



**AGENDA ITEM: 22**

**STANDARDS COMMITTEE:  
27 February 2007**

**COUNCIL: 28 February 2007**

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**Report of: Council Secretary and Solicitor**

**Contact for further information: Mrs G L Rowe (Ext 5004)**

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**SUBJECT: CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF  
CONDUCT FOR LOCAL AUTHORITY MEMBERS**

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District wide interest

**1.0 PURPOSE OF THE REPORT**

1.1 To consider a response to the consultation document on the amendments to the Model Code of Conduct for Members.

**2.0 RECOMMENDATIONS TO STANDARDS COMMITTEE**

2.1 That the contents of the Report be noted.

2.2 That the Council Secretary and Solicitor respond to the consultation document as set out in Appendix 2, subject to any additional comments from the Committee.

**3.0 RECOMMENDATIONS TO COUNCIL**

3.1 That the contents of the Report and any comments of the Standards Committee be noted.

3.2 That the Council Secretary and Solicitor respond to the consultation document as set out in Appendix 2, subject to any additional comments from the Council.

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## **4.0 BACKGROUND**

- 4.1 The Department for Communities and Local Government has now published a consultation on the detailed amendments needed to put the Government's undertaking to amend the Code of Conduct for Members into effect.
- 4.2 A copy of the consultation document is attached as Appendix 1. Comments are to be made by 9 March 2007.

## **5.0 AMENDMENTS PROPOSED**

- 5.1 The Paper proposes the following:

**(1) Unlawful discrimination**

To delete reference to unlawful discrimination (paragraph 2(2)(a)).

**(2) Bullying**

To add a provision specifically proscribing bullying (paragraph 2(2)(b)).

**(3) Disclosure of confidential information**

To allow members to disclose confidential information where such disclosure is in the public interest (paragraph 3(a)(iii)).

**(4) Behaviour outside official duties**

**Paragraphs 4 and 5** - To provide that only private behaviour for which the member has been convicted by a court should be proscribed by the code of conduct, as referred to in paragraph 4(2), and not behaviour falling short of a criminal offence.

**(5) Commission of criminal offence before taking office**

To provide that where a member committed an offence before taking office as a member but where he or she was not convicted until after becoming a member, then this offence should be capable of being taken into account when considering whether the member has brought his or her authority into disrepute.

**(6) Using or seeking to use improper influence**

To amend paragraph 5(a) by adding 'or attempt to use'.

**(7) Paragraph 5(b)(ii)**

To add specific reference to clarify the intention that an authority's resources should not be used improperly for party political purposes.

**(8) Publicity code**

To add reference at paragraph 5 to the need for the member to have regard to the guidance set out in the Government's local authority publicity code.

**(9) Reporting breaches of the code and proscribing intimidation**

To delete the duty in paragraph 7 of the existing code to report breaches of the code by other members, and add a proscription (at paragraph 2(2)(c)) on the intimidation of complainants and witnesses.

**(10) Gifts and hospitality**

**Paragraphs 7(a)(vi) and 8(3)** - To require that information about gifts and hospitality should be included in the register of interests and the requirement to disclose the personal interest to a meeting would cease after five years.

**(11) Body influencing public opinion or policy**

**Paragraph 7(b)(iv)** – To clarify that the existing reference to a body whose purposes include the influence of public opinion or policy in which the member may have a personal interest, includes any political party.

**(12) Interests of family, friends and those with a close personal association**

To amend reference in the current code to friends and family by adding reference to any person with whom the member has a close personal association (paragraph 7(c)(i) and elsewhere).

**(13) Definition of family and friends (paragraph 7(c)(i) and elsewhere)**

With the inclusion of "close personal association" it is not thought necessary to keep the definitions of 'family' or 'friend' in the code. Guidance by the Standards Board will give assistance to members on these definitions.

**(14) Definition of personal interests**

To replace reference in paragraph 8 to the inhabitants of an authority's area with a provision that members should not be required to register an interest in a matter unless the interest is greater than that of the

majority of the inhabitants of the ward affected by the matter. For parish councils the definition would apply in respect of the Council's whole area (paragraph 7(c)).

**(15) Disclosure of personal interests**

**Paragraph 8(4)** – To amend the provision so that the rules on the disclosure of interests at a meeting in respect of a family member, friend or a person with a close personal association will only apply if the member is aware or ought reasonably to be aware of the interest held by that person.

**(16) Public service interests**

To create a new category of 'public service interest', which arises where a member is also a member of another public body, and for the public service interest only to be declared at meetings where the member speaks on the relevant issue (paragraph 8(2) and 8(7)).

**(17) Prejudicial interests – List of exemptions**

To simplify and amend the list of exemptions where members should not regard themselves as having a prejudicial interest (paragraph 9(2)(b)). New items added are functions in respect of:

- Indemnities
- The setting of council tax.
- Considering whether or not the member should become a freeman of the authority.

**(18) Overview and scrutiny committees**

To provide that members are excluded from overview and scrutiny committees where they are scrutinising decisions, including decisions made by the authority's executive, which they were involved in making (paragraph 10).

**(19) Participation in relation to prejudicial interests**

To provide a clearer prejudicial interest test to apply for public service interests and where members attend to make representations (paragraphs 9 and 11). It is suggested that interest should only be considered prejudicial where

- (a) the matter relates to the financial affairs of the body concerned
- (b) the matter relates to the determining of any approval, consent, licence or permission (eg in respect of planning and licensing) in relation to the body.

**(20) Sensitive Information**

To provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the member or those he or she lives with being subject to violence or intimidation (paragraphs 8(5) and 13).

**(21) N/A**

**(22) Register of members' interests**

**Paragraphs 12 and 13** – the paragraphs on the registration of personal interests have been simplified and shortened.

**(23) Gender Neutrality of language**

To amend the code throughout to ensure gender neutrality of language.

5.2 The consultation paper asks the following questions:

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Q4. Does the proposed text relating to friends, family and those with a close personal association adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Q7. Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions, or give evidence, appropriate?

Q8. Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

## **6.0 RESPONSE**

6.1 A suggested response to the Consultation Document is attached as Appendix 2. The Government's intention is that Councils should adopt the Code in May 2007.

6.2 As Members will be aware I have organised a Seminar/Workshop on the revised code for all District and Parish Councillors and Officers at Hale Hall, Edge Hill University for Thursday, 29 March 2007. This will enable Members to be trained on the new provisions prior to the New Code being adopted at Annual Council in May 2007.

6.3 A copy of the Consultation Document was forwarded to all Members of the Standards Committee, all Councillors and Parish Clerks on the 2 February 2007. No comments have at the time of writing been received.

## **7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

7.1 There are no significant sustainability implications or community strategy implications arising from this Report.

## **8.0 FINANCIAL AND RESOURCE IMPLICATIONS**

8.1 The costs of training on and bringing into effect the New Code both for District and Parish Councils will be met from existing resources.

## **9.0 RISK ASSESSMENT**

9.1 It is important that amendments to the Code of Conduct for Members are clear and practicable to implement. Training is necessary on the content of the Code to ensure future compliance.

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## **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

## **Equality Impact Assessment**

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

## **Appendices**

Appendix 1 – Consultation on Amendments to the Model Code of Conduct for Local Authority Members

Appendix 2 – Draft Response

Stds & Council model code of conduct