

## **‘Codes of Conduct for Local Authority Members and Employees’**

This paper is a response to the Consultation Paper issued by the Department for Communities and Local Government on “Codes of Conduct for Local Authority Members and Officers”.

### **The Consultation**

#### **Application of the code of members’ conduct in their non-official capacity**

**1. *“Do you agree that the members’ code should apply to a member’s conduct when acting in their non-official capacity?”***

Members of the public expect the very highest standards from elected members. Members should set an example of leadership for their communities inspiring trust and confidence in the authority they serve. We therefore believe that the Code should apply more widely to Members’ non official capacity. Criminal behaviour, even when there is no link to a member’s elected role, can have a damaging effect on the level of public trust in members generally and local administration as a whole. The proposals are therefore to be welcomed but could go further.

#### **Definition of ‘criminal offence’ and ‘official capacity’**

**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.”***

Yes, we agree with this definition of ‘criminal offence’ for the purpose of the members’ code being 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”. It is right that minor offences are excluded from the definition. Although it is understood that there may be circumstances where relatively minor instances could directly relate to the member’s responsibilities, particularly Portfolio Holders, which could reflect on the credibility of that member or the local authority, it is important however that the definition is clear.

**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?”***

‘Official Capacity ‘ should be clearly defined as ‘being engaged in the business of your authority, including the business of a body to which you are appointed to by your authority or circumstances where you are acting or claiming to act as a local authority member in your community leadership role.’ ‘Giving the impression’ would be a matter of opinion and would be difficult to prove should a case be put before a Standards Committee for Local Assessment. It is important that the definition is clear and not imprecise.

## Offending abroad

**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?”**

Yes.

## The Conduct Regime

**5. “Do you agree that an ethical investigation should not proceed until the criminal process has been completed?”**

If it is the intention that the code will only apply for ‘non official capacity’, where that conduct constitutes a criminal offence which is defined as any criminal offence convicted in a criminal court, then it would be inappropriate for the Standards Committee to consider whether there has been a breach of the code or not. Therefore, as soon as Monitoring Officers are aware of any criminal proceedings the Local Assessment procedure should stop and the complainant, subject member and Parish Clerk (if relevant) should be notified depending on confidentiality issues. Problems arise as to what details are given to the complainant, subject member and parish clerk as to why the local assessment procedure has been suspended and guidance would be needed in this respect. Problems also arise in relation to the fact that it may on occasions be appropriate to suspend during the criminal process.

## Proposed Revision to the Members’ Code

**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 specify**

**A. Making 12(2) mandatory rather than adoptive for Parish Councils**

Yes, this would save any unnecessary administration and ensure consistency across parish councils.

**B. Membership of other bodies – paragraph 8(1)(a)(i) and (ii)**

Yes, clarity that this is not the authority itself is helpful.

**C. Registration of Gifts and Hospitality**

Agree, it would be helpful to clarify the need to register gifts and hospitality over the value of at least £25 in section 8(1)(a).

**D. Prejudicial Interests**

Agree, removal of the double negative would be helpful. Also 10(b) to be reworded “it relates to determining of any application for approval, consent, licence, permission or registration made by you or those persons listed in paragraph 8 of the code.”

## **E. Registration of Interests**

The amendment of paragraph 10(2)(c) to clarify that a member would not have a prejudicial interest in the business of the authority where that business related to giving evidence in a Standards Committee hearing regarding an allegation that a member of the authority had failed to comply with the code would be welcome.

**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?**

None.

**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.**

This is commented on above.

### **Legislative Context**

**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 of the authority adopts the code, provide members with sufficient time to undertake to observe the code?**

Yes

### **Proposed Amendments to the General Principles**

**10. Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?**

Yes, but we also feel that the Code should apply more widely to a Members' non-official capacity.

### **Definition of 'criminal offence' and 'official capacity'**

**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?**

Yes

**12. Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?**

Yes

## **Model Code of Conduct of Local Government Employees**

**Is an employees' code needed?**

**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?**

Yes, but it should be an outline Code that can be adapted to suit local circumstances.

**Application of the employees' code**

**14. Should we apply the employees' code to fire-fighters, teachers, community support officers, and solicitors?**

Yes, it would seem appropriate to apply the code to these professional employees even if they have their own Code and there may be some aspects that overlap.

**15. Are there any other categories of employee in respect of whom it is not necessary to apply the code?**

No.

**Proposed Core Values**

**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?**

Relations with members, the public and other employees

The use of the word 'sympathetically' is open to interpretation.

Personal interests

The phrase 'personal interests' used here has a different meaning than the 'personal interests' referred to in the members code and could cause confusion.

Whistle blowing

The principle of this core value is acceptable, however it has been noted that this duty was removed from the Members' Code of Conduct in 2007.

Treatment of Information

This could be written more clearly, at the moment it is written in an unmethodical manner particularly when you compare it with the members code (paragraph 4).

Appointment of Staff

We agree with the principle, however with regard to 'an employee, or prospective employee, 'to whom they are related' could be defined to make it clearer. With regard to 'with whom they have a close personal relationship outside work' this may make things

difficult for recruitment etc. for existing employees, as it is natural that work colleagues will gather socially outside the work environment, in sports teams, celebrations, voluntary work etc.

## **Beyond the Core Values**

**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?**

As schemes of delegation vary from authority to authority it would be more simple to operate the 'qualifying employees' on the basis of a 'political restriction' style model, but the delegation model would tie in better with the Members Code in that decisions are made by those officers and so declarations more appropriate.

## **The Model Employees' Code: Values for Qualifying Employees**

**18. Should the code contain a requirement for qualifying employees to publicly register any interests?**

Yes, this would make sense, however there are certain aspects that should not be open to public inspection eg personal information such as details of home address.

**19. Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?**

### Personal Interest

With regard to employees completing a register 'in the case of a parish council, through the parish clerk', the Parish Clerk is often the only officer, therefore it should be through the Chairman of the Parish Council .

**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?**

It is difficult to do a line-by-line comparison as the employees' code is written differently to that of the members, however participation in matters where employees may have a prejudicial interest in a matter does not seem to match with the Members' Code.

**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?**

Yes, in particular the appointment of staff detailed in question 16 above.

## **Parish Councils**

**22. Should the employees' code extend to employees of parish councils?**

Yes, but as stated in question 19 above the Parish Clerk is often the only officer, therefore monitoring should be undertaken by the Chairman of the Parish Council.