

# AGENDA

## EMPLOYMENT AND DEVELOPMENT PANEL MEETING



Date: Tuesday 23 December 2008

Time: 4.00 pm

Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillors English, Garland, Hotson, Lusty,  
Mrs Marshall, Moss, Robertson and  
Mrs Wilson

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.

**Continued Over/:**

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**Issued on 12 December 2008**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact NEIL HARRIS on 01622 602020**. To find out more about the work of the Committee, please visit [www.digitalmaidstone.co.uk](http://www.digitalmaidstone.co.uk)

**David Petford, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

- |    |   |        |
|----|---|--------|
| 7. | Minutes (Part I) of the Meeting held on 18 August 2008          | 1 - 4  |
| 8. | Report of the Head of Human Resources - Officer Code of Conduct | 5 - 66 |

## **Part II**

**To consider whether any items should be taken in private because of the possible disclosure of exempt information.**

### **Head of Schedule 12A and Brief Description**

- |     |  |                                    |
|-----|--|------------------------------------|
| 9.  | Minutes (Part II) of the Meeting held on 18 August 2008              | 3 - Financial/<br>Business Affairs |
| 10. | Appointment of Director of Resources and Partnership – Short-listing | 1 - Individual                     |

## MAIDSTONE BOROUGH COUNCIL

### EMPLOYMENT AND DEVELOPMENT PANEL

#### MINUTES (PART I) OF THE MEETING HELD ON 18 AUGUST 2008

**PRESENT:** Councillors English, Garland, Hotson, Lusty, Mrs Marshall, Moss, Robertson and Mrs Wilson

1. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members

2. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members

3. ELECTION OF CHAIRMAN

**RESOLVED:** That Councillor Lusty be elected Chairman of the Panel for the Municipal Year 2008/09.

4. ELECTION OF VICE-CHAIRMAN

**RESOLVED:** That Councillor Mrs Marshall be elected Vice-Chairman of the Panel for the Municipal Year 2008/09.

5. DISCLOSURES BY MEMBERS AND OFFICERS

The Head of Human Resources, on behalf of the officer present at the meeting declared an interest in the item 10, 11 and 12 – Local Government Scheme Regulations 1997 – Amendment to Employer Discretions, Mileage Rates for Casual and Essential Users on Out of Kent Journeys and Occupational Sick Pay respectively. The Panel agreed that the officers could remain in the meeting whilst the items were discussed.

6. EXEMPT ITEMS

**RESOLVED:** That the items on Part II of the agenda be taken in private as proposed

7. MINUTES

RESOLVED: That the Minutes (Parts I and II) of the meeting held on 4 February 2008 be approved as a correct record and signed.

8. APPOINTMENT OF POLITICAL GROUP SPOKESPERSONS

RESOLVED: That the following be appointed as the Political Group Spokespersons for the Panel for the Municipal Year 2008/09:-

Conservative Group	-	Councillor Garland
Independent Group		Councillor Mrs Marshall
Liberal Democrat Group	-	Councillor Mrs Wilson

9. LOCAL GOVERNMENT SCHEME REGULATIONS 1997 – AMENDMENT TO EMPLOYER DISCRETIONS

The Panel considered the report of the Head of Human Resources regarding an update to the Council's policy on employer discretions for the Local Government Pension Scheme (LGPS). The LGPS (Benefits, Membership and Contributions) Regulations 2007 amended by Statutory Instrument 2007 No.1166 came into force on 1 April 2008 and made significant changes to the LGPS, which had an impact on regulations for employer discretions. Kent County Council had a requirement for all employers to have amended policies and having an up to date policy was a legal requirement.

As a result of the changes two casual workers would be removed from the pension scheme. Advice had been sought from the Head of the LGPS on the issue of casual workers and he had agreed that the Council's policy was correct. The only issue was whether or not the casual workers had been classified correctly or if they should be treated as part-time. Given the working patterns of the two people the Casual designation was correct.

The Board were informed that the market supplement was currently paid to up to 20 members of staff, the majority of which were in the hard to recruit areas of Development Control, Building Control and Environmental Health. It was at the Council's discretion that the market supplement was pensionable and this was felt to be the best way to treat it. They were also informed that in the last year one person had been given flexible retirement under regulation 18(1) this had been at no cost to the Council and therefore had not been reported to Members.

The reward package for staff, following the pay review, was going well. A number of schemes had been implemented including cash awards, non-cash awards, buying and selling annual leave, time off for voluntary work and perks online. The Panel requested that they be given a written update on these additional benefits so that they had

the full information on staff pay when it came to considering staff pay issues in the future.

RESOLVED:

1. That the policy on employer discretions, as set out in appendix A, be agreed; and
2. That a written update on the reward package for staff be circulated to the Members of the Panel.

10. MILEAGE RATES FOR CASUAL AND ESSENTIAL USERS ON OUT OF KENT JOURNEYS

The Panel considered the report of the Head of Human Resources proposing changes to the mileage rates paid to casual and lease car users for out of Kent journeys. The previous system reimbursed staff for their travel out of Kent by paying the cost of the fuel for driving or for a second class rail fare for the same journey undertaken, whichever was the cheaper. This had been brought in decades ago and the pricing of rail fares had changed significantly since then. There was no longer a single fare to use for a price comparison and this meant that the information was difficult for officers to find the correct price to reimburse. In addition the new payroll system could provide an automated claims service, but in order to do this it would need a fixed figure to pay for mileage claims. It was therefore recommended, to enable this feature and reduce administration costs, that a lower mileage rate, the lower essential car user rate, should be paid instead of the equivalent of the rail fare.

Due to the rise in fuel prices the Panel requested that the value of claiming back value added tax from fuel claims should be investigated. In the past it had been decided that as the amount of money claimed back did not cover the extra administration costs it was not productive to do so. However, as the costs of fuel had risen substantially it was felt appropriate to revisit the decision.

RESOLVED:

1. That the revised Car Allowance Policy attached as Appendix B be approved; and
2. That the viability of claiming back value added tax from fuel receipts be investigated.

11. OCCUPATIONAL SICK PAY

The Panel considered the report of the Head of Human Resources on amending the attendance management policy to make it consistent with the National Joint Council for Local Government Services 'Green Book', improve the accuracy of reporting, and enable the new payroll system to calculate entitlements accurately.

RESOLVED: That the Attendance Management Policy be amended, to reflect the current entitlement to Occupational Sick Pay as set out in the NJC Green Book and the organisational and system changes as a result of the move from PS2000 to MidlandHR Trent, as attached at Appendix C.

12. EXCLUSION OF THE PUBLIC FROM THE MEETING

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified.

	<b>Head of Schedule 12A and Brief Description</b>
Minutes (Part II) of the meeting held on 4 February 2008	4 – Labour Relations/Negotiations
Report of the Chief Executive – Process for Appointment of Senior Member of Staff	3 – Financial Business Affairs 4 - Labour Relations/Negotiations

13. DURATION OF MEETING

6.30 p.m. to 8.16 p.m.

# Agenda Item 8

## MAIDSTONE BOROUGH COUNCIL

### EMPLOYMENT AND DEVELOPMENT PANEL

23 DECEMBER 2008

### REPORT OF HEAD OF HUMAN RESOURCES

Report prepared by Dena Smart, Head of HR

#### **1. Officer Code of Conduct**

##### 1.1 Issue for Decision

1.1.1 To agree Council's consultation feedback on the Officer Code of Conduct.

1.1.2 To agree Maidstone's approach to its local code if the national framework is adopted.

##### 1.2 Recommendation of the Head of Human Resources

1.2.1 It is recommended that the Council agrees the consultation response at Appendix A.

##### 1.3 Background

1.3.1 The Officer Code of Conduct was reviewed in June 2007; the agreed code which became Council policy is attached at Appendix B. The review was long outstanding but had been delayed due to the statutory review that commenced in 2004. The statutory review proposed a short code that would be incorporated into the contracts of employment for all Council employees nationally. The statutory code went out to consultation and has only now reappeared for further consultation. The main change from the 2004 approach is to differentiate two categories of employees; all employees would be covered by a set of core values with a higher level test for more senior officers.

1.3.2 The proposals cover the code of conduct for both officers and Members but the response to each of these is being handled separately as the delegated responsibility falls to different Member Committees. The consultation response for Members will be agreed by the Standards Committee. The consultation proposals and the questions are set out at Appendix C.

1.3.3 The position at Maidstone currently is that the proposed 'harder test' would only apply to 'qualifying' officers which would be those at a more senior level in the organisation. The current position is that all officers have to make these declarations at the moment. From an employment perspective the general core values recommended for all would be sufficient as most 'offences' would be captured by the code of conduct in the Council's disciplinary policy. In many ways the proposed code duplicates what we already have in existing rules. Where an officer was to breach the code they would then have to be taken through the disciplinary policy for action. However the benefit of the proposed code is that we would have assurance of the base standards of our partners and it also gives some sense of comparison with Members.

##### 1.4 Impact on Corporate Objectives

1.4.1 High standards of Corporate Governance is one of the Council's core values, this is reflected in all our policies and in the Constitution. The Officer Code of Conduct reflects the requirement for the way we work.

##### 1.5 Alternative Actions and why not recommended

1.5.1 The Council could choose not to respond to the consultation document but there is a risk that if Members feel they were not offered the opportunity to express their views they will feel that officers have not properly advised them.

1.6 Risk Management

1.6.1 There are few risks associated with this step in the process i.e. response to consultation. The main risk is that failing to submit the Councils views on the proposals means that we do not have the opportunity to influence the eventual outcome.

1.6.2 The ultimate risks associated with the eventual statutory code are also minimal as the Council would have the opportunity of adopting a supplementary local code if it was felt that the national code was not sufficiently stringent.

1.6.3 The risks associated with the failure to adopt a statutory code are related particularly to partnership working, an over-arching code gives assurance that all those in Local Government are operating to certain minimum standards.

1.7 Other Implications

1.7.1

Financial

Staffing

Legal

Social Inclusion

Considerations for Disabled Persons

Environmental/Sustainable Development

Community Safety

Human Rights Act

Procurement

X
X

**NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED**

Is this a Key Decision?    Yes        No   

If yes, when did it appear in the Forward Plan? \_\_\_\_\_

Is this an Urgent Key Decision?    Yes        No   

Reason for Urgency



## **Appendix A**

Mr Karl Holden  
Conduct and Council Constitutions Team  
Communities and Local Government  
Zone 5/B2, Eland House  
Bressenden Place  
London SW1E 5DU

24<sup>th</sup> December 2008

Dear Mr Holden

### **Consultation Response – Model Code of Conduct for Local Government Employees**

This is the consultation response from Maidstone Borough Council and represents the views of the Corporate Management Team and the Employment Development Panel which is the Committee of elected members responsible for the terms and conditions of employees. The consultation response on the Code of Conduct for Local Authority Members will be submitted separately as this has gone to the Standards Committee for consideration.

Our response to the questions asked is set out below.

#### **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?

#### **Response**

Yes. This is particularly helpful in view of the climate of partnership working as this gives assurance about the standards required within each local authority. This approach should offer a platform of consistency regarding core values which will be helpful.

#### **Question 14**

Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?

#### **Response**

The code should be applied consistently across all Local Government employees. Where there are higher standards required in certain professions these can be supplementary to the core principles.

#### **Question 15**

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

#### **Response**

As question 14.

#### **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?

#### **Response**

We believe that the proposed code reflects the core values well.

**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?

**Response**

With regard to the employees covered by the 'harder test' it is the Council's opinion that this should be restricted to those officers that have delegated decision making responsibilities set out in the constitution. These are the individuals that have the opportunity to influence the decisions taken by the Council that may ultimately impact on the lives of the community.

**Question 18**

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

**Response**

With regard to the publication of the Register of Interests we have some concern that this would breach the general requirements of Data Protection, particularly in relation to the publication of individual officer's home addresses. Some of our officers and their families may be placed at risk if they are in front line services delivering unpopular decisions. Members of the public can easily personalise decisions in areas such as Parking, Planning, Housing etc and the Council would be concerned that such officers and their families were potentially exposed to approaches at their home.

Within the Council we have a rigorous process for checking the Register of Interests and feel that this should identify and deal with any potential conflicts.

**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?

**Response**

The categories appear to be sufficient to capture the required information.

**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?

**Response**

There is specific reference to bullying and bringing the Council into disrepute that does not appear in the officer code, however this is covered within the Council's disciplinary procedures.

**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?

**Response**

No.

**Question 22**

Should the employees' code extend to employees of parish councils?

**Response**

Yes.

Although this final comment is not one upon which a question has been asked the Council would like to raise a concern about the section of the consultation document on page 24 paragraph 3.13 entitled 'Contractors, partners and part time staff'. There seems to be no justification for treating part time employees any differently from full time and we would expect this group to be covered by the code.

I trust that you find these comments of use in the consultation exercise.

Yours sincerely

Dena Smart  
Head of Human Resources  
01622 602712  
[denasmart@maidstone.gov.uk](mailto:denasmart@maidstone.gov.uk)

## **Appendix B**

### **CODE OF CONDUCT (June 2007)**

#### **INTRODUCTION**

The public is entitled to expect the highest standards of conduct from all staff who work for Local Government and therefore the Borough Council. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist the Council and its staff in their day-to-day work. The Code is produced in the light of the challenges which staff face in the new and more commercially orientated environment of today. However the Code cannot be exhaustive and Officers should seek guidance on any matter where they are unsure of the standards required.

#### **AIMS OF THE CODE**

The aim of the Code is to lay down guidelines for Maidstone Borough Council staff which will help maintain and improve standards and protect staff from misunderstanding or criticism. The Code sets out the minimum standards that should apply.

#### **STATUS OF THE CODE**

Whilst the Code lays down guidelines, adherence to the Code forms a condition of employment of all Council staff. As such it is a guide to the behaviour required and expected of staff. A breach of the Code may result in the application of the formal disciplinary procedure and staff should ensure that they are conversant with its terms.

#### **1. STANDARDS**

1.1 The Council's staff 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 staff with impartiality. Staff are 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. Staff must make themselves aware of the Council's Contract Rules and Financial Rules and abide by their provisions. Staff 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. The Council itself may decide to be open about other types of information within the constraints of statute. Staff must be aware of which information the Council does make public and act accordingly. In particular both individual and corporate liability under Data Protection legislation must be observed and safeguarded.

2.2 Staff should not knowingly use any information obtained in the course of their employment for personal gain or benefit, nor should they knowingly pass it on to others who might use it in such a way. Any particular information received by a member of staff from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

#### **3. POLITICAL NEUTRALITY**

3.1 Staff serve the Council as a whole. It therefore follows they must serve all Councillors and not just those of any leading or controlling group, and must ensure that the individual rights of all Councillors are respected.

3.2 No officer should act in any manner or advise any political group of the Council in such a way as may compromise their political neutrality either as to the work of the group or as to the work of the Council; neither shall they be required to attend any meeting of any political group where their neutrality may be compromised.

- 3.3 The Local Government Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No.2) Regulations 1990 impose, as a result of the salary level or scope of duties, restrictions on the political activities of certain officers. Full details will be provided to officers in such posts.
- 3.4 Staff, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

## **4. RELATIONSHIPS**

### **4.1 Councillors**

Staff are responsible to the Council through its senior managers. Mutual respect between staff and Councillors is essential to good Local Government. Close personal familiarity between staff and individual Councillors can damage the relationship and prove embarrassing to other staff and Councillors and therefore should be avoided. The Council's approved Protocol on Member/Officer relations (Part V of the Constitution) is attached as an Appendix to this code.

### **4.2 The Local Community and Service Users**

Staff should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Council.

### **4.3 Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, must be made known to your Section Manager. Orders and contracts must be awarded on merit, by fair competition against other tenderers, and no special favour must be shown to any businesses. Additional caution must be exercised where friends, partners or relatives are involved with the potential contractor.

- 4.4 Staff who engage or supervise contracts or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare their relationship in the register kept by each Director.

### **4.5 With Other Members of Staff**

Close personal relationships between Council staff will sometimes occur. It is very important that any relationship is not seen to bring advantage to either party and close personal relationships between a senior manager and one of their staff should be avoided. If a close personal relationship develops between a manager and a member of their staff it may be necessary to relocate one of the members of staff to alternative work.

### **4.6 Media**

Each Department will set guidelines which will identify staff authorised to talk to the media. Employees who are not authorised to deal with representatives of the media should refer any enquiries they receive to their head of Department, line manager or Head of Communications. Employees who have specific authority to deal with such enquiries should only reply to requests for information or questions which relate to the facts of the situation. Where an expression of opinion or statement of policy is required the head of department must first be consulted. Every assistance should be given to Members who need information to deal with questions from the media. Employees should refer to the Head of Communications for guidance.

An employee, who speaks as a private individual direct to the press, or at a public meeting, or where their remarks may be reported to the press, should ensure that nothing they say might lead the public to think they are acting in their capacity as a Council employee. Where employees are speaking on behalf of a recognised trade union this must be made clear.

## **5. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 5.1 Staff involved in the appointments of others must ensure that these are made on the basis of merit. It would be unlawful for a member of staff to make an appointment which was based on

anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, staff must not be involved in an appointment where they are related to an applicant, or have a close personal relationship in or outside work with him or her.

- 5.2 Similarly, staff must not be directly involved in decisions relating to discipline, promotion or pay adjustments for any other member of staff who is a relative, or who has a close personal relationship with him/her.
- 5.3 Where a relationship exists with an applicant for a post with the Council, that relationship must be clearly stated on the application form. Where a member of Council staff is aware that a relation is applying for a post they must bring this to the attention of the appropriate Section Manager as soon as is possible.

## **6. OUTSIDE COMMITMENTS**

- 6.1 Officers graded local grade 8 and above shall devote their whole-time service to the work of the Council and shall not engage in any other business or take up any additional appointment or employment without the express consent of their Director.

Such officers shall not place themselves in a position where their duty and their private interests conflict. The Council will not attempt to preclude officers 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.

- 6.2 In accordance with the Copyright Designs and Patents Act 1988 the ownership of copyright or design right in any literary, dramatic, musical or artistic work or design created by an officer during the course of his normal duties will belong to the Council. This also applies to the ownership of copyright and design right in any such work created by an employee in the course of duties falling outside his normal duties but specifically assigned to him.

This intellectual property also includes inventions, computer programmes, original/creative drawings, writings and drawings. Officers are, by virtue of the nature of their duties and the responsibilities arising from them, under a special obligation to further the interests of the Council.

This also applies to the ownership of any invention made by an employee in the course of their duties falling outside his normal duties but specifically assigned to him/her.

- 6.3 Officers are under an obligation to sign any documents or to do anything else which is necessary to apply for and obtain any patent registered design or other protection in the name of the Council. The Council will indemnify the officer in respect of all costs incurred by him/her in complying with these requirements.

In certain circumstances officers may be entitled to receive compensation from the Council for inventions under Section 40 of the Patent Act 1977.

## **7. PERSONAL INTERESTS**

- 7.1 Staff must record in their Directorate Register the following interests:-

- i) All paid employment (other than by the Borough Council) and occupations, including Directorships, Partnerships and Consultancies.
- ii) Ownership of any land which is within the Borough.
- iii) Companies or other Corporate Bodies having a place of business within the Borough and in which the Officer has a beneficial interest in a class of securities of a nominal value of greater than £25,000 or 1/100<sup>th</sup> of the issued share capital, whichever is the less.
- iv) Any tenancy or license of land or premises in the Borough.
- v) Membership of any organisation that falls within the following definition:

*'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; and*
  - (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."*

vi) Any other financial or non-financial interest which could conflict with the Council's interests.

- 7.2 Staff must not allow the impression to be created that they are, or may be, using their position to promote a private or personal interest, rather than forwarding general public interest. Private and personal interests include those of their family and friends, as well as those arising through membership of, or association with, clubs, societies and other organisations.
- 7.3 Information concerning private affairs of a member of staff will not be made public unless the Council is legally required to do so or unless the member of staff has given their approval.
- 7.4 Staff must not process any claim or application to the Council from themselves, a relative or personal friend. In addition, staff must not process any claim in respect of a property owned or part owned by them, their family or a friend. They must disclose any such claim or application to their supervisor or manager who will arrange for it to be dealt with by another member of staff.
- 7.5 When a member of staff submits a planning application to the Council, they must notify the Council's Monitoring Officer (the Head of Corporate Law) of this at the same time as submitting the planning application.
- 7.6 All staff must complete a Registration of Interest form (Appendix Two) upon appointment, notify their director immediately of any changes in their interests, and must complete the form when it is circulated every three years.
- 7.7 The Register of Interests shall be kept by Director's Secretaries. Directors shall review their Register every three months and sign it to signify that they are satisfied that the Register is being properly maintained.
- 7.8 If an officer is present at a meeting of the Council, its Committees or Sub Committees, or its Executive when a issue in which he has a personal issue is being discussed, he must declare the interest and its nature and leave the meeting, unless invited to remain.

## **8. EQUALITY ISSUES**

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

## **9. SEPARATION OF ROLES DURING TENDERING**

- 9.1 Staff involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior staff who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Staff in contractor and client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Staff who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.

- 9.4 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.
- 9.5 Staff contemplating a management buyout should, at the earliest possible moment inform their Director or the Chief Executive as appropriate and withdraw from any in-house processes.

## **10. CORRUPTION**

- 10.1 Staff 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 member of staff to demonstrate that any such rewards have not been corruptly obtained.

## **11. USE OF FINANCIAL RESOURCES**

- 11.1 Staff 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 Council.

## **12. GIFTS AND HOSPITALITY**

### **Introduction**

- 12.1 The acceptance of gifts, hospitality or other benefits, even on a modest scale may arouse suspicion of impropriety and extreme caution and discretion should be exercised in accepting either. In principle you should refuse any personal gift offered to you or to your family by any person or company who has or seeks dealings of any kind with the Council.

### **Gifts**

- 12.2 Only useable gifts of a small value may be accepted by individual staff, (e.g. pens, pencils, rulers, calendars, diaries). Other small gifts such as chocolates, biscuits and flowers may be accepted, provided that they are shared within the Section or Directorate. The receipt of these gifts and the action taken must be recorded in the Directorate's Gifts and Hospitality Register which is kept by the Chief Executive's/Director's Secretary.
- 12.3 Any other gift (including all wines and spirits of whatever value) to an individual (or group of individuals) must be politely refused on the basis that it would offend against the Council's Code of Conduct for staff. The offer and refusal of these gifts must be recorded in the Directorate's Gifts and Hospitality Register.  
If it is not possible, for any reason, to refuse the gift at the time (e.g. if the donor refuses to take it back) then the gift must be passed to your Section Manager to return it to the donor.
- 12.4 In pursuit of your duties you may be offered gifts for the Council as a corporate body. Any such gifts should not be refused, whether it is an actual gift or a "gift in kind" until the Chief Executive has been informed and been given the opportunity to determine whether the Council should receive such a gift, and if so the purpose to which it should be put (occasionally such gifts, for example, may be used in raffles in support of the Mayors charity). The action taken in respect of any such corporate gift should be recorded by the Chief Executive in a Corporate Gift/Sponsorship Register, to be maintained by him, whether the gift is accepted or refused.

### **Sponsorship**

- 12.5 The same principles would apply to sponsorship of corporate activities, events and functions. The register should include details of the name of sponsors, descriptions of the sponsorship offered and whether it is accepted or declined. Generally speaking, sponsorship entails a payment (in cash or account) to the Council, for which there is no tangible consideration from the Council to the sponsor (see also Paragraph 13 below).

### **Hospitality**

- 12.6 All hospitality should be appropriate and necessary (e.g. a working lunch) and wherever possible, have the prior sanction of the Director or relevant Section Manager. Such hospitality must be written in the Directorate's Gifts and Hospitality Register. This provision relates to drinks, meals, sports events and other entertainment. Staff will be expected to show foresight



in obtaining, wherever possible, management approval to hospitality in advance of it being accepted. If it is not possible to obtain approval in advance, approval should be sought as soon as possible after receipt of the hospitality. Approval should be written.

Examples of acceptable hospitality include:

- i) A working lunch of modest standard, provided to allow the business discussions to continue
- ii) An open day organised by a company where other organisations are guests

Examples of hospitality which are unacceptable include:

- i) Offers of holiday accommodation
- ii) Theatre tickets
- iii) Hotel accommodation
- iv) Use of company flat
- v) Sports events such as professional league football matches or first class cricket games

It will usually be more acceptable to join in hospitality offered to a group than to accept something unique to yourself (e.g. tickets to the theatre).

When a particular person or body has a matter currently in issue with the Council (e.g. the award of a contract, or a contract dispute), any offers of hospitality must be refused, even if, in normal times, they would be acceptable.

Offers of hospitality which have been declined must also be recorded in the Register. This is to ensure that offers of excessive hospitality and its refusal are recorded in order to protect the officer concerned and allow their manager to be aware of such offers.

### **Free Seminars/Conferences/Product Familiarisation Sessions**

- 12.7 Attendance by staff at such relevant seminars, training sessions, conferences, courses or trips for product/service familiarisation is acceptable but must be recorded in advance in the Directorate's Gifts and Hospitality Register. In all cases, the Director/Section Manager must give consent prior to attendance and satisfy himself that no immediate or subsequent purchasing decisions are compromised by the employee attending. Where visits to inspect equipment etc. are required, staff must ensure that the Council meets the costs of such visits to avoid jeopardising the integrity of any subsequent purchasing decision. Where modest meals or refreshments are provided by the other party, and to refuse would give offence or be unreasonable, these may be accepted and recorded in the Gifts and Hospitality Register, but, as before, these should be authorised in advance in writing by the Director/Section Manager wherever possible. Where this is not possible, the written sanction of the Director/Section Manager should be obtained and recorded as soon as possible thereafter.

### **Review of Gifts and Hospitality Registers**

- 12.8 The Chief Executive and each Director shall review their respective Gifts and Hospitality Registers (and in the case of the Chief Executive also the Corporate Gift/Sponsorship Register) on a three-monthly basis and will sign the Register to signify that they are satisfied to the best of their knowledge that there is full compliance with the provisions relating to gifts and hospitality. The Monitoring Officer will ensure that reminders are sent to staff at least annually

#### **Note**

- 12.9 It should be noted that Heads of Service should obtain approval under these provisions from their Director, Directors should obtain approval from the Chief Executive, and the Chief Executive should obtain approval from the leader of the Council.

## **13. SPONSORSHIP - GIVING AND RECEIVING**

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council 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 Council wishes to sponsor an event or service, neither a member of staff nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Director or to the Chief Executive of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives

support in the community, staff must ensure that impartial advice is given and that there is no conflict of interest involved.

#### **14. STANDARD OF APPEARANCE**

- 14.1 The Council has the right to expect high standards of appearance from staff whilst undertaking their duties. Employees should be neat, well groomed and professional in appearance whilst dressing appropriately for the task they are undertaking. Unless dictated by the task in hand, and agreed in advance with their Section Manager, casual clothing such as denim-type items, casual or sports clothing are not considered suitable.
- 14.2 Where provided, safety equipment and protective clothing must be worn as instructed. No such equipment may be tampered with and any defects apparent must be brought to the attention of the appropriate manager without delay.
- 14.3 For the protection of the public and employees it is important that Council staff are easily identifiable whilst at work either within the offices or within the community. Cardkey identification cards, where provided, must be worn, so as to be clearly visible, at all times whilst undertaking work on behalf of the Council. When making visits to the homes or premises of the public, official Council identification should be presented promptly and where appropriate ahead of being requested.

#### **15. FRAUD AND THEFT**

- 15.1 The Council will not tolerate fraud or theft committed by employees at or during the course of their work. If evidence comes to light that fraud or theft has occurred the matter will be fully investigated internally and if sufficient evidence is available of possible involvement in fraud or theft staff will be suspended.
- 15.2 Disciplinary Policy - If sufficient evidence is available that a loss has been incurred by the Council and by implication a criminal act has occurred, the matter will be referred to the Police who may undertake their own quite separate investigation.
- 15.3 Under the Council's Disciplinary Policy staff may be subject to disciplinary action or dismissed if there is evidence to suggest either fraud or theft has been committed. Offences committed outside work may also be dealt with under the Disciplinary Policy and you should ensure that you understand how this could affect your employment with the Council.

## **PROTOCOL ON MEMBER/OFFICER RELATIONS (PART 5 OF CONSTITUTION)**

### **1. Introduction**

- 1.1 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This protocol is to a large extent no more than a written down statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 In this protocol, "officers" applies to all employees of the Council, including manual staff.

### **2. Principles**

- 2.1 This protocol also seeks to enhance and maintain the integrity (real and perceived) of local government and it and the Council's various roles therefore demand high standards of personal conduct.
- 2.2 Members and officers have separate and distinct roles. Both Members and officers should recognise this and respect their varying roles.
- 2.3 The basic principles underlying the Member/officer relationship in both directions should therefore be:-
  - 1) honesty
  - 2) openness
  - 3) respect for the different roles; and
  - 4) courtesy and manners
- 2.4 In addition, both Members and officers have their own personal lives which should be respected. Except in cases of emergency, contact out of office hours on matters relating to Council business should be avoided.
- 2.5 A Member may not attempt or purport to give instructions to any officer (unless properly given as an executive member) nor to involve him/herself in staffing matters other than as part of the Council employment practices. Members should never subject an Officer to unfair treatment or criticism and Members and Officers should have mutual respect for each other at all times even if their views differ.
- 2.6 Members should appreciate that officers are responsible for their conduct to their line manager. Information given by officers to Members will routinely be passed on to other officers of the Council. Members should therefore not expect nor ask that information given to them by officers should be kept confidential as this would conflict with the officers' responsibilities to their managers and their chief officer.
- 2.7 Where any complaints or concerns appear to be justified, these will be dealt with in accordance with the Council's policies relating to employee relations. The Executive and the Employment and Development Panel are politically accountable for staff policy issues and the Chief Executive is responsible for the management of staff including disciplinary and other operational matters.

### **3. Roles of Members**

- 3.1 Members are responsible to the electorate and serve so long as their term of office lasts.

- 3.2 Members have a variety of roles which will differ depending on their particular role within the Council (e.g. a chairman, or as a member of the executive/overview and scrutiny Committee).
- 3.3 The Council has agreed a list of key roles for Councillors which are set out in Article 2.03 of the Constitution. In brief, Councillors are expected to:-
- 1) make policy
  - 2) contribute to the good governance of the areas
  - 3) represent the interests of their Wards and Constituents fairly and impartially
  - 4) participate in the management of the Council
  - 5) maintain the highest standards of conduct and ethics

#### 4. **Role of Officers**

- 4.1 Through the management structures officers are responsible to the Council as a whole, which is their employer.
- 4.2 Whether or not the officer holds a politically restricted post, officers must be seen to be politically impartial and must not allow their political views to influence their actions.
- 4.3 Officers are responsible for giving advice to Members and for implementing the proper decisions of the Council.
- 4.4 Officers have various roles depending on their job. These include giving professional or technical advice, undertaking professional, technical or other jobs and managing other officers.
- 4.5 The head of the paid service and the chief officers are responsible for the day to day running of the Council in accordance with the decisions of the Council or executive and under delegated authority.
- 4.6 The Head of the Paid Service and the chief officers are therefore responsible for the management of the officers and are responsible consequently for giving instructions and disciplining officers.
- 4.7 Officers may also be subject to the rules and codes of conduct of his or her own particular profession.

#### 5. **Mayor**

- 5.1 The Mayor should during their term of office not engage in any controversial activity which could call into question the integrity or impartiality of the office.
- 5.2 The role of the Mayor is shown in greater detail in Article 5 of the Constitution.
- 5.3 The support provided to the Mayor should be used solely in discharging the civic functions associated with the office.
- 5.4 The Mayor should be careful not to engage in political activities which are properly the function of the Leader of the Council (and vice versa).
- 5.5 Officers shall go through the agenda of Council meetings with the Mayor and shall help him or her answer questions to the extent of supplying him or her with facts. Officers must avoid straying into areas of politics or personalities.

#### 6. **The Executive and Officers**

- 6.1 Executive councillors are elected councillors who have been given the responsibility for providing the Council's political administration. It is their role to develop and formulate policies (for approval by the Council) which help guide officers in carrying out the Council's activities and the provision of services and the Executive must carry out its functions in accordance with those approved policies. They also have responsibility for matters of major principle. They are politically accountable to the Council and the electorate for the functions contained within their individual portfolio of responsibilities, severally and jointly. It is therefore necessary for

executive councillors to have timely access to advice, support and relevant information to fulfil this role effectively.

- 6.2 The Chief Executive is the Head of the Paid Service. He or she, with the support of other chief officers, is responsible for the management of staff, the implementation of policies approved by, or on behalf of, the Council, and for securing the proper undertaking of all operational matters. They are responsible for providing advice and guidance to the executive councillors in their respective professional and managerial fields.
- 6.3 In this role, chief officers are supported by Heads of Service. The latter provide more specialised and detailed advice and guidance in their field of knowledge which is normally provided to executive councillors through chief officers. Heads of Service are primarily responsible for the management of staff within units and the operation of Council services on a day-to-day basis.
- 6.4 In the performance of their functions, executive councillors should normally seek advice, assistance and such other appropriate support from the relevant chief officer in order to ensure that executive councillors' needs are dealt with as a priority at the appropriate level within the organisation. In a chief officer's absence, contact will normally be with the Section Manager. This support will relate to those matters of policy and principle for which the executive councillors are responsible, but will not include matters of a political nature.
- 6.5 Officers are equipped with the professional and technical competencies, trained professionally to carry out the operations for which they are responsible in accordance with Council policy. They are insured for this activity and are entitled to certain indemnity in the event of legal challenge or claim: the distinction between policy and operational issues is therefore a significant one.
- 6.6 Councillors are, generally, when carrying out their normal representational roles on behalf of local residents recommended to refer their requests for information or other concerns directly to identified officer contacts across the organisation. However, in view of the special position of the executive councillors, it is recommended that ward issues should, in their cases, be dealt with through the chief officer, head of service or such other officer(s) nominated by him/her for this purpose in order to avoid misunderstandings.
- 6.7 The responsibilities of executive councillors are significant and they require assistance and support of a highly professional nature from officers. If any cabinet member feels that the support they has received falls short of the expected standard, or they has concerns about the performance of a member of staff, this should be raised with either the relevant chief officer or with the Chief Executive and every effort will be made to resolve the problem.

## 7. **Overview and Scrutiny**

- 7.1 When attending the overview and scrutiny committees, officers may be questioned on facts and explanations relating to policies and decisions. Officers should be reassured that any responses may be given in good faith without fear or favour.
- 7.2 Officers may be asked to explain and justify advice they have given to councillors on the executive and may also be asked to explain and justify decisions taken under delegated powers.
- 7.3 However, any questions should avoid drawing into question officers' impartiality but questions on the merits of alternative courses of action may be asked.
- 7.4 Councillors on the overview and scrutiny committee are entitled to expect the same level of help and advice from officers as is given to the executive or the other non-executive committees.
- 7.5 The overview and scrutiny committees should particularly bear in mind the Human Rights Conventions, specifically Article 8 – respect for private life.

## 8. **Officer/Chairman Relationship**

- 8.1 It is clearly important that there should be a professional working relationship between the chairman of a committee and chief officers and other senior officers of any unit. However such relationships should never be allowed to become so close, or appear to be so close, as to bring

into question the officer's ability to deal impartially with other councillors and other party groups.

- 8.2 In relation to action between meetings, it is important to remember that the law only allows for non-executive decisions (relating to the discharge of any of the Council's non-executive functions) to be taken by a Committee, a sub-committee or an officer.
- 8.3 The chairman's role is primarily to ensure that the business transacted at a meeting is done efficiently and effectively ensuring that members of the Committee can participate equally in the discussions of the Committee.
- 8.4 The officer's relationship with the chairman should reflect the primary purpose in paragraph 8.3.
- 8.5 Finally, it must be remembered that officers are accountable to their chief officer and that whilst officers should always seek to assist a chairman (or indeed any councillor) they must not, in doing so, go beyond the bounds of whatever authority they have been given by their chief officer. If any officer is concerned about their position, they should report their concern to their Chief Officer and/or the Monitoring Officer.

## 9. **Party Groups**

- 9.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. However, party groups may not call on officers to support and contribute to such deliberations.
- 9.2 Councillors must not ask officers to act in any way which would conflict with the employee's code of conduct or which would affect or be seen to affect the political impartiality of officers.

## 10. **Ward Councillors**

- 10.1 Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue the ward councillors should be notified at the outset of the exercise.
- 10.2 Officers may only attend meetings called by ward councillors if this attendance is approved by a chief officer.
- 10.3 Ward councillors may not ask officers to provide advice or undertake work for organisations with which they are involved unless that service has been approved by the relevant chief officer.
- 10.4 In dealings with local groups officers should as far as possible respect the representational role that councillors have in their wards.

## 11. **Councillors' Access to Information and to Council Documents**

- 11.1 Councillors are free to approach any officer to provide them with such information explanation and advice (about that officer's functions) as they may reasonably need in order to assist them in discharging their role as councillors. This can range from a request for general information about some aspect of a unit's activities to a request for specific information on behalf of a constituent.
- 11.2 In addition to Members' common law and statutory rights to inspect documents, the Council has agreed that members should have the following rights:
  - 11.2.1 That all documents (including reports and draft reports to the Chief Officer Management Team and the minutes thereof) of the Council should be available and open for inspection and copying by all Members, provided either that the documents do not disclose exempt information as described in paragraphs 1, 2, 3, 4, 5, 6, 9, 11, 12 and 14 of Schedule 12A to the Local Government Act 1972, or that the Member has a need to know the information contained in the document and has made a written declaration stating why inspection of the documents is necessary for the performance of their duties as a Councillor, provided that access to the

document will not be given if to do so would be a breach of the Data Protection Act or other legislation;

- 11.2.2 That all information obtained from an inspection and any copy document received shall be treated as confidential to the Member and shall be for his use as a Member of the Council only unless the Chief Executive, Director or duly authorised Officer concerned agrees at the time of inspection or supply of copy documents that this restriction can be relaxed; and
- 11.2.3 That in the event of the Chief Executive, Director or duly authorised Officer not agreeing that the restriction can be relaxed, the Member concerned shall have the right to require the matter to be referred to the relevant Committee and, if necessary, to the Council for final determination.
- 11.3 Further and more detailed advice regarding members' rights to inspect Council documents may be obtained from the Borough Solicitor.
- 11.4 Finally, any Council information provided to a councillor must only be used by the councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the councillor's duties as a member of the Council.

## 12. **Correspondence**

- 12.1 Where it is necessary for an officer to copy their correspondence with a councillor to another person this should be made clear to the councillor. In other words, a system of "silent copies" should not be employed.
- 12.2 Official letters on behalf of the Council which create legally binding obligations or give instructions on behalf of the Council, should never be sent out over the name of a Councillor.

## 13. **Support Services to Councillors**

- 13.1 Support to councillors shall be at the current level and provided solely in order for the councillor to fulfil their duties.
- 13.2 This support shall only be provided with the approval of the Chief Executive who shall be entitled to inspect any documents produced.

**NOTIFICATION BY OFFICER OF FINANCIAL AND OTHER INTERESTS**

**DIRECTORATE OF \_\_\_\_\_**

NAME:.....SECTION:.....

My financial and other interests are recorded below (tick and supply details):-

- 1. All paid employment (other than by the Borough Council) and occupations, including directorships, partnerships and consultancies. The amount of the income involved need not be stated. (N.B. all staff on Grade 8 and above must obtain their Director’s written consent before taking on any employment, directorship or consultancy).

**I have no interests to declare  
This does apply to me (give details)**

The employment/business carried out by me:

  

Name of employer/firm in which I am a partner/companies for which I am a remunerated director/consultant:

- 2. Ownership of any land which is in the Borough, including your dwelling/house.

**I have no interests to declare  
This does apply to me (give details)**

  

- 3. Companies or other corporate bodies having a place of business within the Borough’s area and in which the Officer has a beneficial interest in a class of securities of a nominal value greater than £25,000 or 1/100<sup>th</sup> of the issued share capital, whichever is the less. The amount of the holding need not be stated.

**I have no interests to declare  
This does apply to me (give details)**

  

- 4. Any tenancy or licence of land or premises in the Borough.

**I have no interests to declare  
This does apply to me (give details)**

  

- vii) 5. Membership of any organisation that falls within the following definition:

*'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; and*  
*(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."*

**I have no interests to declare  
This does apply to me (give details)**



6 Any other declarations of financial or non-financial interests which could conflict with the Council's interests.

Signature of Officer:.....Date:.....

**NOTES**

- a) This form must be completed and returned to your Director immediately. All officers will be required to complete this form upon appointment and when it is circulated which will be on a three yearly basis.
- b) You must notify your Director immediately in writing should any of your interests change
- c) The Register will not be made public unless the Council is legally required to do so or unless the member of staff has given his/her written approval
- d) This procedure exists to protect both yourself and the Council, and it is your duty to ensure that you discharge this duty effectively. You must, therefore, be aware that any failure to disclose interests which the Council do reasonably deem to be notifiable, will be regarded as a disciplinary offence, which may result in your dismissal from the Council's service. You are therefore actively encouraged to discuss any issue which you believe falls within the purview of this policy with your manager if you are in any doubt as to your position with regard to declaration/seeking approval



Communities in control: Real people, real power  
Codes of conduct for local authority members and  
employees

**A consultation**



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Codes of conduct for local authority members and  
employees

**A consultation**

October 2008

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# 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



email: [conductcode@communities.gsi.gov.uk](mailto: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](http://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](http://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](http://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 a 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 1/100<sup>th</sup> 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 considered 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 subparagraph (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](http://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

e-mail: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

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