

Consultation on Revised Model Code of Conduct

Report of the Clerk

For further information about this report please contact Sharon Lloyd, Corporate Services Manager, on 01743 260210.

1 Purpose of Report

On 22 January the Department for Communities and Local Government published a consultation paper seeking views on a draft new Model Code of Conduct for Local Authority Members. This report summarises the more significant changes proposed and asks the Fire Authority to delegate authority to its Chair, the Chair of its Standards Committee and its Clerk and Monitoring Officer to respond to the consultation on its behalf.

2 Recommendations

The Fire Authority is asked to delegate authority to its Chair, the Chair of its Standards Committee and its Clerk and Monitoring Officer to respond to the consultation on its behalf, whilst taking into account, as far as possible, the views expressed to them by individual Members.

3 Background

The Local Government White Paper 'Strong and Prosperous Communities', published in October 2006, announced the Government's intention to put in place a clearer, simpler and more proportionate Code of Conduct for Members of local authorities, which would include changes to the rules on personal and prejudicial interests. This followed its discussion paper 'Standards of Conduct in English Local Government: The Future' in December 2005, which included the Government's response to recommendations from the Standards Board for England for amendments to the Model Code of Conduct for Members.

On 22 January 2007 the Department for Communities and Local Government published a consultation paper, seeking views on a draft new Model Code of Conduct for Local Authority Members. A copy of that paper has previously been sent to all Members of the Fire Authority and to the 2 non-elected, Members of its Standards Committee.



4 Proposed New Model Code of Conduct

A summary of the proposed more significant changes, based on a document prepared by the Vice-Chair of the Standards Board for England, is given below.

Consolidation

The Government is proposing to combine the current 4 individual Codes into one consolidated Code. The four Codes are:

- The Local Authorities (Model Code of Conduct) (England) Order 2001
- The Parish Councils (Model Code of Conduct) Order 2001
- The National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001
- The Police Authorities (Model Code of Conduct) Order 2001

Unlawful Discrimination

It is proposed that the reference to unlawful discrimination be deleted and replaced with a provision proscribing Members from doing anything that would seriously prejudice their authority's statutory duties in regard to equality.

Bullying

The current Code states that a Member must treat others with respect and that a Member must not bring his or her office or authority into disrepute. It makes no specific reference, however, to bullying behaviour. It is proposed to add a specific provision to indicate that Members must not bully any person, i.e. that bullying of other Members, officers or anyone else is a breach of the Code. The Standards Board will issue guidance on the specific definition of bullying.

Disclosure of Confidential Information

The Code currently provides that a Member should not disclose information given to them in confidence or which the Member believes to be of a confidential nature. There is no explicit provision allowing Members to disclose information, if this is in the public interest. This fails to take account of Article 10(1) of the European Convention on Human Rights. It is, therefore, proposed that a Member may disclose information of a confidential nature in the public interest, provided that the disclosure is in good faith and reasonable and that the Member has not breached any reasonable requirements of the authority in the form of protocols or procedures. The Standards Board will issue guidance on how they would expect Members to interpret this requirement.



Behaviour outside Official Duties

Two paragraphs of the current Code apply to Members acting outside of their official duties:

- Conducting themselves in a manner that could be reasonably be regarded as bringing the office into disrepute; and
- Using their position as a Member to secure improperly for themselves or anyone else an advantage or disadvantage.

It is proposed that a narrower interpretation is applied and that only conduct that amounts to a criminal offence should be regarded as capable of bringing the Member's office or authority into disrepute.

Note: This provision will only be effective when the Local Government and Public Involvement in Health Bill has been enacted and Section 52 of the Local Government Act 2000 has been amended.

Reporting Breaches of the Code and Intimidation

It is proposed that the requirement placed on Members to report other Members' breaches of the Code, which has been perceived by some to encourage Members to make trivial allegations, is removed. At the same time it is proposed to add a provision making the intimidation, or attempted intimidation, of a complainant or witness a breach of the Code.

Personal Interests

It is proposed to amend the definition of personal interest so that a Member should not be required to declare an interest in a matter, unless the interest is greater than that of the majority of the inhabitants of the ward affected by the matter. For parish councils and other authorities, the definition would apply in respect of the authority's whole area. This change is intended to provide a more locally based focus for the definition of a personal interest and should mean that a personal interest would not arise where interests are shared by a substantial number of inhabitants in the authority's area.

Public Service Interest

A new category of 'public service interest' is proposed, which arises where a Member is also a member of another public body or has been nominated or appointed by the body to represent it on another organisation. In these circumstances an interest would only need to be declared if the Member speaks on a matter relating to that organisation.

Participation in relation to Prejudicial Interests

The consultation paper proposes new rules to apply in circumstances where Members have a prejudicial interest. The aim is to provide for clearer and more proportionate rules to apply in respect of the participation in meetings for



those who have a public service interest, or are members of a charity or lobbying group, or are attending a meeting to make representations.

Members, who have a public service interest, would be able to participate fully in meetings, including speaking and voting on a matter, unless the matter relates to the financial affairs of the body concerned or the determination of any approval, consent or licence in relation to the body, for example a planning application.

Any Member will not be deemed to have a prejudicial interest, where they attend a meeting to make representations, answer questions or give evidence, provided that the authority or committee agrees that the Member may do so. After Members have made representations or answered questions, they must withdraw from the room.

Gifts and Hospitality

Currently, the receipt of gifts and hospitality over the value of £25 must be notified in writing to the Monitoring Officer. It is proposed that, in future, information about gifts and hospitality should be included in the Register of Interests. This would mean that such gifts and hospitality are registered as personal interests that would be required to be disclosed at a meeting. To ensure that the provision is proportionate, the requirement to declare the interest at a meeting would cease five years after receipt of the gift or hospitality.

Publicity Code

It is proposed to include in section 5(b) of the Code (which relates to the use of the authority's resources) the need for Members to have regard to the guidance set out in the Government's Code of Recommended Practice on Local Authority Publicity. A copy of the Code can be found at:

<http://www.communities.gov.uk/index.asp?id=1133867>

Sensitive Information

It is proposed to include a provision for sensitive information in respect of private interests not to be included on the Register of Interests, where revealing it is likely to lead to the Member, or those with whom they live, being subject to violence or intimidation. Application for this exclusion would be made to the Monitoring Officer.

5 Consultation Timetable and Response

The Department for Communities and Local Government has asked that responses to its consultation paper are returned by 9 March 2007. Its intention is that the necessary regulations will be made in order for the revised Code to come into force at the same time as the local elections take place in May 2007.



In order to formulate a cohesive response the Fire Authority is asked to delegate authority to its Chair, the Chair of its Standards Committee and its Clerk and Monitoring Officer to respond to the consultation on its behalf, whilst taking into account as far as possible the views expressed to them by individual Members. If this recommendation is agreed, Members are requested to forward their views on the proposed changes in writing to the Corporate Services Manager at Brigade Headquarters. If, however, any Member feels strongly about any particular issue, they may wish to send an individual response directly to the Department for Communities and Local Government. The address for responses is given on the consultation document.

6 Financial Implications

There are no material direct costs arising directly out of this report.

7 Legal Comment

New legislation will be required in order to make the changes to the Model Code of Conduct referred to in section 4 of this report. This will be in the form of a Statutory Instrument, which is included in the consultation document issued by the Department for Communities and Local Government and is entitled 'The Local Authorities (Model Code of Conduct) Order [2007]'. Until the proposed legislation (subject to any changes that result from the consultation exercise) comes into force and is adopted by the Fire Authority, the existing Model Code of Conduct (which is contained in Section 10 of the Shropshire and Wrekin Fire Authority Handbook) continues to apply.

8 Equality Impact Assessment

This report has been assessed to ensure that any effect it might have would not result in discriminatory practice or differential impact upon specific groups.

Having considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2), Officers have concluded that the recommendation made within this report does not introduce or modify any policy, procedure or function within the organisation and an Initial Equality Impact Assessment is not, therefore, required.

9 Appendices

There are no appendices attached to this report



10 Background Papers

Department for Communities and Local Government:

22 January 2007 Consultation on Amendments to the Model Code of Conduct for Local Authority Members

www.communities.gov.uk/index.asp?id=1505696

Code of Recommended Practice on Local Authority Publicity

<http://www.communities.gov.uk/index.asp?id=1133867>

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	*
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*

