

## **Joint Meeting of the Durham County Council, County Durham and Darlington Fire and Rescue Authority and Durham Police Authority Standards Committees**

**8 March 2007**

### **Consultation on a Revised Model Code of Conduct for Local Authority Members**

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#### **Report of Lesley Davies, Monitoring Officer**

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##### **Background**

1. The Local Government White Paper, *Strong and Prosperous Communities*, published in October last year announced the Government's intention to put in place a clearer, simpler and more proportionate code of conduct for local authority members which would include changes to the rules on personal and prejudicial interests to remove current barriers to councillors speaking up for their constituents or for public bodies on which they have been appointed.

2. This announcement followed the Discussion Paper *Conduct in English Local Government: The Future*, issued by the then Office of the Deputy Prime Minister in December 2005, which set out the Government's response to the recommendations made by the Standards Board for England for amendments to the model code of conduct for local authority members.

3. These recommendations followed extensive consultation by the Board in 2005 on amending the code, which attracted over 1,200 responses. Members may recall I submitted a joint response on behalf of the Standards Committees for the County Council, Police and Fire and Rescue Authorities, to the consultation questions posed and endorsing the Board's aim to ensure the Code would be an easily understood, living document that would take into account the realities of serving local communities.

4. The Government has expressed gratitude to the Board for the effort it put into its review and the detailed recommendations it formulated which have served as the basis of the current consultation.

##### **Consultation Process**

5. The Government has published a consultation paper seeking the views of principal local authorities, parish councils and other organisations and individuals on the draft of a proposed new model code of conduct for local authority members. (Appendix 1 refers.) Responses to the consultation paper have been invited by 9 March 2007.

6. I have met with the Chairmen of our three Standards Committees to discuss the explanatory commentary provided as part of the consultation paper and to consider the specific questions posed therein.

### **Suggested Response**

7. As a result, a suggested joint response to the consultation is attached as Appendix 2 for consideration. Members' views and comments on the proposed response are welcomed.

## Appendix 2

### **Consultation on a Revised Model Code of Conduct for Local Authority Members**

#### **Unlawful discrimination**

We endorse this course of action as a practical solution to ensure the Code continues to support the principles of fair treatment and respect for others, including behaviour and actions which could undermine the principles of equality.

#### **Bullying**

In the Standards Board consultation exercise we supported the inclusion of a specific provision on bullying so we welcome this proposal. Clear guidance from the Standards Board on the definitions of behaviour and actions that constitute bullying will be important.

#### **Disclosure of confidential information**

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

A1. We agree that the proposed text does strike an appropriate balance in this matter. Clear and practical guidance from the Standards Board will be essential.

#### **Behaviour outside official duties**

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

A2. We recognise the importance of clarity and certainty as far as this particular issue is concerned. However, we remain concerned that certain types of behaviour in private life whilst not unlawful will inevitably reflect adversely on the reputation of the authority and public perception in general – therefore, will the Standards Board issue advice on how to deal with such situations?

#### **Commission of criminal offence before taking office**

We support what we see as a sensible and appropriate amendment.

## **Using or seeking to use improper influence**

We see these amendments as helpful clarification.

### **Publicity code**

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

A3. We feel the Publicity Code does serve a useful purpose. We think it is important that promotional activities and material produced by authorities should be objective and balanced and the Code reinforces this. If the Code were to be abolished there would need to be something in its place to ensure consistency of practice. We also consider that authorities not currently subject to the Publicity Code should be required to follow it.

## **Reporting breaches of the code and proscribing intimidation**

We agree with these proposals aimed at discouraging trivial allegations and prohibiting intimidation.

### **Gifts and hospitality**

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

A4. Yes we do think it does adequately combine the needs for transparency and proportionality. In addition it would be helpful to have some further guidance from the Standards Board for Members on the criteria for deciding whether or not to accept a gift or hospitality in the first place.

## **Body influencing public opinion or policy**

We agree this is helpful clarification.

## **Interests of family, friends and those with a close personal association**

We agree that the amendment helps to further define personal interests.

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

A5. Yes we agree that it does now adequately cover the breadth of relationships and the Standards Board Guidance referenced will be important and helpful.

### **Definition of personal interests**

We welcome the change of definition to provide a more locally-based focus to ensure that interests shared with a substantial number of other residents do not need to be declared thereby ensuring Members are not necessarily prevented from taking part in Council meetings and representing their communities.

### **Disclosure of personal interests**

We agree this would be a sensible and fair viewpoint.

### **Public service interests**

We see this as a sensible proposal which will make requirements less onerous for *dual hatted members* as well as members appointed and nominated to outside bodies.

### **Prejudicial interests – List of exemptions**

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

A6. Yes we think it would be helpful to include the new exceptions and we support the technical amendment around a member's attendance at a standards committee hearing. We welcome the simplification of the exemptions.

### **Overview and scrutiny committees**

We agree this is a sensible clarification of the restrictions applying to participation in the scrutiny function.

### **Participation in relation to prejudicial interests**

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

A7. We consider the text is appropriate. We welcome the proposal for clearer and more proportionate rules to apply in these situations. However, further guidance will be needed from the Standards Board since clarity in relation to prejudicial interests is essential.

### **Sensitive Information**

We see both of these proposals as an appropriate way of dealing with sensitive information.

### **National Park and Boards Authorities – Prejudicial Interest**

Not applicable.

### **Register of Members' Interests**

Noted.

### **Gender neutrality of language**

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

A8. We agree that language needs to be gender neutral, however, we are not convinced that amending the wording to *you* rather than *he/she* will make the Code any more clearer or accessible.

### **General Principles**

In the Standards Board's earlier consultation we indicated our support for the ten General Principles of conduct in public life to be incorporated as a preamble to the Code because they were intended to underpin and steer its provisions, and would serve as a useful reminder to everyone concerned. No mention of this proposal is made in the latest consultation so are we to assume the idea has been shelved?

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