

**KENT COUNTY COUNCIL  
STANDARDS COMMITTEE**

**Advice Note 2**

**ADVICE TO MEMBERS ON THE APPLICATION OF  
THE CODE OF MEMBER CONDUCT**

**November 2009**

**Member:Officer Relations**

**1. Introduction and Principles**

1.1 The purpose of this note is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 Given the variety and complexity of such relations, this note does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other circumstances. If the advice is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

1.3 This note also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.

1.4 This note does not form part of the Members' or Officers' Codes of Conduct. Consequently, action or behaviour that is not in accord with this advice will not of itself constitute a breach of those Codes but may be evidence of a breach.

1.5 This note should, however, be read in conjunction with the Members' and Officers' Codes of Conduct, the Council's Constitution and any other guidance issued by the Standards Committee and/or Monitoring Officer.

**2. The Relationship: General Points**

2.1 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to all organs and Members of the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Cabinet and any committee or sub committee of either Cabinet or the Council.

<b>Member Code 3(1):</b> Members must...treat others with respect
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2.2 At the heart of the Members' Code of Conduct, and this note, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to

take unfair advantage of their position or seek to exert undue influence on the other party.

2.3. Inappropriate relationships can be inferred from language and style. To protect both Members and Officers, people should be given their appropriate formal title where circumstances clearly indicate that a level of formality is appropriate, e.g. in meetings that are open to the public.

2.4 A Member should not raise matters relating to the conduct or capability of an Officer except through the Council's agreed procedures for such matters. This is a long standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer in private, s/he should raise the matter with the respective Head of Service. The Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should report the facts to the relevant Managing Director, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.5 An Officer below the rank of Managing Director should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Unit/Directorate.

2.6 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Head of Service, Managing Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances, the Head of Service, Managing Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Standards Committee considering the complaint.

2.7 Some examples of inappropriate conduct are set out in **Appendix A**.

**Member Code 3 2(a):** Members must promote equality by not discriminating unlawfully against any person;

2.8 There is a specific requirement in the Members' Code of Conduct not to discriminate against Officers or Members on grounds of gender, race or disability. Members and Officers must at all times comply with and seek to fulfil the Council's Equality and Diversity Policy.

### **3. The Relationship: Officer Support to Members - General Points**

**Member Code 3 2(c):** Members must...not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to the Cabinet, Overview and Scrutiny Committee Members and all Members in their respective roles.

3.2 Certain statutory Officers – the Chief Executive, the Monitoring Officer and the Director of Finance – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.

3.3 The following key principles reflect the way in which the Officer corps generally relates to Members:

- All Officers are employed by, and accountable to, the authority as a whole;
- Support from Officers is needed for all the authority's functions including Full Council, Policy Overview and Cabinet Scrutiny, the Cabinet, individual Members representing their communities, etc;
- Day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other Officers;

3.4 Members should seek to avoid potential conflicts of interest for Officers arising from the separation of the Cabinet and Policy Overview and Cabinet Scrutiny roles, e.g. they should not seek disclosure of advice or discussions that have taken place between Members and Officers in the preparation of reports, papers, advice or recommendations to either the Cabinet or Members undertaking overview and Scrutiny roles.

3.5 Officers enjoy extensive delegated powers from the Leader through Cabinet Members (as well as from the Council in respect of its directly exercisable functions). In some cases these powers are exercised after consultation with Cabinet or Deputy Cabinet Members. It must be recognised that in these circumstances, while ultimate accountability rests with the Cabinet Member, it is the Officer who takes the decision and who is accountable.

3.6 Finally, it must be remembered that Officers within a Unit or Directorate are accountable to their Head of Service and Managing Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Managing Director.

#### **4. The Relationship: Officer Support: Members and Party Groups**

4.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

4.2 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

4.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

4.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group or political party business. The observance of this distinction will

be assisted if Officers are not present at meetings or parts of meetings, when such matters are to be discussed;

- Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- Similarly, where Officers (other than political group staff officers) provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Cabinet, Cabinet Member, Committee or Sub-Committee when the matter in question is considered.

4.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Codes of Member and Officer Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers should not normally attend and/or give advice to such meetings.

4.6 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

4.7 In relation to budget proposals:

- The Leader and Cabinet are entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Executive or until published in advance of Cabinet/Committee/Council meetings, whichever is the earlier; and
- Political groups other than the majority group are also entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective political groups or until published in advance of Cabinet/Committee/ Council meetings, whichever is the earlier. Officers giving such advice must not be named in public.

4.8 It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.

4.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## **5. The Relationship: Officer Support: The Executive**

5.1 It is clearly important that there should be a close working relationship between the Leader, Cabinet and Deputy Cabinet Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with Cabinet Scrutiny, Policy Overview and other Members and other political groups.

5.2 Advice from officers on matters that are the responsibility of the Executive is given to both Cabinet and non-Cabinet Members in a variety of ways:

- Reports to Cabinet are normally submitted jointly by Cabinet Members and Managing Directors.
- Reports recommending decisions to individual Cabinet Members or seeking views from Advisory Boards are normally in the name of the officer only, although Cabinet Members will routinely be consulted as part of the process of drawing up such reports.
- Officers must give written and oral information and advice to the Cabinet Scrutiny, Policy Overview and Audit Committees when necessary or requested.
- In some situations an Officer will be under a professional duty to submit a report.

5.3 Managing Directors and other senior Officers are responsible for the contents of any report submitted in their name or jointly with a Cabinet Member, except where it is clear that the advice or opinion stated is that of the Cabinet Member. Any issues arising between a Cabinet or Deputy Cabinet Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

5.4 Where functions that are the responsibility of the Leader are delegated through Cabinet Members to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council, both directly and through the Policy Overview and Cabinet Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out although the specific decision is the responsibility of the Officer or other delegated body.

5.5 Cabinet Members must satisfy themselves that they are clear what exactly they can and cannot do when taking decisions as individual Members of the Cabinet. They must seek advice from relevant Officers before taking a decision within their delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

5.6 Decisions taken by individual Members of the Cabinet give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Cabinet Members should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Director of Finance as appropriate) which will arise from their decisions.

5.7 Officers will continue to work for and serve the Council as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Cabinet for most of their time. Cabinet Members must nevertheless respect the political neutrality of the Officers. Equally officers must ensure, even when they are predominantly supporting the Cabinet, that their political neutrality is not compromised.

5.8 In organising support for the Cabinet, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

## **6. The Relationship: Officer Support: Policy Overview and Cabinet Scrutiny**

6.1 Members of the Cabinet Scrutiny and Policy Overview Committees, when questioning Members and Officers should:

- Direct their question to the merits of the decision under review
- Ascertain the factual and other information on which the decision was based
- Confirm the compliance of the decision making process with the Council's principles of decision making
- Test what alternatives have been considered and the reasons for their rejection

6.2 They should not:

- Question the conduct of individual Members or Officers
- Seek for Officers to disclose the contents of confidential discussions, papers or advice
- Criticise an Officer by name
- Seek to instigate or become in any way involved in disciplinary or grievance procedures in relation to the actions of Members or Officers.
- Act as a "court of appeal" against specific decisions relating to individuals or pursue complaints by individuals (Members, Officers or members of the public) where other procedures exist for this.

## **7. Support to Council Committees**

7.1 The Council discharges a range of functions through directly appointed Committees. While the political groups operate within these Committees, they should wherever possible conduct their business on a non-political basis. Officers need to work closely with the Chairmen of such Committees to plan their agendas and meeting arrangements but all advice and information must be offered impartially to all Members of the Committee and any other Member who has a right to know or attend the Committee meeting.

## **8. Support services to Members and Party Groups**

**Member Code 6 (2)(b):** Members must, when using or authorising the use by others of the resources of the Council -

- (i) act in accordance with the Council's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

8.1 Members must not use Council premises or facilities (including support staff, photocopiers, fax machines, cars, stationery and other office supplies and catering) for purposes not connected with their duties as a councillor. Such facilities may be used for communication with constituents on matters affecting the Council's functions and services or matters of general interest to local government and for the work of the political groups in relation to the transaction of business within the Council. These facilities must not be used for electoral or other party political purposes not directly connected to the Council's business, except where agreed arrangements exist for such facilities to be made available at a charge.

8.2 Members may not use the Council's IT systems unless they have signed the standard agreement accepting the conditions under which the systems are made available to Officers. Members must at all times comply with the terms of that agreement.

## **9. Members' Access to Information and to Council Documents**

9.1 Members have a right to see (and be given a copy of) such documents and other information as is reasonably necessary to enable them to carry out their duties as

councillors on a “need to know” basis, so long as they have no improper nor extraneous purpose in view. This includes all documents available to the public as “background documents” and all documents setting out information that is disclosable to the public under the Freedom of Information Act.

9.2 It is ultimately for the Council to determine what is reasonably necessary for a Member to know but normally Managing Directors will make the judgement, in consultation if necessary with the Monitoring Officer.

#### *Need to Know*

9.3 This will be generously interpreted as applying to all documents and information to which there is no “confidential” connotation, subject only to Managing Directors retaining a discretion to decline to make available voluminous documentation or diffuse information, or copies of documents, where the cost of doing so is reasonably high.

9.4 Documents or information which is regarded as “confidential” will normally be made available, on a confidential basis, only to:

- Cabinet Members
- Members of the Cabinet Scrutiny Committee in connection with a matter that is to be scrutinised
- The Chairman and political group spokesmen on the Cabinet Scrutiny Committee in considering whether a matter should be scrutinised
- Members of a Committee or Sub-Committee whose terms of reference include matters to which the information relates

Advice on requests from other Members should be referred to the Monitoring Officer.

9.5 There is no generic definition of “confidential” and Managing Directors will exercise their judgement. It would include, for example, most information relating to named individuals, including information which is held for a specified purpose under the Data Protection Act not relevant to the exercise of the Member’s duties. It will also include most information relating to the terms of contracts yet to be concluded. It is a narrower category than documents that are exempt from disclosure to the public under the Access to Information and Freedom of Information legislation (and different from the “confidential” classification under that legislation).

#### *Confidentiality*

**Member Code 4:** Members must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so.

9.6 Members shall not disclose any documents or information made available to them on a confidential basis or any information of a personal nature that is protected under the Data Protection Act. Nor should they disclose any information contained in Cabinet, Committee or other reports or documents classified as exempt or confidential under the Access to Information legislation or decisions taken in Council, Cabinet or Committee while the public is excluded from the meeting under that legislation, unless they have ascertained from the relevant Officer that confidentiality no longer applies.

## *Documents Affected*

9.7 Members' rights of access apply to documents sent to the Council or prepared for it by Officers or consultants. They do not apply to:

- Draft documents of a factual or research nature where the Managing Director is not satisfied as to their accuracy or completeness.
- Documents prepared for discussion between Cabinet or Deputy Cabinet Members and Officers prior to the initiation of formal decision making processes under the Procedure Rules in Appendix 4 Parts 6-8 of the Council's Constitution
- Working documents discussing policy or budget options or the internal management of a department (or departments) where the Managing Director has not reached a view as to the advice to be offered to Members.
- Draft reports prior to their despatch to Council, Cabinet or a Committee by the Monitoring Officer.

9.8 Managing Directors may consult Chairmen, Vice-Chairmen and group spokesmen on draft committee reports as part of the agenda planning process and may also consult them on working documents if they wish.

9.9 Documents prepared at the request of any particular party group will not be made available to other party groups without the first group's consent. Nor will such documents be used in the preparation of committee reports without the group's consent.

9.10 More detailed advice can be obtained from the Monitoring Officer.

## **10. Correspondence and Advice**

10.1 Members seeking advice from Officers should say clearly if they wish the advice to be confidential and not disclosed to other Members. If such a request is made, the Officer is entitled to refuse to provide the advice if to do would breach her or his duty to other Members.

10.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member without the Member being aware. In other words, a system of "blind copies" should not be employed.

10.3 Official external communications on behalf of the Council may be sent in the name of the Leader or Cabinet Member where they have been directly involved in the issues or circumstances make this appropriate (e.g. representations to a Government Minister or personal correspondence). All other official external communications must be sent in the name of an officer including those which create legal obligations or give instructions to act or commit expenditure on behalf of the Council.

10.4 Paragraph 10.3 does not in any way seek to discourage Members from signing correspondence with constituents or other persons on a personal basis but they should be careful to distinguish between their own views and the official policy or decision of the Council.

## **11. Publicity and Press Releases**

11.1 Official press statements relating to the functions and business of the Council may be issued by the Head of Communications and Media Centre on the authority of



the Chairman of the Council on matters pertaining to his or her office and on all other matters on the authority of the Leader, relevant Cabinet Member or the Chairman of the relevant Committee or Cabinet Advisory Boards.

11.2 The day to day handling of media enquiries is the responsibility of the Head of Communications and Media Centre.

11.3 The Head of Communications and Media Centre may authorise the issue of a press release relating to matters of routine and which are not controversial.

11.4 Cabinet Members or Chairmen of relevant Committees or Cabinet Advisory Boards will be consulted on relevant draft press statements before they are published. After publication copies will be made available to all Members of the Council.

11.5 In issuing any press release, the Head of Communications and Media Centre will have regard to the Code of Practice on Local Authority Publicity (Appendix B).

11.6 The Leader, Cabinet Members and Chairmen of Committees or Cabinet Advisory Boards may represent the Council in press, radio and television interviews on matters relevant to their office; otherwise they or any other Members of the Council may respond to requests for press, radio and television interviews, but these will be given in a personal capacity and on the personal responsibility of the Member concerned.

11.7 The media will be directed to the Leader or relevant Cabinet Member for any request relating to policy matters.

11.8 Officers may deal with any request for information or questions asked by the press, television or radio and may accept invitations to broadcast or appear on television in order to give the facts of the situation or provide background information on the Council's policies.

## **12. Official openings and ceremonies**

12.1 All proposals for opening ceremonies and similar ceremonial events will be agreed by Officers with the relevant Cabinet Member in consultation with the Head of Communications and Media Centre.

12.2 The Chairman of the Council will be consulted in all cases about whether the event is one which either the Chairman or Vice-Chairman of the County Council should officiate or represent the Council and issue invitations.

12.3 The relevant Cabinet Member, in consultation (if agreed as appropriate) with the Council Chairman or Vice-Chairman, will agree the invitation list taking account of the type and nature of the event. The relevant local County Councillor(s), Member of Parliament, MEP, Borough/District and Town/Parish Councillors will be invited to attend.

12.4 If neither the Chairman nor Vice-Chairman of the Council is to issue invitations and officiate, then the Cabinet Member or a Deputy Cabinet Member nominated by him will do so.

## **13. Involvement of Local Members**

13.1 Officers should ensure that all Members of the Council are kept informed of issues, events, decisions and prospective decisions which will affect the Council, their

own divisions and relevant information about non-KCC issues related to their service areas.

- Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division(s) affected should, as a matter of course, be invited to attend the meeting
- Whenever the Council undertakes any form of consultative exercise on a local issue, the local Members should be notified at the outset of the exercise and informed of the outcome
- Inquiries from local Members will be followed up and responded to quickly and positively
- Background briefings for Members on local issues will be prepared, if requested
- Officer support will where appropriate be provided in arranging and attending appropriate local meetings where a Member intends to discuss KCC business
- Local Member views should normally be sought and included in all reports to Cabinet, Cabinet Members and Council Committees, particularly about decisions affecting their division
- Members of the public appealing against, or dissatisfied with, an Officer decision must always be informed of their ability to seek the help and advice of their local Member

#### *Petitions*

13.2 Members who are asked to present or receive a petition to, or on behalf of, the Council, whether as a Cabinet Member, Committee Chairman or Local Member, should consult the Head of Democratic Services and Local Leadership on the appropriate method of so doing.

#### *Placing Items on Council agendas*

13.3 Any Member may place an item on the Council agenda for limited debate. Notice must be given to the Head of Democratic Services and Local Leadership at least fourteen days before the meeting, including the written consent of another Member as seconder. The Member placing the item and either the relevant Cabinet Member or Committee Chairman will be allowed to speak for no more than three minutes each.

#### *Local Issues at Committee Meetings*

13.4 Members not serving on a Committee do not have the right to place an item of local concern on the agenda for a meeting; instead, they should seek the consent of the Chairman of the Committee if they wish a particular item to be discussed at a Committee meeting.

13.5 Any Member of the Council may attend any meeting of a Committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the Chairman (that consent should be sought before the meeting and should not normally be withheld).

## **14. Access to Council Premises**

14.1 Members are welcome to visit any premises owned and used for delivery of services by KCC. Except when visiting as a member of the public or as a governor or trustee, they should agree arrangements for the visit with the local manager. If Members wish to visit premises outside their division as a part of their KCC duties, they should also inform the Member for that division and the relevant Cabinet Member. Members may not visit premises for purposes unrelated to their duties as a Member of the Council. They must comply with any health and safety or other workplace rules and regulations and not interfere with the provision of services to the public. Members have no rights to enter premises owned by KCC but let to or legally occupied by other persons nor any premises not owned by KCC.

**Examples of Inappropriate Behaviour**  
*(Taken from ACAS Web-Site)*

**What are bullying and harassment?**

1. These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

2. **Harassment, in general terms is:**

“Unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.”

3. Harassment can also have a specific meaning under certain laws (for instance if harassment is related to sex, race or disability, it may be unlawful discrimination).

4. **Bullying may be characterised as:**

“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.”

5. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a member, manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

6. Examples of bullying/harassing behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour (particularly on racial, sexual or disability grounds)
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone — picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances — touching, standing too close, the display of offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

7. Bullying and harassment are not necessarily face to face. They may also occur in written communications, electronic e-mail, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.

8. Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

**DoE Circular 20/88 as amended by DETR Circular 06/01**

**Code of Recommended Practice on Local Authority Publicity**

1. We are directed by the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which they have issued under their powers under section 4 of the Local Government Act 1986, as amended by section 27 of the Local Government Act 1988.
2. Section 4 provides for the Secretary of State to issue codes of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section, as amended, also requires that local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.
3. The code has been prepared following consultations with the associations of local authorities, the local authorities with whom the Secretaries of State thought consultation desirable, and other bodies concerned. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
4. The code has no significant implications for either local authority expenditure or manpower.

**INTRODUCTION**

**Status of the Code**

1. This Code is issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up following the consultations with interested parties in local government required by section 4(4) of the Act. It has been approved by a resolution of each House of Parliament. Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Code in coming to any decision on publicity.

**Why have a Code?**

2. Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a Council's activities, is to be welcomed. This Code is not intended to discourage such publicity.
3. Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense, and which traditionally have applied in both central and local government.

4. The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, nor stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

### **Scope of the Code**

5. The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. [That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party]. The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by section 2.

6. Section 6 of the 1986 Act defines publicity as “any communication, in whatever form, addressed to the public at large or to a section of the public”. The Code will therefore be relevant across the whole range of local authorities’ work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.

7. The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.

8. The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.

9. By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

## **CODE OF RECOMMENDED PRACTICE**

### **Subject Matter**

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
  - (i) the publicity should be relevant to the functions of the authority.
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

### **Costs**

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
  - (i) whether the publicity is statutorily required or is discretionary.
  - (ii) where it is statutorily required, the purpose to be served by the publicity.
  - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

## **Content and Style**

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the Council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.

12. Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the Council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

14. Publicity relating to the provisions of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.

16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.

18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourist or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.

19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.



## **Dissemination**

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the Council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on web-sites are able to reach wider audiences than publicity available on application to the Council. Councils should give particular consideration to the use of electronic and other new media communications systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.

24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.

25. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information or facilitating consultation and can provide a means for local people to participate in debate on decisions the Council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.

26. [..]

27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

## **Advertising**

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.

29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

### **Recruitment advertising**

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.
39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Policy Overview and Cabinet Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular party or directly attacking policies and opinions of other parties, groups or individuals.

### **Elections, referendums and petitions**

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its form of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve Members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to

- Publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
- Assist anyone else in publishing such material; or
- Influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the Council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.