

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).*