

REPORT OF THE DEPUTY CHIEF EXECUTIVE/DIRECTOR OF CORPORATE SERVICES

CONSULTATION PAPER ON REVISED MEMBER CODE OF CONDUCT

1. Executive Summary

This report introduces the Department of Communities and Local Government's Consultation Paper on the Revised Code of Conduct for Members. It seeks members views on the draft in order that any response may be made by the deadline of 9 March 2007.

2. Background

- 2.1 The Government, on 22 January 2007, published the Consultation Paper seeking views on a draft of a proposed new Model Code of Conduct for Local Authority Members attached as Appendix A. This follows the Local Government White Paper, "Strong and Prosperous Communities", published in October 2006, which announced the Government's intention to put in place a clearer, simpler and more proportionate Code of Conduct for Members of Local Authorities which would include changes to the rules on Personal and Prejudicial Interests. This followed the discussion paper, "Standards of Conduct in English Local Government: The Future" in December 2005, which included the Government's response to the recommendations of the Standards Board for England for amendments to the Model Code of Conduct for Members.
- 2.2 The Government is proposing to combine the four individual codes fitting the various types of authority into one consolidated code. Any comments are required by Friday, 9 March 2007.

3. The Draft Revised Code

The draft revised code provides a number of relaxations from the requirements of the current code:-

- Modifies the obligation to promote equality and not to unlawfully discriminate – paragraph 2(2)(a).
- Applies an additional limitation to the obligations not to disclose confidential information (reasonable and in the public interest, in good faith and not in breach of reasonable requirements) – paragraph 3(a)(iii).
- Removes the obligation to report allegations of failure to comply with the Code (current code paragraph 7).
- Modifies the wellbeing interest to relate only to the Ward (where applicable) rather than the whole of the Authority's area – paragraph 7(c).
- Limits the obligation to disclose a personal interest of a family member, friend or person having a close personal association to those of which the member is aware, or ought reasonably to be aware – paragraph 8(4).

- Makes provision for sensitive interests to be excluded from the public register in very limited circumstances and for the sensitive information to be not disclosed when the interest is disclosed – paragraphs 8(5) and 13.
- Creates a new category of public service interest as to membership of other relevant authority, public authority or body to which the member is appointed by the Council – paragraph 8(7). The interest need only be disclosed when the member addresses the meeting – paragraph 8(2). A public service interest is not a prejudicial interest except in the limited circumstances of relating to the financial affairs of the body, or the determining of any approval, consent, licence, permission or registration. A public service interest, for the purposes of the prejudicial interest provisions is extended to include an interest in a charity, a lobbying or philanthropic body to which the member belongs.
- Broadens the dispensation in relation to housing by excluding the reference to rent arrears – paragraph 9(2)(b)(i)
- Creates additional dispensation for indemnities, bestowing the title of freeman, and setting council tax, although not to setting precepts.
- Provides for a member who would otherwise have a prejudicial interest to attend the meeting for the purpose of making representations, answering questions or giving evidence, provided that the meeting agrees and subject to the member withdrawing after so doing – paragraph 9(3).
- Clarifies the provisions on interests at Overview and Scrutiny Committees generally and limits the definition of a prejudicial interest to the circumstances of membership of the Executive or other Committee at the time of the decision and the presence of the member when the decision was made.

4. **Additional Obligations**

The draft revised code imposes following additional obligations on members:-

- Not to bully any person – paragraph 2(b).
- Not to intimidate a person involved in proceedings under the code – paragraph 2(c).
- Extends criminal offence disrepute to offences committed before taking office but conviction after taking office – paragraph 4(2)
- Extends the improper influence provisions to include attempt – paragraph 5(a)
- Extends meaning of political purposes in the use of the Authority's resources provision to specifically include party political purposes.
- Extends the provision on use of the Authority's resources to include having regard to the Local Authority Code on Publicity – paragraph 5(b)(iii).
- Extends the obligation to have regard to the advice of the Monitoring Officer and Chief Financial Officer to include any relevant advice (not just statutory advice) – paragraph 6(a).
- Imposes a requirement to disclose a gift or hospitality (registered in the last five years) as an interest – paragraph 7(a)(vi) and 8 (3). Gifts and hospitality are to be registered in the interests register which is a public document, rather than a separate notification to the Monitoring Officer.
- Extends the well-being interest to member with whom a member has a close personal association – paragraph 7(a) and (c)

5. **Omissions**

5.1 The draft Code does not take any steps to bring the application of the Code and the law of bias closer together

5.2 It may also be considered that it would be helpful to add an additional exception to paragraph 9(2)(a) to public service interests which would be prejudicial, on the lines that participation in the matter would amount to bias or apparent bias.

6. **Questions**

Members' attention is drawn to eight specific questions posed throughout the consultation draft which are reproduced on the final page of the paper – see Appendix A.

7. **Financial and Staffing Implications**

There are none arising directly from this report.

8. **Local Member Support**

There are no implications for individual wards arising directly from this report.

9. **Equal Opportunity Implications**

There are none arising directly from this report.

10. **Human Right Implications**

There are none arising directly from this report.

11. **Local Agenda 21 Implications**

There are none arising directly from this report.

12. **Community Safety Implications**

There are none arising directly from this report.

13. **Planning Implications**

There are none arising directly from this report.

14. **Background Papers**

“Consultation on Amendments to the Model Code of Conduct for Local Authority Members” issued by the by the Department of Communities and Local Government on 22 January 2007 has been used in the preparation of this report.

15. **Recommendations**

(1) That the report be noted.

- (2) That members' views are sought on an appropriate response to the Consultation Paper on "Amendments to the Model Code of Conduct for Local Authority Members".

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MER/LW.
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RE\REVISED MEMBER CODE OF CONDUCT – STANDARDS 13.2.07