

## A REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS – PROPOSALS

This document considers the proposals set out in the consultation on amendments to the Model Code of Conduct for Local Authority Members circulated by the Department of Communities and Local Government.

### General Comments

1. Parish Councils have expressed some concerns that the proposal to combine both Codes will result in a more complicated Code of Conduct for the Parish Councils as there are a number of areas from which they are exempted. It is suggested that this may lead to confusion as to which parts of the Code apply to all Councillors and which parts do not apply to Parish Councils. In addition, the Parish Councils feel there should be a simplified Code for Parish Councils, which is more aligned to their functions and which recognises their limited budget and employees. They agree that such a Code should endorse the principles of public life but they suggest that the combined Code creates a regulatory structure which is too rigid and may discourage people from participating in Councils at local level.
2. It is noted that in a number of areas of the consultation document there is mention of guidance from the Standards Board for England regarding the application of particular provisions. It is strongly suggested that such guidance should be available immediately the Code is adopted to ensure consistency and provide as much assistance as possible for Monitoring Officers and Members to understand the new provisions.

In addition, any guidance should make clear how a particular provision applies to Parish Councils.

3. Members have asked whether it is proposed to use the opportunity of amending the Code to raise public awareness of its provisions.

### Main Document

1. **Unlawful Discrimination** - Proposal to delete reference to Unlawful Discrimination

This proposal is agreed, although it is noted that it does represent a higher duty on Members and possibly a higher training obligation for Authorities.

2. **Bullying** - Proposal to add a provision specifically proscribing bullying

This is generally agreed, although there are some concerns regarding the subjective nature of this issue and suggests guidance will be needed as to what would constitute bullying.

In addition, there is concern that the SBE should not be the first point of contact for bullying by members of officers. Where possible this should be dealt with by internal Council procedures through intervention by senior managers/Directors.

3. **Disclosure of Confidential Information** - Proposal to allow Members to disclose confidential information where such disclosure is in the public interest

This proposal is generally agreed, although it is suggested the wording of paragraph 3 (a) (iii) (bb) ought to be amended to read :

*' ... made in good faith and does not breach any requirements of the Authority where it would be reasonable to expect the Member to comply.'*

It is suggested that there may be reasonable requirements but it may also be unreasonable for a Member to comply with that requirement. For example, the Council may reasonably require all allegations of financial impropriety by Officers to be first reported to the Chief Executive. However, if the Members suspects the Chief Executive is implicated then it would not be reasonable for the Member to comply with that reasonable requirement.

4. **Behaviour Outside Official Duties**

Question 2 is agreed.

5. **Commission of Criminal Offence before taking office.**

The proposal is noted but Members have asked to what extent activities before a Member took office ought to be considered. There is a suggestion that guidance should deal with the proximity of the offence to the period of office, its seriousness and the Member's role within the Council.

6. **Using or Seeking to use Improper Influence** - Proposal to amend para. 5 by adding 'or attempt to use'

Agreed

7. Proposed amendments to para. 5 (b) (ii)

Agreed

8. **Publicity Code** - Proposal to add reference to para. 5 to the need for the Member to have regard to the guidance set out in the Local Governments Publicity Code

Question 3 – Members agree the Code of Recommended Practice on Local Authority Publicity does serve a useful purpose as it gives a baseline position. It is agreed that if the Code is abolished then some of the provisions should be the subject of central guidance. In particular, Parish Councils would want to understand how any provisions applied to them.

9. **Reporting Breaches of the Code and Prescribing Intimidation** - Proposal to delete the duty in para. 7 and add a prescription on the intimidation of complaints and witnesses

Both these proposals are agreed.

10. **Gifts and Hospitality**

Question 4 – Members agree the proposed text does combine the need for transparency as well as proportionality in making public information with regard to personal interests. However, there is a suggestion that the Code should specify that the requirement only applies to gifts and hospitality received in their official capacity as a number of Members receive gifts/hospitality as part of their employment. In addition, there is some concern about the effect of cumulative gifts of a small amount.

11. **Body Influence Public Opinion or Policy**

The proposal is agreed.

12. **Interests of Family, Friends and those with a Close Personal Association -**  
Proposal to amend by adding reference to any person with whom the Member has a close personal association.

Parish Councils have concerns about this amendment as they are aware that in small communities Parish Councillors are likely to have a close personal association with a substantial number of residents. It is suggested that this is evidence of the need for a separate Code for Parish Councils.

13. **Definition of Family and Friends**

Question 5 – Please see comments above. Need specifically to consider the provision in the context of Parish Councillors and small communities.

14. **Definition of Personal Interests** - Proposed amendment to the definition

This is agreed.

15. **Disclosure of Personal Interests** - Amendment to para. 8 (iv)

This amendment is agreed.

16. **Public Service Interests** - Proposal to create a new category of 'public service interests'

The principle is agreed. It is suggested that it should also include employment as well as membership of organisations/public bodies.

Concern has been raised where a majority or all of a Parish Council are also trustees of a local public community trust. The proposed amendments would still make it impossible for the Parish Council to discuss financial issues relating to the trust as they would not be quorate. How can the Code be amended to facilitate this situation?

17. **Prejudicial Interests** - Proposal to extend the list of exemptions

This is agreed.

18. **Overview and Scrutiny Committees** - Proposal to extend the Members excluded from Overview and Scrutiny Committees where they were previously involved in the decision under scrutiny.

The principle is agreed.

19. **Participation in relation to Prejudicial Interests** - Proposal to provide a clearer prejudicial interest test to apply for public service interest and where Members attend to make representations

Question 7 – Members agreed the proposed text relaxing the rules to allow increased representation at meetings is appropriate. Again the question has been raised as to the position where all Members have a similar prejudicial interest.

20. **Sensitive Information** - Proposal to provide for sensitive information in respect of private interests not to be included in the Register of Interests

This principle is agreed.

21. **National Parks and Broads Authorities – Prejudicial Interests**

No view expressed.

22. **Register of Members' Interests** - Proposal to re-arrange the position of various provisions within the Code

No view

23. **Gender Neutrality of Language** - Proposal to amend the Code to ensure gender neutrality of language

Question 8 – Members agree the use of the word 'you' is better than 'he or she'.