

STANDARDS COMMITTEE – 13 NOVEMBER 2008

CONSULTATION – COMMUNITIES IN CONTROL: REAL PEOPLE, REAL POWER CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES A CONSULTATION

Report of the: Monitoring Officer

Status: For consideration and discussion

Executive Summary: To inform Members of the consultation process that is taking place which 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. The consultation paper also makes proposals for revising the General Principles Order.

This report supports the Key Aim of effective management of Council resources.

Portfolio Holder Cllr. Loney

Head of Service Head of Legal and Democratic Services – Christine Nuttall

Recommendation: That this report be discussed and responses given to the Department of Communities and Local Government by 24th December 2008.

Background

- 1 The Department for Communities and Local Government issued a Consultation Paper on the 1st October 2008 entitled "Communities in control: Real people, real power: Codes of conduct for local authority members and employees – A consultation".
- 2 The paper is the next in a series of Communities in Control consultation documents following the publication of the Local Government Empowerment White Paper, "Communities in Control: Real people, real power" and builds on the work still in progress from the 2006 White Paper, "Strong and Prosperous Communities".

Introduction

- 3 The paper invites views on the operation of, and proposed revisions to the Member's Code, including reconfiguring the Member's 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.

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- 4 The paper also seeks views on the proposed introduction of a Model Code of Conduct for local government employees. This part of the consultation document has been referred to the Human Resources Team for consultation and comment.
- 5 The Department for Communities and Local Government have sent copies of the consultation paper to all parish/town councils and other organisations and individuals who have a particular interest in these issues. In addition the consultation document has been circulated internally to all District Council Members.

Main provisions of the Consultation paper

- 6 For completeness a full copy of the Consultation Paper is set out as an Appendix to this report. The main items are summarised below:
 - The Members' Code should apply to a Member's conduct when acting in their non-official capacity?
 - It is proposed for the purposes 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. The definition would not include police cautions.
 - It is proposed 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.
 - It is also proposed that the Members' Code would apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK.
 - An ethical investigation would not proceed until the criminal process has been completed.
- 7 The Consultation paper sets out questions on the above proposals and asks the following additional questions:
 - Do you think that the amendments to the Members' Code are required? Are there any other drafting amendments which would be helpful?
 - Are there any aspects of conduct currently included in the Members' Code that are not required?
 - Are there any aspects of conduct in a Member's official capacity not specified in the Members' Code that should be included.

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- 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?

General Principles Order

- 8 There are ten general principles that underpin the provisions of the Members' Code which are:
- Selflessness
 - Honesty and Integrity
 - Objectivity
 - Accountability
 - Openness
 - Personal Judgement
 - Respect for Others
 - Duty to uphold the law
 - Stewardship
 - Leadership
- 9 It is proposed that the General Principles set out above 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. It is proposed that the following be added to the 10 existing principles:
- Duty to abide by the law
- 10 It is proposed that for the General Principles 'criminal offence' would be defined as "any conduct that has resulted in a criminal conviction". The question asked in the Consultation paper is whether 'criminal offence' should be defined differently.
- 11 It is also proposed that for the General Principles '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". The question is then asked whether you agree with this definition.
- 12 The Consultation Paper sets out a list of questions at Annex A.

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Submission made by Members of this Committee

- 13 The closing date for comments on the Consultation Paper is the 24th December 2008 . Responses 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

e-mail: conductcode@communities.gsi.gov.uk

Options (and Reasons for the Recommendation)

- 14 The report is for information and discussion by Members to formulate appropriate responses.

Key Implications

Financial

- 15 Changes to the Members' Code of Conduct will result in a need for a programme of training for Members and Officers. Attempts will be made to keep training costs within existing budgets.

Legal, Human Rights etc.

- 16 Changes to the Code of Conduct are welcomed if they provide clarification and liberalisation whilst maintaining the underlying principles of the Code.

Resource (non-financial)

- 17 Accommodation resources may be required for training purposes.

Value For Money

- 18 Attempts will be made to try and absorb training requirements within existing budgets.

Equality

- 19 A fair, equitable and well defined Code of Conduct for Members will enhance the ethical agenda promoting public confidence in the governance arrangements of the Council.

Conclusions

- 20 Changes to the Members' Code of Conduct should produce simplification, clarification and liberalisation thus enhancing the ethical framework.

Risk Assessment Statement

21 There are no risks identified by the Consultation Exercise.

Sources of Information: Communities in control: Real people, real power:
Codes of conduct for local authority members and
employees – A consultation

Communities in Control: Real people, real power

Strong and Prosperous Communities

The Local Authorities (Model Code of Conduct)
Order 2007

The Relevant Authorities (General Principles)
Order 2001

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