

Report to: Standards Committee

Date: 18th November 2008

Subject: Consultation Paper on Codes of Conduct for Local Authority Members and Employees

Report of: Service Director Borough Solicitor

Contact officer: K. P. Lawson (Telephone: 01942) 827026

Purpose / summary: To enable Members to consider and comment upon a Consultation Paper issued by the Department of Communities and Local Government

Alternative options considered and reason for selecting the one recommended: N/A

Recommendation / decision: Members are requested to comment upon the Consultation Paper

Key Decision: This report does not involve a key decision.

Risks / Implications:

Financial:	None
Staffing:	None
Policy:	The Members' Code of Conduct is part of the Council's Constitution as is the Officers' Code of Conduct
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	N/A
Wards affected:	N/A

Property Implications– Does the proposal involve a reduction, addition or change to the Council's asset base or its occupation?

No

Does this proposal have significant implications for the Council and the local population?

No

Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?

No

Has the Service Director Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Has the Service Director Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No

For Cabinet reports only :

Categorisation of the report:	x		x
Discussion leading to a decision		Discussion	
Monitoring		Decision	
Sharing for corporate understanding		Information	

Tracking/Process:

Standards Committee	Consultation	Ward Members	Partners
18.11.08			
Panel	Overview & Scrutiny	Cabinet	Council

There are no Background Papers to this Report within the meaning of Section 100D of the Local Government Act 1972

Proper Officer K. P. Lawson

Date 10.11.08

Background

1. As part of a series of Consultation Papers the Department for Communities and Local Government has issued a consultation on possible changes to the Members' Code of Conduct and the introduction of a possible model Code of Conduct for local government employees.
2. The Consultation Paper is attached, the relevant sections being Sections 2 and 3 (pages 8-25).

Members' Code of Conduct

- 3.1 The main proposals in the Consultation Paper relate to the division of the Code into two sections dealing with Members' conduct when acting in an official capacity and secondly Members' conduct in their non-official capacity. When acting in their non-official capacity the proposal is to the effect that Members must not bring their office or authority into disrepute by conduct which is a criminal offence. In this respect a criminal offence would be defined as one for which a Member has been convicted in a criminal court, other than where there is a fixed penalty arrangement.
- 3.2 In defining when a Member is acting in an official capacity the consultation proposes that this should be defined as being engaged in the business of the Council including the business of the office to which the Member is elected or appointed or acting or claiming to act or giving the impression of acting as a representative of the authority.
- 3.3 A number of minor other clarification amendments to the Code are proposed.

Model Code of Conduct for Local Government Employees

- 4.1 The Consultation Paper proposes a model Code of Conduct for Local Government employees but acknowledges that many local authorities already have a Code of Conduct. Wigan does have such a Code and this is attached for information.
- 4.2 The Consultation proposes a two-tier model Code. The first tier would cover all local authority employees and would include the core values reasonably expected of every employee. The second tier would be similar to the Members' Code in many respects and would apply to qualifying employees, that is senior officials or those officers who carry out delegated functions. In relation to the qualifying employees, proposals are put forward for a Register of Interests although with some provision for exemption. The model Code would also cover the declaration of prejudicial interests where possible.
- 4.3 The Code raises the question of the application of the Code to contractors, partners and part time employees but reaches no conclusion save that this should be a matter for the local authorities. The employees' Code is considered appropriate also for Parish Councils and the consultation seeks comments upon how that may be applied.
- 4.4 The views of Members are sought generally on the consultation in order that an appropriate response may be formulated.

Code of Conduct for Employees

1 Standards

1.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

2 Disclosure Of Information

2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public.

2.2 Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Borough Solicitor or the Committee Sector within the Chief Executive's department. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence.

2.3 The public are specifically excluded from certain proceedings of Committees or meetings associated with the business of any Committee. No employee shall communicate to the public the content of such proceedings or any document relating to the Authority, unless required by law or expressly authorised by the Chief Executive to do so. Employees making unauthorised communications may render themselves liable to disciplinary action.

2.4 Employees should exercise caution and care not to disclose commercially sensitive information. Guidance should be sought from the appropriate Chief Officer or Deputy Chief Executive.

2.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

2.6 Any particular information received by an employee from a Councillor which is personal to the Councillor and does not belong to the Authority such as details of her/his marital/domestic arrangement, should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

2.7 Employees have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment to any third party for any unauthorised reason. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

3 Political Neutrality

3.1 Employees serve the authority as a whole. They must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

3.4 Should the authority decide to appoint political assistants in accordance with the Local Government and Housing Act 1989, these employees would be exempt from the standards set in paragraphs 3.1 to 3.3

3.5 Where a local authority employee holds a politically restricted post such restrictions are deemed to be incorporated in their contract of employment.

4 Relationships

4.1 Councillors

Employees are responsible to the authority through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and councillors is essential to good local government.

4.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policy statements of the authority.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses operated or controlled by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with a contractor who is engaged or who is proposed to be engaged by the Authority, should declare that relationship to the appropriate manager as soon as practicable.

The Press and the Media

4.5 Employees must not deal direct with the press or the media unless required to do so in the course of their work or they have been expressly authorised by an appropriate manager.

4.6 All enquiries for information or comment on issues affecting the work of the Council must be referred to the Public Relations Unit within the Chief Executive's department.

4.7 Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.

5 Appointments and other employment matters

5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the Council's procedures are detailed in the Recruitment and Selection Guidelines which supplement the Corporate Training which is available to all employees involved in the Recruitment and Selection process.

5.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her. [Candidates for any appointment with the Council when making an application, must disclose on the job application form whether s/he is related to any member of the Council or to a holder of any senior office.] Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, s/he shall be liable to dismissal.

5.3 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

5.4 Elected Members and Senior Officers need to disclose to the Authority any relationship known to exist between themselves and a candidate for an appointment of which they are aware.

6 Outside commitments

6.1 Employees graded above SCP28 are required to obtain written consent to take any outside employment. The written consent must be given by the Chief Officer following the express approval of the Employing Committee and the Council.

6.2 All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, or in any way undermines public confidence in the conduct of the Council's business and thereby damaging its reputation.

6.3 No employee of the Council, irrespective of their grade, should undertake work outside their employment with the Authority if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, unless the consent of the Employing Committee and the Council has been granted. It is irrelevant whether or not the work is paid.

6.4 Employees' off-duty hours are their personal concern but they should not subordinate their duty to private interests to put themselves in a position where duty and private interests conflict. The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

6.5 No outside work of any sort should be undertaken in the office, and use of facilities, eg telephones, or access to typing facilities for outside work is forbidden.

All the resources of the Council including equipment, stationery, etc. are to be used to further the Council's business and are not for personal use.

6.6 No employee shall undertake outside work if it makes use of material to which the employee has access by virtue of his or her position.

Intellectual Property

6.7 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

6.8 Intellectual property is a generic term that includes inventions and patents, creative writings and drawings. If these are created by the employee during the course of employment then as a general rule they belong to the Council.

Information Technology and Data Security

6.9 Employees must ensure that they follow the Council's procedures in relation to the use and storage of computers and the proper management of computer held information in relation to the Data Protection Act.

7 Personal interests

7.1 Employees must declare to an appropriate manager, any non-financial interests that they consider could bring about conflict with the authority's interests.


7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.

7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules and/or membership and/or conduct.

7.4 On no account must employees be directly involved in the processing of any matter or application in which they or any close relative have a personal interest.

7.5 Employees must declare to an appropriate manager (preferably in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.

7.6 As part of their official duties an employee may be required to serve on an outside body. In such cases employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate.

7.7 The Council has produced guidance notes relating to "**Pecuniary and Non-Pecuniary Interests of employees**  (51kb)".

7.8 Relevant employees within the Legal and Democratic Division of Business Support Services are also subject to their professional organisation's rules which require them not to do anything to prejudice their employer's interests.

8 Equality issues

8.1 All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

8.2 Such policies would include: Equal Opportunities, Disability Placement Scheme and the Harassment Policy.

8.3 Employees should note that cases of racial or sexual harassment are deemed to be gross misconduct under the Council's Disciplinary Procedure.

9 Separation

9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10 Corruption

10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

10.2 Employees who are in receipt of or affect the receipt of Housing Benefit and/or other related benefits (i.e. Income Support, Unemployment Benefit, Incapacity Benefit, etc.) must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the Council's Disciplinary Code of Practice.

10.3 In relation to 10.2 above, employees must provide their employing department with details of their home address or in cases where more than one address is frequented the address that they normally class as their home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name should also be notified to the employing department.

11 Use of financial resources

11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

11.2 Employees should be aware of and adhere to the Council's Contract Procedure Rules and Financial Procedure Rules.

11.3 Where employees have concerns over the lawfulness of certain action they should express such concerns to the appropriate manager or Chief Executive.

12 Hospitality and gifts

12.1 There can be little doubt that the acceptance of gifts by employees from persons who have, or may seek to have, dealings with the Authority would be viewed by the public with grave suspicion and would make the employee concerned and the Council extremely vulnerable to criticism.

12.2 An employee should tactfully refuse any personal gift which is offered to him/her or a close relative by, or indirectly attributable to any person or body who has, or may have, dealings of any kind whatsoever with the Council or, who has applied, or may apply, to the Council for any kind of decision.

12.3 The only exceptions to this rule are:-

a) small gifts of only token value often given by way of trade advertisements to a wide range of people, eg calendars, diaries, tape measures and similar articles of use in the workplace; or

b) small gifts of only token value given on the conclusion of a courtesy visit, eg to a factory, trade fair or other premises.

12.4 If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.

12.5 Employees are reminded that under provisions of Section 117 of the Local Government Act 1972, they are forbidden under the colour of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable to Court Proceedings.

12.6 In the event of an employee receiving a gift without warning, which does not fall in any of the exceptions mentioned above, this should immediately be reported to a Chief Officer who will be responsible for deciding whether the gift should be returned.

12.7 If any employee becomes aware that he/she has been included as the beneficiary in the Will of a client, for whom the Council offers or used to offer a service where there is a connection with the employee's work, the above rules apply. However, this does not apply in the case of parents passing on an inheritance to their off-spring, or relatives naming a family member as a beneficiary in their will.

12.8 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. It should be properly authorised and recorded.

12.9 When hospitality has to be declined the offer or should be courteously but firmly informed of the procedures and standards operating within the authority.

12.10 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.

12.11 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

12.12 Employees must refuse offers of hospitality where any suggestion of improper influence would be inferred. Special caution is necessary where hospitality is offered by a person or body having or seeking business with, or a decision from the authority, particularly where the offer is to an individual employee.

12.13 There should be no cause for concern if the offer of hospitality is made by another non-commercial public body but all cases of hospitality must be treated with caution.

12.14 Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of hospitality.

13 Sponsorship - giving and receiving

13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

13.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

14 Customer care

Standard of Dress and Appearance

14.1 There is a general expectation that dress will be appropriate to *the standards set by individual departments*.

14.2 Individual departments will introduce an appropriate dress code to suit the services they provide and to meet the expectations of the public.

15 Interpretation

15.1 Any interpretation of this Code should be determined by the Chief Executive.

16 Disciplinary action

16.1 Any serious contravention of this Code may result in disciplinary proceedings.

17 Grievance procedure

17.1 An employee who has a grievance arising from the interpretation of the Code shall have access to the Council's Grievance Procedure.

17.2 Any officer who has been involved in an interpretation of the Code which results in a grievance should not be involved in the consideration of that grievance.

18 Application of code

18.1 The Code embodies general guidance for all employees of the Council. It is recognised, however, that specific arrangements may be made at departmental level to address circumstances/situations encountered by certain employees.

Appendix A

Legislative and other sources

Relevant provisions in legislation, national agreements, advisory points and some primary sources are summarised below.

1 Standards

Paragraph 2.1 of the Key National provisions within the Green Book (National Joint Council for Local Government Services) says:

"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained".

Similar provisions are incorporated in the national conditions of service of chief officers.

2 Disclosure of Information

"No employee shall communicate to the public the proceedings of any committee meeting, etc., nor the content of any document relating to the authority unless required by law or expressly authorised by the Chief Executive to do so".

The Local Government Act 1972, s100 deals with the admission off the public and press to local authority committee meetings.

The Local Government Planning and Land Act 1980 s2 requires local authorities to publish certain categories of information in accordance with codes of recommended practice and any statutory regulations made by the Secretary of State (s3). This includes (s3(5)) information about the number of their employees or the number of any description of their employees.

Local Government (Publication of Manpower Information) (England) Regulations 1983 covers English authorities.

Local Government (Access to Information) Act 1985 requires a principal council to maintain a list, open to public inspection, specifying those powers of the authority which are exercisable from time to time by officers of the authority in pursuance of its duties under statutory powers. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.

3 Political Neutrality

The Local Government and Housing Act 1989, Pt1 contains provisions to stop "twin-tracking" (where a senior local authority employee is also an elected member of another local authority) and to restrict the political activity of senior employees. Local authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council (s1(1)) from being an MP, or MEP, and are subject to prescribed restrictions on their political activity (s1(5)), (6).

The Local Government Officers (Political Restriction) Regulations 1990 and *The Local Government (Politically Restricted Posts) (No2) Regulations 1990* covers the posts which are politically restricted. These are:

(a) specified posts, such as the head of paid service and the monitoring officer, chief officers and their deputies are restricted without exemption or appeal;

(b) all posts which reach or exceed a prescribed remuneration ceiling automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals are granted;

(c) all posts which meet the duties-related criteria for determining a "sensitive" post irrespective of remuneration level unless the post holder appeals successfully against determination; these posts are defined as those which (i) give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented (but excluding purely factual information) or (ii) speak on behalf of the authority on a regular basis to journalists and broadcasters.

The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

4 Relationships

The Local Government and Housing Act 1989 s.31 has given statutory status to the National Code of Local Government Conduct (for the guidance of councillors of local authorities). The Code includes within paragraph 23-25 the following statements as to the role of councillors in relation to officers:

23, "Both councillors and officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and their council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees.

24, Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage the relationship and prove embarrassing to other councillors and officers.

25, The law and standing orders lay down rules for appointment, discipline and dismissal of staff. You must ensure that you observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if you are called upon to take part in appointing an officer, the only question you should consider is which candidate would best serve the whole council. You should not let your political or personal preferences influence your judgement. You should not canvass the support of colleagues for any candidate and you should resist any attempt by others to canvass yours.

5 Appointment and other employment matters

The Local Authorities (Standing Orders) Regulations 1993 prescribe the procedure to be followed in respect of the appointment of chief officers and their dismissal in the event of misconduct.

See also *Section 7, Local Government and Housing Act 1989* for appointment on merit.

6 Outside Commitments

References are provided in the national conditions of service for Chief Officers and Chief Executives. The Council's guidance notes relating to "Pecuniary and Non Pecuniary Interest" provides references which relate to all employees.

Intellectual Property

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if: -

they have been made in the course of the employee's normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

7 Personal Interests

The following definition on what constitutes a secret society was used by the Local Government Management Board in drawing up its model Code of Conduct: - *"Any lodge, chapter, society, trust or regular gathering or meeting, which:*

(a) is not open to members of the public who are not members of that lodge, chapter, society or trust

(b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and

(c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above, should not be regarded as a secret society if it forms part of the activity of a generally recognised religion".

8 Equality issues

The Sex Discrimination Act 1975, *The Race Relations Act 1976*, *The Disabled Persons (Employment) Act 1944 (as amended)* and *The Disability Discrimination Act 1995* apply.

9 Separation of Roles During Tendering

The *Local Government (Direct Service Organisation) (Competition) Regulations 1993 - Section 4 (2) (3)* apply.

10 Corruption

Local Government Act 1972 117 - Pecuniary Interests - provides that if an officer knows that a contract in which s/he has a pecuniary interest is before the local authority, s/he must give notice of his/her interest to the authority. This does not, of course, apply to a contract in their own name because the authority will then know of his/her interest. Section 117(2)

forbids an officer *"under colour of his office or employment"* to accept *"any fee or reward"* whatsoever other than proper remuneration.

Prevention of Corruption Acts 1906 and 1916 says about acceptance of gifts by way of inducements or rewards:

(a) Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for doing, or refraining from doing, anything in their official capacity: or showing favour or disfavour to any person in their official capacity.

(b) Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or Organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

(see also the Public Bodies Corrupt Practices Act 1889)

11 Use of financial resources

As laid down in the Authority's Contract Procedure Rules and Financial Procedure Rules.

12 Hospitality, Gifts and Sponsorship

Local Government Act 1972 section 117 applies, see 10 above.



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

October 2008

Department for Communities and Local Government: London

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

ISBN: 978 14098 0549 6

