independent member of a standards committee of a different authority. This person may also be appointed as an independent member of the standards committee of your authority. This is unless they were a member or officer of your authority within the five years preceding the appointment, or are a relative or a close friend of a member or officer of your authority.

Remember that all the selection criteria for the position will still apply, so even if you approach someone directly, they must still make a formal application.

We recommend that the application form includes sections on:

- personal details
- qualifications
- summary of experience
- relevant expertise/skills

Accepting a CV with an application form may make the process easier for busy candidates. You may also want to consider online applications. We recommend that the monitoring officer should be involved throughout the recruitment process to advise the panel and the authority.

Skills and competencies of independent members

The competencies you should look for in an independent member include:

- a keen interest in standards in public life
- a wish to serve the local community and uphold local democracy
- high standards of personal integrity
- the ability to be objective, independent and impartial
- sound decision making skills
- questioning skills
- leadership qualities, particularly in respect of exercising sound judgment
- the ability to act as the chair of an assessment or review sub-committee or a determination hearing

Please see the section **The role of the chair** on **page 13** for further information on acting as a chair.

You should assess candidates looking for these qualities in interviews and any other assessment process you carry out. You also need to ensure that your authority complies with its duties under the Equality Act 2006. The human resources department of your authority may be able to advise you further on this matter.

independent members

For further information on the recruitment of independent members, you may want to look at the recruitment pack produced by the Association of Council Secretaries and Solicitors (ACSeS). The pack provides practical advice on how to set about recruiting independent members, together with their roles and responsibilities. The pack can be downloaded at www.acses.org.uk

Recruiting independent members from another standards committee

An independent member of one standards committee may also sit on other standards committees. For example, the member can sit on county and district, or county, police and fire authorities' standards committees.

Independent members may also be temporarily appointed to another standards committee to consider a particular assessment, review or hearing or for a particular period of time. For example, it would be appropriate to appoint an independent member of a neighbouring standards committee for a short period in situations where the permanent member is unwell or if there is a conflict of interest. These appointments can be made without needing to advertise the position. The appointments do not need to be ratified by a majority of the members of the authority, but proper procedures should be in place to appoint independent members on a temporary basis.

Independent members appointed on a temporary basis cannot have been a member or officer of that authority in their

five years before the appointment, and cannot be a close friend or a relative of a member or officer of that authority. They must also comply with the Code of Conduct of each authority whose standards committee they sit on.

Ceasing to be an independent member

Under the regulations, any person appointed as an independent member who becomes a member or officer of an authority, or a relative of a member or officer of that authority, will no longer be able to be an independent member of that authority's standards committee.

The role of the chair

It is a legal requirement that the chair of the standards committee must be an independent member. It is important for the chair to be independent because of the key role they play in the business of the standards committee. By being independent, the chair can ensure that the standards committee's business is conducted in such a way that no one can question its integrity.

Authorities should aim to select a person who will command the respect of members and the local community. We recommend that the decision on who should be appointed as chair be taken by the full council or delegated to the standards committee. You may also choose to appoint an independent vice chair for the reasons discussed in the section on **Size and composition** on [page 9](#).

independent members

An effective chair will ensure that the business of the meeting is completed while allowing a fair and balanced debate and any professional advice to be taken into account. The chair may summarise the points put to the committee, and will ensure that the meeting is run correctly from a procedural point of view. They will also ensure that the decisions made are accurately recorded. The chair is responsible for keeping order and adjourning meetings where necessary. They should also have a good level of assertiveness. It is also the chair's responsibility to ensure that members of the public and press leave the meeting when a private report is being considered. Please see the section **Skills and competencies of independent members** on **page 12** for further information.

Preliminary matters will often arise in relation to hearings. The chair, with the advice of the monitoring officer, may make initial process decisions in relation to such matters. However, it is important that the hearing committee or sub-committee considers and approves such arrangements.

Ultimately, it is the way the chair operates independently, and is seen to operate independently, that should enhance confidence in the integrity of the standards committee. It is also the chair's status as an independent member, a role drawn from outside the authority and independent from the authority that should provide a clear signal that the committee is fair.

Induction of independent members

While it is not mandatory, we recommend that an induction programme should be provided for independent members. This should include training on the Code of Conduct and the functions of standards committees. Inductions should also include attendance at authority meetings, such as meetings of planning and licensing committees and the full council. If authorities are operating executive arrangements, then attendance at cabinet meetings and overview and scrutiny committee meetings should be part of the induction.

Independent and parish representatives should also receive a copy of the authority's constitution. In addition, they should receive a copy of the Code of Conduct that has been adopted by your authority, the protocol for member/officer relations and any other protocol in use.

The constitution should also include the authority's scheme of delegations of functions. Whistle-blowing policies, any policies and procedures under the Equality Act 2006, and the authority's anti-bullying policy should also be included. It may be helpful to add an A-Z of people in the authority, a list of authority services and the municipal calendar.

There are a number of regional independent member organisations. Many authorities use a mentoring system to assist new independent members of standards committees. In some parts of the country regional groups of independent

independent members

members have been established. Information relating to these will be helpful as may a list of useful websites.

To find out if there is a regional group of independent members in your area you should contact the Standards Board for England. The Association of Independent Members of Standards Committees in England (AIMSce) may also be able to provide support. Information about AIMSce can be found at www.aimsce.org.uk Authorities may also want to consider making members' IT facilities available to both their independent and parish representatives.

Remuneration for independent members

Authorities must introduce an annual scheme for the payment of a basic allowance to their members, based on the recommendations of an independent remuneration panel. The annual scheme can also extend to the payment of other allowances, including a co-optee's allowance. A co-optee's allowance relates to a person who is not a member of the authority but is a member of a committee or sub-committee, for example an independent member of a standards committee.

We recommend that independent members should be able to claim for financial loss, travel and subsistence. This will help attract those people that may have been deterred from the role because of the costs involved. Each authority must consider the recommendations of its panel

as to whether it should provide for the payment of a co-optee's allowance and of travelling and subsistence expenses.

Indemnities for independent members

Where independent members are carrying out their statutory duties, they may be protected by their authority's indemnity arrangements under the Local Authorities (Indemnities for Member and Officers) Order 2004. We recommend that all authorities include independent members in their indemnity arrangements.

Complying with the Code of Conduct and the register of members' interests

Independent members must sign an undertaking to comply with the Code of Conduct and disclose their interests in the register of members' interests maintained by the monitoring officer, in the same way as other members. Complaints about the conduct of independent members must be treated in the same way as that of other members.

parish and town council representatives

If your standards committee is responsible for parish or town councils we recommend you have a minimum of three parish or town council representatives on your standards committee, though the legal minimum is two.

A standards committee with three parish or town council representatives will provide you with flexibility. It should allow the local assessment of complaints to be carried out if a parish or town council representative is unavailable or conflicted out. You may wish to increase the number further to avoid situations where the parish or town council representative is conflicted out, and to prevent the parish or town council representatives from feeling isolated. It will also avoid meetings having insufficient members, if the parish or town council representative is not present when issues affecting parish or town councils are discussed.

This will bring the recommended total number of people on your standards committee to nine members.

Having nine members means that you can meet the requirement of having a different parish or town council representative when the committee's sub-committees carry out each of the separate assessment and review functions. Please see our guidance **Local assessment of complaints** for further information.

Your council must consult parish and town councils within its area to help decide if there should be a parish sub-committee to deal with some of its functions relating to

parish and town council matters. Any parish sub-committee must include at least one parish or town council representative and at least one independent member. In addition, your council must consult parish and town councils to determine how many parish and town council representatives are needed and how long they should serve on the committee.

Choosing parish and town council representatives

Your authority must decide how to recruit and appoint parish or town council representatives. Your parish and town council representative should have the trust of town and parish councils in your area, so you should involve them in the selection procedure.

If you are finding it difficult to find a parish or town council representative, your local county association of local councils may be able to help you. For example, the county association may be able to give you a list of possible candidates. They may also be prepared to conduct an election process for you.

This process should receive the support of the parish and town councils in the area and show that you want to appoint standards committee members in a fair and open way.

other members

Executive members on the standards committee

If the authority is operating executive arrangements, the standards committee does not need to include a member of the executive. However, you should consider whether it is appropriate to appoint an executive member. Appointing an executive member might show that the committee is supported and respected by all parts of the authority. Not having an executive member could reflect a degree of independence from the political leadership of the authority. Nevertheless, this is ultimately a decision for the authority.

Elected members on the standards committee

Standards committees need not reflect the political balance of the authority. This is because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of the governing political party. It may be helpful to remind elected members of this when committee appointments are being made.

It would be useful for your standards committee to include members who are supported by all political parties, particularly when the local assessment of complaints is carried out. This is so that greater trust and confidence can be established in the decision-making process among all political members.

Standards committees should be seen as making judgments impartially and without

regard to party loyalty. Elected members should consequently be mindful of this when serving on a standards committee. Elected members on standards committees should not be subject to a party whip. In other words, they should not be told how to vote on matters. Members should also remember that they must adhere to the Code of Conduct when serving on a standards committee.

It is important when assessing complaints, reviewing assessment decisions and holding determination hearings that the sub-committee is properly constituted and that members are trained on the Code and the relevant legislation. We recommend that you keep a clear record of the training of all standards committee members. Some authorities provide refresher training before hearings.

Substitute members

Some authorities operate a substitute system. This allows a substitute member to attend a meeting of the committee or sub-committee whenever a regularly appointed member cannot be present. This is often done to maintain the political composition.

However, we do not recommend the use of substitutes for standards committees. Standards committees are not intended to operate along party political lines and therefore it is not necessary to ensure a political balance.

In instances where all your independent members are unavailable, you would be

other members

able to substitute your independent members with independent members from another authority. Please see the section on **Recruiting independent members from another standards committee** on **page 13** for further information.

It should also be noted that nothing in the regulations requires a sub-committee of a standards committee to have fixed membership or chairmanship.

supporting standards committees

The role of the monitoring officer

Your monitoring officer plays an important role in helping the standards committee to carry out its functions. The monitoring officer should have the necessary knowledge, skills and experience to do this. They are the link between your members and the standards committee. Your monitoring officer also plays an important role in the relationship between parish and town councillors and the standards committee.

Under the Local Government Act 2000, monitoring officers are responsible for investigating allegations and they receive directions to carry out actions other than an investigation. It is for this reason that they are well placed to monitor the effectiveness of the Code of Conduct. Please see our guidance [Local assessment of complaints](#) for further information on other action.

Monitoring officers must also maintain the register of members' interests. Monitoring officers may appoint deputies to help them fulfil their roles. They may, for example, appoint a deputy to conduct an investigation on their behalf, or to write a report to the standards committee.

Your monitoring officer may also want to arrange training on standards matters for standards committees or for other members. Under the Code, members must have regard to the advice of the monitoring officer when it is given as part of the monitoring officer's statutory duties.

operation of standards committees

Validity of meetings

The requirements in relation to membership and composition of standards committees are set out in the section on **Size and composition** on **page 9** of this guidance. All members of sub-committees must be drawn from and appointed by the standards committee.

A standards committee **must** appoint a sub-committee to:

- assess new complaints
- review decisions to take no action over a complaint

A standards committee **can** appoint a sub-committee to:

- consider a monitoring officer's final investigation report
- consider determination hearings

For the meeting of the sub-committee to be valid at least three members of the standards committee must be present throughout. These three members must include at least one member of the authority and one independent member, who must be the chair.

Meetings of the standards committee must include at least three members of the committee and be chaired by an independent member. The requirement to have an independent chair does not apply to other sub-committees of the standards committee.

A member of an assessment sub-committee cannot be present at the review sub-committee meeting when it considers a complaint that the assessment sub-committee decided no action should be taken on. Please see our guidance **Local assessment of complaints** for further information.

If the standards committee appoints a sub-committee to consider matters relating to parish and town councils, and the members of those councils, the sub-committee must have at least three members who are present throughout the meeting, including a parish or town council representative and an independent member.

At least one parish and town council representative must be present when matters relating to parish and town councils are being discussed by any meeting of the standards committee or one of its sub-committees.

Agendas and reports for standards committee meetings

Standards committee agendas should be open for inspection five days before the meeting and a copy should be sent to parish and town councils that the authority is responsible for. Meetings of the assessment and review sub-committees are closed and therefore agendas for these meetings do not come under this rule. Many councils place agendas on their website.

operation of standards committees

Copies of meeting reports should also be available for inspection. If the monitoring officer is a **proper officer** they can decide to exclude the whole report or any part of it, if they believe the meeting where the report(s) will be discussed is unlikely to be open to the public. These might include confidential or exempt items, or parts of reports that if disclosed might be in breach of the Data Protection Act.

If the chair believes, by reason of special circumstances specified in the minutes, that an item should be considered as a matter of urgency, this can be considered, despite it not having appeared on the agenda for the meeting.

Meeting minutes should be available for six years after the meeting, unless they relate to a part of the meeting that the public was excluded from, in which case they should not be made available.

Please see our guidance **Local assessment of complaints** for further information on access to meetings of the assessment and review sub-committees.

notes

This page is intentionally left blank

By: Miss R MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee - 25 November 2008

Subject: Department for Communities and Local Government (DCLG) –
consultation paper on the Code of Conduct for Members

Summary: To consider the proposed response to the DCLG consultation paper on
proposed revisions to the Members' Code of Conduct.

Unrestricted

Background

1. On 1 October 2008, the Department for Communities and Local Government (DCLG) issued a consultation paper on proposed revisions to the Code of Conduct for Members, together with a new proposed Model Code of Conduct for local government employees (see **Appendix 1** attached). This Committee is invited to consider a proposed formal response to the proposals in chapter 2 of the consultation paper, which relate specifically to the proposed revisions to the Members' Code of Conduct (see **Appendix 2** attached).

The Consultation Paper

2. Chapter 2 of the consultation paper seeks views on proposals to clarify the Members' Code on its application to Members' conduct when acting in a non-official capacity. It also seeks views on the operation of, and proposed revisions to, the Members' Code, including reconfiguring the Code into two distinct sections; the first dealing with Members' conduct in their official capacity and the second dealing with conduct in Members' non-official capacity. A small number of clarifying amendments are suggested to personal and prejudicial interests, which appear to be non-controversial. Finally, it seeks views on associated amendments to the General Principles Order, in order to clarify its application to Members' conduct in their non-official capacity. The closing date for responses to the DCLG is 24 December 2008.

3. The consultation paper is also being considered at a meeting of the Kent and Medway Fire and Rescue Authority (KMFRA) on 1 December and by the Kent Police Authority (KPA) in due course. It is highly likely that both KMFRA and KPA will consider a similar response to that contained in **Appendix 2** and officers from the three authorities will liaise in relation to the possibility of a unified response to the consultation.

4. I have also attached at **Appendix 3**, for the information of the Committee, an article that appeared in the Municipal Journal on 13 November 2008, written by David Prince, former Chief Executive of the Standards Board for England, in relation to the DCLG consultation, which Members might find interesting.

Recommendation:

5. The Committee's views are sought with regard to the proposed formal response to Chapter 2 of the DCLG consultation paper on revisions to the Members' Code of Conduct, attached at **Appendix 2**.

Miss R MacCrone – Independent Chairman of the Standards Committee

Peter Sass – Head of Democratic Services and Local Leadership

November 2008

Communities in control: Real people, real power
Codes of conduct for local authority members and
employees

A consultation

Communities in control: Real people, real power
Codes of conduct for local authority members and
employees

A consultation

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

© Crown Copyright, 2008

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at www.opsi.gov.uk/click-use/system/online/pLogin.asp, or by writing to the Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU

e-mail: licensing@opsi.gov.uk

If you require this publication in an alternative format please email alternativeformats@communities.gsi.gov.uk

Communities and Local Government Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 08701 226 236
Fax: 08701 226 237
Textphone: 08701 207 405
Email: communities@capita.co.uk
Online via the Communities and Local Government website:
www.communities.gov.uk

October 2008

Product Code: 08 LGSR 05557

ISBN: 978-1-4098-0549-6

Contents

Chapter 1: The consultation and how to respond

Communities in control consultation papers	3
About this consultation	3
Who we are consulting?	4
How to respond	4
What will happen to the responses?	5
Publication of responses – confidentiality and data protection	5
The consultation criteria	6
Additional copies	6
In context – previous consultations and relevant legislation	6

Chapter 2: Code of conduct for local authority members

What is the code of conduct for?	8
Application of the code to members' conduct in their non-official capacity	9
Definition of 'criminal offence' and 'official capacity'	10
Offending abroad	11
What does this mean?	11
Criminal conviction of a member	11
The conduct regime	11
Proposed revisions to the members' code	12
Legislative context	14

Proposed amendments to the General Principles

What are the General Principles?	15
Proposed revisions	16
Definition of a 'criminal offence' and 'official capacity'	17
Legislative context	17

Chapter 3: Model code of conduct for local government employees

Is an employees' code needed?	18
The employees' code in context	18
Application of the employees' code	19
Proposed core values	20
Beyond the core values	22
The model employees' code: values for qualifying employees	22
Contractors, partners and part time staff	24
Parish councils	24
Legislative context	25

Annex A: List of consultation questions	26
Annex B: Members' Code of Conduct 2007	28
Annex C: The Consultation Code of Practice	34

Chapter 1: The consultation and how to respond

Communities in control consultation papers

- 1.1 The White Paper, *Communities in control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 White Paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments. Future consultation papers include a consultation on proposals to revise the code of recommended practice on local authority publicity, which is due to be published at the end of October. This paper invites views on proposals for revising the model code of conduct for local authority members ("the members' code"), principally to clarify its application to members' conduct in their non-official capacity. This paper also invites views on proposals for associated changes to the Relevant Authorities (General Principles) Order 2001 which sets out the general principles which govern the conduct of local authority members. Finally, it seeks comments on proposals to introduce a requirement for authorities to incorporate a code of conduct for employees, based on a statutory model code of conduct, in to the terms and conditions of employment of their employees' ("the employees' code").

About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England and police authorities in Wales.
- 1.4 Following the local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, the Local Government and Public Involvement in Health Act 2007 established a more locally-based conduct regime for local authority members centred on local authority standards committees. Under the new devolved regime, the Standards Board for England has become a light-touch strategic regulator, responsible for monitoring the operation of the conduct regime and giving support and guidance to standards committees and monitoring officers in discharging their new functions.
- 1.5 As part of the changes to the conduct regime, a new model code of conduct for local authority members, the Local Authorities (Model Code of Conduct) Order 2007, was introduced with effect from May

2007, on the basis that the provisions of the members' code would be reviewed in light of early experience of its practical operation.

- 1.6 Chapter 2 of this paper seeks views on proposals to clarify the members' code in its application to members' conduct when acting in a non-official capacity. It also seeks views on the operation of, and proposed revisions to, the members' code, including reconfiguring the members' code into two distinct sections, the first dealing with members' conduct in their official capacity, the second dealing with members' conduct in their non-official capacity. Finally, it seeks views on associated amendments to the Relevant Authorities (General Principles) Order 2001 to clarify its application to members' conduct in their non-official capacity.
- 1.7 Chapter 3 of this paper seeks views on the proposed introduction of a model code of conduct for local government employees, which will become part of such employees' terms and conditions of employment.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in **Annex A**. In order to aid your consideration of the proposed amendments to the current members' code, the substance of the 2007 code is reproduced at **Annex B**.
- 1.9 We are minded, subject to responses to this consultation, to implement the proposals in this consultation paper, so that they come into effect in line with the local government elections 2009.

Who are we consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from local authority members, local authority monitoring officers, local government employees, national representative bodies, local government partners and trade unions. **The consultation period runs for 12 weeks to 24 December 2008.**

How to respond

- 1.11 Your response must be received by 24 December 2008 and may be sent by e-mail or post to:

Karl Holden
Conduct and Council Constitutions Team
Communities and Local Government
Zone 5/B2, Eland House
Bressenden Place
London
SW1E 5DU

e-mail: conductcode@communities.gsi.gov.uk

If you are replying by e-mail please title your response 'Response to Model Code consultation'.

It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on the legislation that will form the revised members' code, the general principles order and the new employees' code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at www.communities.gov.uk

Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 1.15 If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.17 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The consultation criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see **Annex C** of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

Additional copies

- 1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: www.communities.gov.uk.

In context – previous consultations and relevant legislation

- 1.20 The local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, set out the Government's proposals to put in place a clearer, simpler and more proportionate model code of conduct for members which would include changes to the rules on personal and prejudicial interests. This announcement followed a consultation by the Standards Board for England, *A Code for the future*, in February 2005 and the Discussion Paper *Conduct in English Local Government*, issued by the then Office for the Deputy Prime Minister in December 2005.
- 1.21 The policy proposals took form in the January 2007 consultation document, *Consultation on Amendments to the Model Code of Conduct for Local Authority Members*, which proposed the combination of the four different model codes of conduct that existed at the time (for local authorities, parish councils, national parks and police authorities) into a single consolidated model code.
- 1.22 The Local Authorities (Model Code of Conduct) Order 2007 came into force on 3 May 2007. With the members' code now in place for over a year, we believe this is an appropriate time to examine how well it has functioned in practice and consider any revisions that may be required. The proposed amendments to the members' code set out in this paper reflect discussions with the Standards Board and, in particular, their experience of the practical operation of the 2007 members' code over the last year.
- 1.23 Following the 2006 local government White Paper and the introduction of the 2007 members' code, the Local Government and Public Involvement in Health Act 2007 made provision clarifying the law in

relation to the application of the conduct regime to the conduct of members in their non- official capacity. This paper therefore also invites comments on proposals to revise the members' code and the general principles order to address the issue of the application of the conduct regime to the conduct of members in their non-official capacity.

Code of conduct for local government employees

- 1.24 In August 2004, the then Office of the Deputy Prime Minister issued the consultation paper, *A Model Code of Conduct for Local Government Employees*. The paper consulted on a draft code defining the minimum standards of conduct that employees of relevant authorities would be expected to observe on carrying out their duties. The 2004 consultation was followed by further inquiries and consultations on matters relating to the conduct regime for local government.
- 1.25 The Department restated its commitment to introduce a model employees' code, under Section 82 of the Local Government Act 2000, in the local government White Paper 2006. However, in light of the above inquiries and consultations, and the introduction of the 2007 members' code, it was decided that the implementation of an employees' code should be delayed until the Department had an opportunity to consider the employees' code in the context of the wider review of the conduct regime for local government and the lessons learned from the implementation of the new members' code.
- 1.26 With the implementation of the new devolved conduct regime and our proposals to amend the members' code, drawing on the experience of its first year of operation, we consider that the time is right to also consult on proposals to introduce a model employees' code.

Chapter 2: Code of conduct for local authority members

What is the code of conduct for?

- 2.1 The public has a right to expect high standards of conduct from their elected and co-opted members. The standards of conduct expected of local authority members are set out in the members' code, which is underpinned by the ten general principles. By signing up to the members' code, a member is actively taking on a formal obligation to abide by its requirements.
- 2.2 The members' code forms the bedrock of the conduct regime and aims to promote the public's trust and confidence in their members and faith in local democracy. It does this by providing a robust set of standards of behaviour for members to abide by and work within. In doing this, the code also protects members from unreasonable expectations of behaviour being put upon them. Since May 2008, allegations that a member has failed to comply with the provisions of the members' code are considered by local authority standards committees.
- 2.3 The current members' code is set out in the Local Authorities (Model Code of Conduct) Order 2007 which applies to members of relevant authorities in England and of police authorities in Wales. On its introduction, the Government gave an undertaking that the effectiveness of the code would be reviewed after it had been in operation for some time. We believe, drawing on the Standards Board's practical experience that the members' code is, broadly, operating very well. However, as it has been in force for over a year, we consider that it is now appropriate to review the code.
- 2.4 Most importantly, we propose that the members' code be restructured by revoking the existing Order and making a new one. We propose that the new members' code will be differently formatted to the existing code, making it easier to interpret and clearer in its application, for instance by dividing it into two sections: the first dealing with members' conduct when acting in an official capacity and reflecting what is in the current code, the second dealing with members' conduct in their non-official capacity.

Application of the code to members' conduct in their non-official capacity

- 2.5 Trust in our local authority members is one of the cornerstones of local democracy. Members should inspire trust and confidence from those who elected them, set an example of leadership for their communities and should be expected to act lawfully even when they are not acting in their role as members.
- 2.6 This view was supported by those who responded to the Standards Board for England's consultation on the members' code in 2005. Responses indicated a clear view that a member's conduct in a non-official capacity was an issue that they considered should be covered by the members' code, particularly where that conduct amounts to a criminal offence.
- 2.7 It has always been our intention for the members' code to apply to a limited extent to the conduct of members in a non-official capacity. We wish now to clarify which provisions of the members' code apply in a member's official capacity and to put beyond doubt which provisions apply to a member's conduct in a non-official capacity.
- 2.8 The need to clarify what conduct in a member's non-official capacity is covered by the members' code arose as a consequence of a court judgment in 2006. This cast doubt on the ability of the code to cover members' conduct not linked to the performance of their public duties. As was made clear by Ministers during the passage of the Local Government and Public Involvement in Health Act 2007, we consider that certain behaviour, even when there is no direct link to the member's official role, can have an adverse effect on the level of public trust in local authority members and local government as a whole.
- 2.9 We propose therefore that the new members' code should, in the section covering the conduct of members in their non-official capacity, contain the following provision prohibiting particular conduct where that conduct would constitute a criminal offence:

"Members must not bring their office or authority into disrepute by conduct which is a criminal offence".

Consultation Question 1:

Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

Definition of 'criminal offence' and 'official capacity'

- 2.10 The Local Government and Public Involvement in Health Act 2007 gave the Secretary of State the power to define, for the purposes of the members' code, what constitutes a 'criminal offence'. We propose for the purpose of the members' code, that 'criminal offence' be defined as any criminal offence for which the member has been convicted in a criminal court, but for which the member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction.
- 2.11 Our intention is that offences capable of attracting fixed penalty notices should be excluded from the remit of the conduct regime. We consider that this approach will ensure that the most minor criminal offences, for example minor motoring offences, parking offences and dropping litter as well as cautions and orders falling short of a criminal conviction by a court, will not be included in the remit of the members' code. However, serious criminal offences which we consider should come under the remit of the members' code, such as assault, harassment, fraud and offences relating to child pornography will be included in the remit of the code.
- 2.12 We propose that the Standards Board for England will issue guidance for local authority standards committees on how a criminal offence should be treated in its application to the conduct regime.

Consultation Question 2:

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

- 2.13 The Local Government and Public Involvement in Health Act 2007 also gave the Secretary of State power to define, for the purposes of the members' code, what constitutes 'official capacity'.
- 2.14 We propose that for the purposes of the members' code, 'official capacity' be defined as being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority.

Consultation Question 3:

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

Offending abroad

- 2.15 We also propose that the members' code would engage with conduct committed in a foreign country, where that conduct constitutes a criminal offence in that country, but only where the conduct would also constitute a criminal offence if it was committed in the UK. However, the code would only apply if the individual was convicted in the country in which the offence was committed.

Consultation Question 4:

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

What does this mean?

- 2.16 Our proposals would have the effect of providing that the only conduct in a member's non-official capacity which is engaged by the code, is conduct which constitutes a criminal offence, as defined in paragraph 2.10 above. The code may only then be applied to that conduct when the evidence that the member's conduct constituted a criminal offence is provided by the criminal conviction of the member in the courts.
- 2.17 This would mean, for example, that a member who was convicted of a criminal offence of assault or harassment could be held to have breached the code, even if the conduct, which led to the conviction took place entirely outside the member's official capacity.

Criminal conviction of a member

- 2.18 It should be noted that a criminal conviction resulting in a custodial sentence of more than three months without the option of paying a fine is already covered by section 80 of the Local Government Act 1972, with the member automatically disqualified from office for five years. We are not proposing any changes to this legislation.

The conduct regime

- 2.19 At present, investigations into alleged breaches of the members' code are triggered by a written allegation made to the standards committee of the local authority concerned. We propose that this continue to be the case when dealing with allegations of misconduct in relation to a member's conduct in their non-official capacity.
- 2.20 Where the allegation involves criminal activity that is, at the time of the allegation being made, being investigated by the police or prosecuted through the courts, we propose that the standards committee or the

Standards Board, as the case may be, would cease their investigation process until the criminal process had been completed. Any subsequent action under the conduct regime in respect of a member's private conduct would follow the conclusion of the criminal procedure. The member would not be suspended during the period of the criminal process.

- 2.21 For the purpose of the conduct regime, the criminal process will be considered to have been completed at the conclusion of any appeals process.

Consultation Question 5:

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

Proposed revisions to the members' code

- 2.22 This consultation paper also seeks views on the following amendments which we propose to make to the provisions of the existing code. The proposed amendments reflect discussions with the Standards Board and, in particular, the Board's experience of the practical operation of the code over the last year.
- 2.23 In order to aid your consideration of our proposed amendments to the members' code, the substance of the present code is reproduced at **Annex B** to this paper. Guidance on the provisions of the members' code is available on the Standards Board for England's website at www.standardsboard.gov.uk

Parish councils

- 2.24 It has been suggested that article 2(5) of the Local Authorities (Model Code of Conduct) Order 2007 be amended to apply paragraph 12(2) to parish councils, to make it mandatory for parish councils that a member with a prejudicial interest may make representations at a meeting only if members of the public are able to attend that meeting for the same purpose. Currently, if a parish council wishes this provision to apply, it must make a conscious decision to adopt paragraph 12(2) into its code. This amendment would save unnecessary administration and ensure consistency across parish councils.

Membership of other bodies

- 2.25 It has been suggested that paragraphs 8(1)(a)(i) and (ii) of the current members' code be amended to clarify that the sections are referring to other bodies that you are a member of or which exercise functions of a public nature, putting it beyond doubt that this is not a reference to the authority itself.

Personal interests

- 2.26 It has been suggested that current wording of paragraph 8(1)(a) of the members' code could be amended to clarify that a member is required to register a gift or hospitality with an estimated value of at least £25 in his or her register of members' interests.

Prejudicial interests

- 2.27 It has been suggested that paragraph 10(2) of the code be amended to remove the double negative in the current drafting, to make it clear that a prejudicial interest exists where the business of your authority affects your financial position or the financial position of a person listed in paragraph 8 of the code or it relates to the determining of any approval, consent, licence, permission or registration in relation to you or those persons listed in paragraph 8 of the code.
- 2.28 It has been suggested that the meaning of 'determining' in paragraph 10(2)(b) could be clarified to include variation, attaching, removing or amending conditions, waiving or revoking applications.
- 2.29 It has also been suggested that paragraph 10(2)(c) could be amended to clarify that a member would not have a prejudicial interest in the business of the authority where that business related to giving evidence before a local authority standards committee hearing regarding an allegation that a member of the authority had failed to comply with the code.

Registration of members' interests

- 2.30 We propose that any new members' code would take into account any existing registration of members' interests. This will ensure that members who have already registered their interests in line with the 2007 model code do not have to repeat the process when the revised members' code is introduced.

Consultation Question 6:

Do you think that the amendments to the members' code 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?

Consultation Question 7:

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

Consultation Question 8:

Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

Legislative context

- 2.31 The current members' code is set out in the Schedule to the Local Authorities (Model Code of Conduct) Order 2007 made under powers conferred on the Secretary of State by section 50 of the Local Government Act 2000.
- 2.32 Section 183 of the Local Government and Public Involvement in Health Act 2007 inserted, into section 50 of the Local Government Act 2000, a requirement for the Secretary of State to specify which provisions of the members' code apply in relation to a member's conduct when acting in an official capacity and which provisions apply when not acting in an official capacity. A provision may only be specified to apply to members' conduct when not acting in an official capacity if the conduct it prohibits constitutes a criminal offence. The power in section 50 of the Local Government Act 2000 permits the Secretary of State to define for the purposes of the members' code what is meant by "criminal offence" and what is meant by "official capacity".
- 2.33 We propose that the existing Local Authorities (Model Code of Conduct) Order 2007 be revoked and a new, revised Order would be made to reflect our proposed amendments and that part of the code applies to a member's conduct in their official capacity and part of it would apply to a member's conduct in their non-official capacity.
- 2.34 Provision is also made in section 183 of the Local Government and Public Involvement in Health Act 2007 for members to give to their authority an undertaking to observe the new code within a period prescribed by the Secretary of State. We propose that members will have two months from the date their authority adopts the new code to give a written undertaking that they will observe their authority's code. Failure to do so will mean that they cease to be members of the authority.

Consultation Question 9:

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

Proposed amendments to the General Principles

What are the General Principles?

- 2.35 The ten General Principles, contained in the Relevant Authorities (General Principles) Order 2001, are based on the seven principles of public life set out by the Committee on Standards in Public Life. The principles underpin the provisions of the members' code, which must be consistent with these principles.
- 2.36 The ten general principles are reproduced below. The principles govern the conduct of members, and a failure to act in accordance with them may lead to a failure to comply with the members' code.

The General Principles

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in a situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to uphold the law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Proposed revisions

2.37 We propose that the Relevant Authorities (General Principles) Order 2001 be amended to make clear which principles govern the conduct of members when acting in an official capacity and which principles will apply to the conduct of members when acting in a non-official capacity, where the member's conduct would constitute a criminal offence.

2.38 We propose that the General Principles Order be amended by providing that the 10 existing principles apply to a member when acting in an official capacity and by adding a new principle which would be specified as applying to a member acting in a non-official capacity, where the member's conduct would constitute a criminal offence. We propose that the following be added to the Schedule of the Relevant Authorities (General Principles) Order 2001:

Duty to abide by the law

Members should not engage in conduct which constitutes a criminal offence.

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?

Definition of 'criminal offence' and 'official capacity'

2.39 Section 49 of the Local Government Act 2000 enables the Secretary of State to define what constitutes a 'criminal offence' and what constitutes 'official capacity' in the context of the General Principles Order. For the purposes of the revised General Principles Order, we propose that 'criminal offence' be defined as any conduct that has resulted in a criminal conviction.

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?

2.40 We propose that for the purposes of the revised General Principles Order, 'official capacity' be defined as "being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority".

Consultation Question 12:

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

Legislative Context

2.41 The Relevant Authorities (General Principles) Order 2001 was made under powers conferred on the Secretary of State in section 49 and 105 of the Local Government Act 2000. Section 183 of the Local Government and Public Involvement in Health Act 2007 modified section 49 of the 2000 Act and it is this modification that requires the Secretary of State to specify which general principles apply to a person when acting in an official capacity and when acting in an non-official capacity.

Chapter 3: Model code of conduct for local government employees

Is an employees' code needed?

- 3.1 A code of conduct for local government employees ("employees' code") should provide the staff of an authority with an effective ethical framework within which to work and it should give that authority's citizens confidence that an authority's staff are working on their behalf in an appropriate manner.

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?

The employees' code in context

- 3.2 In August 2004, the (then) Office of the Deputy Prime Minister consulted on a model code of conduct for local government employees. Responses indicated that the model code of conduct consulted on was not adequate, but also that the universal application of a code to all staff would be needlessly bureaucratic as all employees would be subject to the same code regardless of their position. There was support for following the model of the Welsh code of conduct, which only applies to a certain category of defined senior officer. Alternatively, the code could be restricted to those who exercise executive, regulatory or overview and scrutiny powers under the authority's scheme of delegation to officers.
- 3.3 Another view in response to the consultation paper was that certain aspects of the code (eg registration of interests), could be limited to senior officers while other more universal aspects should be applicable to all - for instance, it is beyond question that all employees should behave with honesty and integrity.
- 3.4 Many local authorities already have a code of conduct for employees in addition to, or part of, their standard terms and conditions of employment. These codes range from simple statements agreeing to act with propriety to comprehensive documents covering everything

from political neutrality to intellectual property matters. These codes of conduct are also integrated into the authority's discipline procedures.

- 3.5 It is not intended that the employees' code be a burden on authorities or employees. The code should not constrain an authority's ability to develop its own code reflecting local needs and conditions. We consider that authorities should be free to adopt supplementary provisions beyond the employees' code in order to provide their staff with an effective ethical framework within which to work.

Application of the employees' code

- 3.6 We propose that the employees' code would apply to all relevant authorities and police authorities in Wales, as defined in Section 49 of the Local Government Act 2000. We are proposing that a model employees' code - a model code that authorities may augment if they wish - be introduced, which will be incorporated into local government employees' terms and conditions of employment.
- 3.7 However, we do not propose to apply the employees' code where it is not needed, for instance to employees in professions that are covered by their own code of conduct; firefighters, teachers, community support officers, solicitors etc.

Consultation Question 14:

Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?

Consultation Question 15:

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

- 3.8 We propose a two-tier model. The first tier, drawing on the Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001, will apply equally to all authority employees and will enshrine the core values that it is reasonably expected every authority employee would abide by. The second tier, drawing on the members' code, will apply to 'qualifying employees', that is; either senior officials or those officials carrying out delegated functions.
- 3.9 With the members' code in place, and members having to abide by that code, there is a reasonable expectation that officials undertaking functions delegated to them by members would have to abide by the same conduct regime as members when performing those functions.

Proposed core values

The model employees' code: core values for all employees

General principles

The public is entitled to expect the highest standards of conduct from all local government employees. The role of such employees is to serve their employing authority in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

Employees are accountable, and owe a duty to, their employing authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political neutrality

Employees, excluding political assistants, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

Relations with members, the public and other employees

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. Employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

Employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

Employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal interests

An employee must not allow their private interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

Employees should abide by the rules of their authority about the declaration of gifts offered to or received by them from any person or body seeking to

do business with the authority or which would benefit from a relationship with that authority. Employees should not accept benefits from a third party unless authorised to do so by their authority.

Whistleblowing

Where an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the model code of conduct for employees, the employee should report the matter, acting in accordance with the employees rights under the Public Interest Disclosure Act 1998 and with the authority's confidential reporting procedure or any other procedure designed for this purpose.

Treatment of Information

Openness in the dissemination of information and decision making should be the norm in authorities. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of staff

Employees of the authority, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, those employees must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

Investigations by monitoring officers

Where a monitoring officer is undertaking an investigation in accordance with Part III of the Local Government Act 2000 and associated regulations, employees must comply with any requirement made by that monitoring officer in connection with such an investigation.

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?

Beyond the core values

Who are the 'qualifying employees'?

- 3.10 There are two alternatives for selecting those 'qualifying employees' to which, in addition to the core values of the employees' code, some of the restrictions and expectations of the members' code should apply.
- 3.11 The first is based on the approach taken to determining which posts in an authority are 'politically restricted' under section 3 of the Local Government and Housing Act 1989, and assumes that certain posts are senior or influential enough to warrant controls placed on the activities of postholders. Certain posts would be designated as qualifying employees.
- 3.12 The second is the delegation model, which would see qualifying employees selected on the basis that they perform functions delegated to them by elected members under section 101 of the Local Government Act 1972.

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?

The model employees' code: values for qualifying employees

Compromising the impartiality of officers of the authority

A qualifying employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. A qualifying employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

Using your position improperly

A qualifying employee must not use, or attempt to use, their position improperly either for their or anybody else's advantage or disadvantage.

Considering advice provided to you and giving reasons

If a qualifying employee seeks advice, or advice is offered to them, on aspects of how the employees' code applies, the qualifying employee must have regard to this advice.

Personal interest

Qualifying employees must register, within 28 days of taking up their appointment, any interests set out in the categories below. This record of interest must be in writing, to the authority's monitoring officer or, in the case of a parish council, through the parish clerk.

The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required.

These are:

- Your membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the company.
- Any contracts between the authority and any company you have an interest in, as above.
- Any land or property in the authority's area in which you have a beneficial interest.

A qualifying employee may seek to exempt their personal interests from the register of interests if they consider, for instance that having this information on record might put themselves or others at risk. In such cases, the qualifying employee should discuss the matter with their monitoring officer.

Consultation Question 18:

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

Prejudicial interest

A prejudicial interest is considered to be a matter which affects the qualifying employee's financial interest or relates to a licensing or regulatory matter in which he or she has an interest and where a member of the public, who knows the relevant facts, would reasonably think that his or her personal interest is so significant that it is likely to prejudice his or her judgement of the public interest.

A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which the qualifying employee has a personal interest or will affect him or her personally.

Qualifying employees with a prejudicial interest should declare such an interest. Where possible, they should take steps to avoid influential involvement in the matter. Where this is not possible, their prejudicial interest should be made clear.

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?

Contractors, partners and part time staff

3.13 Local authorities have an increasingly complex relationship with the private sector in its work with contractors, partners and part time staff. We consider that rather than attempt to determine centrally when and when not to apply the employees' code not just to local government employees, but those working on behalf of local government, it will be for local authorities themselves to decide, in agreeing contracts, partnership agreements or terms and conditions of employment, if and how the employees' code, in whole or in part, should apply.

Parish councils

3.14 The members' code applies to parish councillors as well as members of larger authorities, and it seems reasonable therefore for the ethical framework of the employees' code to apply to parish council employees. We recognise that the environment that parish councillors operate within is different to that of larger authorities and are conscious that what is consider to be a reasonable expectation in the employees' code for larger councils, may prove to be difficult for parish councils.

3.15 That being the case, we would welcome responses from parish councils on any particular aspect of the employees' code that might present difficulties and how those difficulties could be overcome.

Consultation Question 22:

Should the employees' code extend to employees of parish councils?

Legislative context

- 3.16 Section 82(7) of the Local Government Act 2000, provides that the provisions of a code made under section 82(1) of that Act will be deemed to be incorporated in employees' terms and conditions of employment.

Annex A: List of consultation questions

Chapter 2: Code of conduct for local authority members

- | | |
|-------------|--|
| Question 1 | Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity? |
| Question 2 | Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details. |
| Question 3 | Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details. |
| Question 4 | Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK? |
| Question 5 | Do you agree that an ethical investigation should not proceed until the criminal process has been completed? |
| Question 6 | Do you think that the amendments to the members' code 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? |
| Question 7 | Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view? |
| Question 8 | Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details. |
| Question 9 | Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code? |
| Question 10 | Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity? |

- 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?
- Question 12 Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

Chapter 3 Model Code of Conduct for local authority employees

- 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?
- Question 14 Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?
- Question 15 Are there any other categories of employee in respect of whom it is not necessary to apply the code?
- 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?
- 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?
- Question 18 Should the code contain a requirement for qualifying employees to publicly register any interests?
- 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?
- 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?
- 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?
- Question 22 Should the employees' code extend to employees of parish councils?

Annex B

SCHEDULE

THE MODEL CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1.—(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State.

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

“meeting” means any meeting of—

(a)

the authority;

(b)

the executive of the authority;

(c)

any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other 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.

General obligations

3.—(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7.—(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 Interests

Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a

firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9.—(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests,

you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority’s executive or another of your authority’s committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12.—(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13.—(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Annex C: Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of
 - 12 weeks for written consultation at least once during the development of the policy
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - Ensure that your consultation is clear, concise and widely accessible.
 - Give feedback regarding the responses received and how the consultation process influenced the policy.
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- A.3 The full consultation code of practice may be viewed at: www.bre.berr.gov.uk/regulation/consultation/code/index.asp.

- A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator
Communities and Local Government
Zone 6/H10
Eland House
Bressenden Place
London
SW1E 5DU

email: consultationcoordinator@communities.gsi.gov.uk



This page is intentionally left blank

Proposed response to Chapter 2 of DCLG Consultation Paper – Communities in control: Real people, real power. Codes of conduct for local authority members and employees.

Question 1: Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

Yes, the Authority has previously stated that the members' code should apply to members' conduct when acting in their non-official capacity. This is considered particularly important because the public's views of elected Members can be affected by their conduct in a non-official capacity

Question 2: Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.

We consider that the code should cover any conduct by a member in a private capacity which brings his or her office, or the Authority, into disrepute, or which brings into question the members' fitness to carry out his or her official duties, or which undermines confidence in his or her ability to carry out their official duties.

The Authority accepts that section 183 of the Local Government and Public Involvement Act 2007 restricted the application of the code where members were acting in a non-official capacity to the commission of criminal offences. However, the Authority would like to see the widest possible definition of criminal offence, i.e., including Police cautions.

Question 3: Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.

Yes, the Authority agrees with the proposed definition of "official capacity" for the purpose of the members' code.

Question 4: Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

Subject to its comments in the answer to question 2 above, the Authority agrees that the members' code should only apply in relation to a criminal offence and conviction abroad where the offending behaviour would have been a criminal offence if committed in the UK.

Question 5: Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Yes, the Authority agrees that an ethical investigation should not proceed until the criminal process has been completed.

Question 6: Do you think that the amendments to the members' code 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?

The Authority has no strong views about the proposed drafting amendments to the members' code but, if the SBE feels that they would improve the clarity of the code, the Authority would be willing to support them.

The Authority has no other drafting amendments to suggest.

Question 7: Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

The Authority remains concerned that the £25 limit for registering and declaring gifts and hospitality is too low, and would urge that the limit should be raised to at least £50 and be subject to regular review.

Question 8: Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

The Authority does not believe that there are any significant aspects of conduct in a members' official capacity not already covered by the code.

Question 9: Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?

The Authority believes that the two months proposed allows sufficient time for members to give an undertaking to observe the revised members' code and for any relevant training to take place.

Question 10: Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

See below

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?

See below

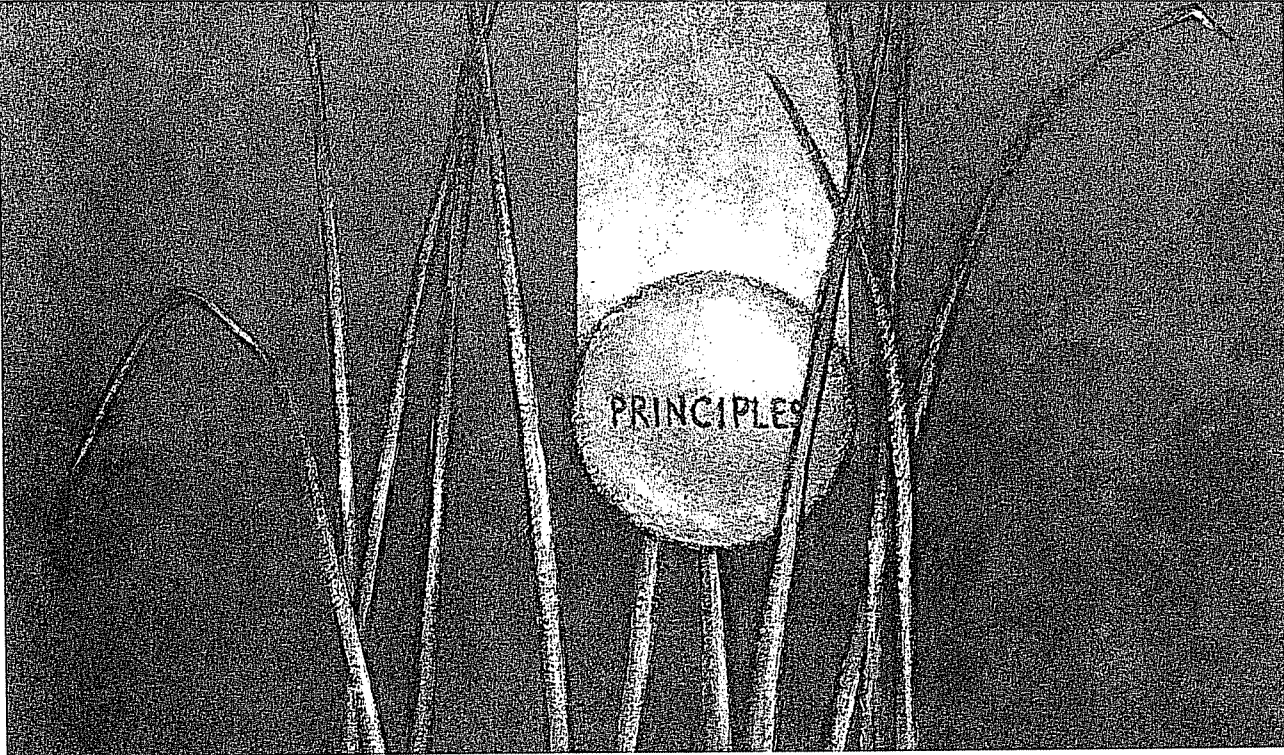
Question 12: Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

The Authority does not believe that any amendments to the General Principles are required. As the name implies, the General Principles are just that and their continuing validity is completely unaffected by the proposed changes to the Code.

However, given that section 183 of the Local Government and Public Involvement in Health Act 2007 amends section 49 of the Local Government Act 2000 to require that the Secretary of State specify which General Principles should apply to members when acting in an official as against a non-official capacity, the Authority:-

- (a) agrees with the addition of the suggested new General Principle applied specifically to conduct in a member's non-official capacity (Question 10);*
- (b) consistent with its answer to question 2 above, would wish the definition of "criminal offence" to be as wide as possible both in the Code of Conduct and the General Principles (Question 11);*
- (c) consistent with its answer to question 3 above, agrees with the suggested definition of "official capacity" for the purpose of the General Principles Order (Question 12).*

This page is intentionally left blank



SoapBOX

As I write, hundreds of thousands across England are taking part in local council surveys – which are important contributions to comprehensive assessments (C) several government department's partnership agreement (PS). They will give a picture of how we are performing in the eyes of the public. The survey poses real challenges for deprived and high-deprivation communities to negative about other public services. The Commission are thoughtful in their results and reflective of organisational performance, even in areas that are relatively poor. One of the issues that to consider is that often buck the trend, scores in more deprived areas. For example, in England reside the most positive government, in other services. The different in scores, at an average each region of that, in general deprived a region does in terms of scores. There is that does not fit Areas of high deprivation as the northeast better as organic the social problem they have more the southeast outlier from the CAA will show relationships between elements of different areas understanding between deprivation. At state is doing the wealthiest and regions of the should think of the middling and often more difficult.

ben.page@ips

Conduct unbecoming

Will the CLG's consultation on codes of conduct for local authority members and employees live up to expectations? asks **David Prince**

Leaders and chief executives, reeling from financial misfortunes not predicted even by the Audit Commission, won't have paid much attention to CLG's latest consultation on *Codes of conduct* for local authority members and employees.

While much of the document is house-keeping, in it lurk two explosive issues on what standards actually mean in a modern local governance setting.

First is the definition of when members' conduct in an unofficial capacity brings their office or authority into disrepute and diminishes public trust.

Disrepute will arise from conviction for a criminal offence by a court without the opportunity of a fixed penalty. Conviction is the evidence of disrepute. Foreign convictions count, provided the conduct is an offence here.

I'm sure the CLG has done its best with Parliament's opaque decision only to regulate private conduct within narrow, unspecified limits. But, instead of clear principles, it has proposed artificial distinctions.

Serious offences, such as assault, that result in imprisonment become disrepute. But public outrage also arises from private misconduct not resulting in imprisonment, such as benefit fraud. The resulting anomalies will delight headline writers.

Research shows public support for greater privacy for public figures, and resentment of media intrusiveness. This minefield was

avoidable simply by lowering, from three months, the period of imprisonment which automatically triggers disqualification, making imprisonment, not conviction, the basis of disrepute.

Principle and practice also clash in the proposed code for officers. I've always sympathised with members' long-standing and deeply felt grievance that they are much more tightly regulated than senior officers or others around the partnership table.

A member accepting hospitality worth only £25 must publicly register and declare it for three years, whereas an accompanying director, generally, privately registers it, with less onerous disclosure.

I support the first stage proposal that, as in Wales, staff terms and conditions should contain the core principles of public life. These enshrine the reasons why most people join the public sector. The second stage proposal requires senior staff to accept some – but not all – of the members' code relating to interests. This could be on the basis of the politically restricted categories as going with the turf, which I favour. The alternative applies to those officers discharging executive, regulatory and other powers under local delegation schemes.

Ostensibly, this ensures that whoever performs the functions abides by the same conduct. Except it doesn't. For example, for proper transparency, members who belong to lobbying organisations or charitable bod-

ies must declare membership, whereas officers wouldn't need to.

It is transparency of decision taking and public perception about decision takers that matter most in this debate.

There is a public interest case for a consistent and proportionate code that applies to those members and senior officers who steer and manage public bodies. Their decisions impact on life quality, while their salaries exceed what average people earn.

Disappointingly, though, the consultation leaves too much to chance in enforcing the officer code and safeguarding those officers subject to it. The risks are real.

Ideally, standards committees should oversee an effective local framework, and ensure guidance and training. But, to gain the trust needed to discharge this wider remit, many standards committees need greater skills, more robustness, higher calibre of members and, in some cases, genuine independence.

Where such limitations already exist, leaders and chief executives should be tackling them now as deficiencies in corporate governance.

Let's hope the consultation responses lift the practicalities from the 'too difficult' box and ensure fundamental principles aren't quietly consigned to the long grass. ■

David Prince is former chief executive of the Standards Board for England

This page is intentionally left blank

By: Head of Democratic Services & Local Leadership
Director of Personnel and Development

To: Standards Committee – 25 November 2008

Subject: Member Development

Introduction

1. (1) The County Council has commissioned a number of workstreams around the elected Member role and Member development to embrace the emerging legislative framework.

Member Development Charter

(2) In September 2007 the three leaders of the County Council signed an agreement to seek and achieve accreditation for the South East Employers Member Development Charter by April 2009.

(3) The Selection and Member Services Committee established an Informal Member Group (IMG) on Member Development to act as a steering group for the work undertaken by officers in assembling the evidence to support the application for the Member Development Charter but also importantly to act as a group of Member champions within their political groups.

(4) The aim is to have the evidence assembled for a peer group to evaluate whether the evidence meets the criteria of the South East Employers organisation and the County Council is therefore ready to apply for accreditation.

(5) Arrangements are being made for this peer group to undertake this assessment on 5 February 2009.

Member Development Policy

(6) The County Council will be asked to approve the Member Development Policy at its meeting on 11 December 2008.

Induction and Member Development

(7) The IMG Member Development at a meeting on 11 September 2008 commissioned officers to prepare for the approval of the Selection and Member Services Committee an exciting, innovative, creative and interactive induction programme following the County Council elections in June 2009 recognising that this needs to be an ongoing programme based on the training and development needs identified by the survey conducted by the three political groups in the summer of 2007.

(8) This programme will provide the opportunity for elected Members to acquire the new skills to meet the emerging legislative framework in terms of empowerment, working more closely in the community and in partnership with other bodies.

(9) The IMG Member Development recognises that there is an excellent opportunity to work with the family of local authorities (Borough and District Councils) in providing bespoke training packages to meet Members needs. Members have expressed concern that all too often on election to the County Council they felt unprepared and lacked sufficient guidance to perform the various roles which were expected of them immediately upon election. As a consequence, in preparation for the elections in 2009, the IMG has commissioned a range of support interventions and activities which will guide Members through the early stages following the election. This ranges from an "Early Survival Guide" to help Members through the initial six weeks and beyond as well as a mix of learning and e-learning courses and a library of resource materials.

(10) The IMG Member Development is also recommending that a "buddy system" be created. This should include not only managers from the Democratic Services and Local Leadership Unit, who have always been allocated a number of newly elected Members to act as a first point of contact, but also elected Members who can mentor new Members.

Early documentation for the newly elected Members of the County Council

(11) The IMG feel it is appropriate that on election to the County Council, in addition to the statutory information a newly elected Member requires, Members need quick and easy to digest information which will help them through the initial few weeks.

Fact sheets

(12) The IMG has asked that a fact sheet is prepared for each elected Member's electoral division to include contact details of the Area Education officers, divisional Social Services offices, where to report a pot-hole or streetlight which is out and much, much more.

Member Development and Training

(13) The IMG considered proposals for a Member Development and Training programme based on the survey conducted by the three political groups in the summer of 2007. However, the IMG has also asked that three events should be organised for within days of the election. These are:-

- (a) Procedural rules for a County Council and Committee meeting;
- (b) The role of Overview and Scrutiny and its relationship to the Executive/Cabinet; and,

- (c) most importantly for this Committee, The Member Code of Conduct and Ethics including the role of the Standards Committee.

(14) As mentioned above the County Council is working with colleagues from across the other Kent local authorities to develop and share training programmes as many elected Members needs are common to all local authorities. Pooling Member Development and Training needs and delivery of a shared programme will be an effective use of resources.

(15) Members will remember that the Chairman, Mr Daley and Mr London attended a course arranged for all local authorities in Kent on mediation/conciliation on 7 July 2008.

Recommendation

2. The Committee are asked to note the report.

Coral Ingleton
Training & Development Manager
Tel No: 01622 694375
Email: coral.ingleton@kent.gov.uk

Paul Wickenden
Overview, Scrutiny & Localism Manager
01622 694486
paul.wickenden@kent.gov.uk

Background Information: *Include ALL background information taken into account in preparing the report. (This does not include previous Committee Reports)*

This page is intentionally left blank