

NORTH LINCOLNSHIRE COUNCIL

STANDARDS COMMITTEE

**CODES OF CONDUCT FOR LOCAL
AUTHORITY MEMBERS AND EMPLOYEES**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To advise members of the contents of the consultation paper issued by the Department of Communities and Local Government.
- 1.2 To have regard to the proposed changes to the member Code of Conduct, the General Principles and the introduction of an employee Code of Conduct.

2. BACKGROUND INFORMATION

- 2.1 A new Communities and Local Government Consultation Paper invites views on proposals for revising the model Code of Conduct for local authority members principally to clarify its application to members' conduct in their non official capacity. It also invites views on proposals for associated changes to the General Principles which govern the conduct of local authority members. It also 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 into the terms and conditions of employment of employees. A copy of the full consultation paper is attached.
- 2.2 The Government believes 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 the Government considers that it is now appropriate to review the Code. The proposed amendments to the Code reflect discussions with the Standards Board.
- 2.3 The Government proposes that the new Members' Code will be differently formatted making it easier to interpret and clearer in its application by dividing it into two sections; the first dealing with members' conduct when acting in an official capacity; the second dealing with members' conduct in their non official capacity.
- 2.4 The Government is minded to bring any changes into effect in line with the local government elections in 2009.
- 2.5 The need to clarify what conduct in a member's non official capacity is covered by the Members' Code arose as a consequence of the High Court's judgment in 2006 relating to Mayor Livingstone. This cast doubt on the ability

of the Code to cover members' conduct not linked to the performance of their public duties.

- 2.6 The Government therefore proposes 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".
- 2.7 It is further proposed that "criminal offence" be defined as any criminal offence for which a 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 Standards Board would be asked to issue guidance on how a criminal offence should be treated in its application to the conduct regime.
- 2.8 For the purposes of the Code it is proposed that "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."
- 2.9 It is also proposed that a criminal offence and conviction abroad would come within the Code if it would have been a criminal offence if committed in the UK.
- 2.10 It is suggested that any investigation under the Code should not proceed until the criminal process has been completed.
- 2.11 It is proposed that any new Members' Code would take into account any existing registration of members' interests rather than members having to reregister.
- 2.12 It is suggested that paragraph 12(2) which allows a member with a personal and prejudicial interest to make representations in certain circumstances becomes mandatory for town/parish councils.
- 2.13 There are also a number of drafting proposals -
 - paragraphs 8(1)(a)(i) and (ix) be amended to clarify that the paragraphs are referring to other bodies putting it beyond doubt that this is not a reference to the authority itself.
 - paragraphs 8(1)(a) 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.
 - paragraph 10(2) be amended to remove the double negative to make it clear that a prejudicial interest exists where the business of the authority affects the members' financial interest etc.
 - paragraph 10(2)(b) the meaning of 'determining' be clarified to include variation, attaching, removing or amending conditions, waiving or revoking applications.

- paragraph 10(2)(c) be amended to clarify that a member would not have a prejudicial interest where the business related to giving evidence before a Standards Committee.

2.14 It is intended that the ten General Principles which underpin the Members' Code apply to a member when acting in an official capacity and a new principle be added as follows to apply to a member acting in a non official capacity.

"Duty to abide by the law - Members should not engage in conduct which constitutes a criminal offence."

2.15 In August 2004 the then Office of the Deputy Prime Minister issued a consultation paper 'A Model Code of Conduct for Local government Employees'. It was decided that implementation should be delayed pending the review of the Members' Code and experience of its operation. It was also accepted as a result of the responses that the universal application of a code to all employees requiring the registration of interests would be needlessly bureaucratic.

2.16 It is not proposed to apply the employees' code to employees in professions that are covered by their own Code of Conduct e.g. teachers, solicitors.

2.17 The Government proposes a two tier model. The first tier will apply equally to all authority employees and will enshrine the core values that it is reasonably expected every employee would abide by. The second tier will apply to "qualifying employees i.e. either senior officials or those carrying out delegated functions.

2.18 The core values for all employees would be proposed as follows:-

General Principles - acting with integrity, honesty, impartiality and objectivity.

Accountability

Political Neutrality

Relations with members, the public and other employees - mutual respect; professional relationship, dealing sympathetically, efficiently and without bias

Equality

Stewardship

Personal Interests - no conflict, no misuse of position/information, declarations of gifts/benefits

Whistleblowing

Treatment of Information - appropriate treatment of confidential information

Appointment of Staff - on merits

Investigations by Monitoring Officer - comply with requirements

2.19 Two alternatives are given for selecting those "qualifying employees" to which additional values would apply. The first is those posts which are 'politically restricted'. The second is officers performing functions delegated to them by members.

2.20 The proposed values would be -

Compromising the impartiality of officers of the authority.

Using Position Improperly

Considering Advice Provided

Personal Interests - the following interests to be registered within 28 days with the Monitoring Officer

- (a) membership, position of control or management in bodies exercising functions of a public nature
- (b) any business owned or in which the employee has a share of greater than £25,000 or 1/100th of the value of the share capital
- (c) any contract between the authority and any company in which the employee has an interest
- (d) any land or property in the authority's area in which the employee has a beneficial interest

there is provision for the interest to be exempted if it would put the employee at risk

Prejudicial Interest - where a matter affects the employee's financial interest or relates to a licensing or regulatory matter. These interests should be declared and steps taken to avoid influential involvement in the matter.

3. **OPTIONS FOR CONSIDERATION**

3.1 This paper is a consultation exercise to which the authority can respond or not.

4. **RESOURCE IMPLICATIONS (FINANCE, STAFFING, PROPERTY, IT)**

4.1 The council already has local codes dealing with prejudicial interests, gifts and hospitality and more general conduct requirements so the introduction of a new national code would require those local codes to be reviewed and a more extensive system established for recording employee interests. Arrangements would also have to be made for distributing the codes to all employees and making them aware of the provisions.

5. **OTHER IMPLICATIONS**

5.1 Being proposals within a Government Consultation Document these issues including diversity will have been the subject of national assessment where appropriate.

6. **OUTCOMES OF CONSULTATION**

6.1 The paper is put forward for consultation and so there are no outcomes at present. The paper has been forwarded to Human Resources as regards the proposed employee code.

7. **RECOMMENDATIONS**

7.1 The committee to consider if it wishes to make any comments

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Background Papers - Nil