

**Communities in Control: Real People, Real Power:
Codes of Conduct for local authority members and employees - A Consultation**

Annex A: List of Consultation Questions

Standards Committee Replies

Chapter 2: Code of Conduct for local authority members

Question 1: Do you agree that a members' code should apply to a member's conduct when acting in their non-official capacity?

Response: Yes. It is considered appropriate, in certain circumstances, for conduct in private life to be covered by the Code of Conduct for Members. This is particularly so where the misconduct concerns the person's suitability to be a member and is damaging to the relevant authority's reputation.

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.

Response: Distinguishing between certain criminal offences creates difficulties because, for instance, some offences for which the member has the chance to pay a fixed penalty, may be of a type or sufficiently serious to have an impact on the member's suitability to continue in a certain position of responsibility (if not as a member) and/or may impact detrimentally on the authority's reputation.

It is considered that including all criminal offences is, therefore, more appropriate. Whether or not action is taken under the Code of Conduct and what that action might be would then be a matter for a Standards Committee's judgement.

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.

Response: This appears to be a reasonable definition.

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?

Response: Yes, subject to the previous comments in response to question 2.

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

Response: It is agreed that an investigation should not proceed until the criminal process has been completed. However, there is concern that this will mean a significant delay to any action under the Code of Conduct and that this may bring that process into disrepute. What action can be taken under the Code of Conduct which falls short of concluding an investigation? Can a complaint be lodged and considered by an Assessment Sub-Committee, for instance? Some clarification around this would be helpful. Also could an investigation proceed with the consent of, and in liaison with those who have responsibility for the criminal process?

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?

Response: The proposed amendments to the members' code are considered helpful and acceptable.

Guidance, if not changes to the Code, would be of assistance regarding when the provisions of the Code, eg about declaring interests, might apply to informal meetings (as opposed to meetings as defined in the current Code) of members and officers.

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?

Response: No

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.

Response: No, but please refer to the comments in response to question 6.

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?

Response: Yes, two months is sufficient and to be welcomed, particularly insofar as Town and Parish Councils are concerned, many of which meet only infrequently.

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

Response: Provided that the wider definition of criminal offence is applied (please see comments in response to question 2), then yes the addition of the new principle is agreed. If the wider definition of criminal offence is not applied, then the proposed principle would potentially be wider than the proposed criminal conduct to be covered by the new Code.

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?

Response: The comments in response to questions 2 and 10 refer.

Question 12: Do you agree with this definition of "official capacity" for the purpose of the General Principles Order?

Response: Yes, as indicated in response to question 3.

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?

Response: This would be useful, particularly for more senior Officers.

Question 14: Should we apply the employees' code to firefighters, teachers, community support officers and solicitors?

Response: Yes, employees in professions covered by other Codes should still be covered by any new model Code of Conduct. This is currently the case eg for solicitors employed in local government and should not change in the event of any new model Code. The relevant codes are different and have different purposes. In the event of any conflict, however, the code applying to the profession would have to take precedence.

Question 15: Are there any other categories of employee in respect of whom it is not necessary to apply the Code?

Response: No, subject to the comments about any conflict between two codes in the reply to 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: Yes it appears to do, but it should be drafted as a Code, akin to the members' code, rather than be a statement of values.

- 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:** Political restriction would seem to be the preferred of the two specified models. That would equate more to the basis of the members’ code.
- Question 18:** Should the code contain a requirement for qualifying employees to publicly register any interests?
- Response:** Yes, registration of interests should be required. This is good practice and is a requirement of our authority’s existing governance arrangements.
- 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:** No, the proposals seem appropriate and reasonable.
- 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:** The provisions concerning prejudicial interests and the action which an employee with such an interest should take need to be tightened up, more along the lines of the members’ code.
- 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, the proposals seem reasonable and appropriate. See, however, the comments in response to question 20.
- Question 22:** Should the employees’ code extend to employees of parish councils?
- Response:** Logically the proposed code should apply to parish council employees, but this may create practical problems to many of the smaller councils which may only have one, part-time employee or volunteer.