



Leicester
City Council

WARDS AFFECTED
All Wards - Corporate Issue

Standards Committee

12th November 2008

Codes of Conduct for Local Authority Members and Employees
- Government Consultation

Report of the Service Director (Democratic Services)

1. Purpose of Report

This report draws members' attention to the Department for Communities and Local Government (DCLG) consultation on "Codes of Conduct for Local Authority Members and Employees". The consultation was launched in October and responses are sought by 24th December.

2. Recommendations

Members are asked to consider the DCLG consultation document and provide comments on it.

3. Report

- 3.1** The Department of Communities and Local Government is consulting on issues relating to codes of conduct for local authority members and employees. The consultation includes proposed amendments to clarify details of the members' Code of Conduct, which was last revised in 2007. These amendments have been suggested following the first year of operation of the 2007 Code. A copy of the consultation is appended to this report.
- 3.2** A significant proposed revision to the members' Code of Conduct covers the issue of "private capacity", an issue which has been discussed on a number of occasions by Leicester's Standards Assessment Sub-Committee.
- 3.3** The consultation sets out how the government proposes to amend regulations and extend the Code of Conduct to cover those occasions where a member's criminal behaviour, in a private capacity, brings disrepute to the local authority. It also seeks views on the operation of the Code including revisions covering personal and prejudicial interests.

3.4 There are a number of questions posed in the consultation document. Members may wish to make some early comments on the proposals at this meeting. The Committee may also wish to consider inviting comments from other interested groups, eg Cabinet, Scrutiny and political groups, within the council for inclusion in a final submission to the DCLG.

3.5 The consultation also relates to the introduction of a Code of Conduct for Employees, which would become part of the terms and conditions of employment of such employees. This element is being discussed by HR colleagues through appropriate channels.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None.

4.2 Legal Implications *(Peter Nicholls, Service Director (Legal))*

- a) The Local Authorities (Model Code of Conduct) Order, 2007 came into force on 3rd May, 2007. Now in place for over a year this consultation paper is designed to enable revision in the light of experience to date.
- b) The consultation paper proposes to clarify the definition of "prejudicial interest" by removing a double negative in the current definition which has confused many. Clarification would be welcomed.
- c) Section 183 of the Local Government Public Involvement & Health Act, 2007 inserted into section 50 of the Local Government Act, 2000 a requirement for the Secretary of State to specify which provisions of the members' Code apply in relation to a member's conduct when acting in an official capacity and which provisions apply when not acting in an official capacity. A provision may only be specified to apply to members' conduct when not acting in an official capacity if the conduct it prohibits constitutes a criminal offence. A power in section 50 of the Local Government Act, 2000 permits the Secretary of State to define for the purpose of the members' Code which is meant by a 'criminal offence' and what is meant by 'official capacity'.
- d) It is 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.
- e) The paper proposes that 'official capacity' be defined as being engaged in the business of an authority, including the business of the office to which a member is elected or appointed or acting, claiming to act or giving the impression that the member is acting as a representative of the Authority.

- f) The proposed amendments include a revision to the general principles by adding a duty to abide by the law:

"Members must not bring their office or authority into disrepute by conduct which is a criminal offence."

- g) The paper includes a proposal to introduce a Model Code of Conduct for Local Government employees. Many local authorities such as Leicester already have a Code of Conduct for Employees which has been incorporated into standard terms and conditions of employment. Review and approval of any change to conditions of employment is within the remit of the Council's Employees Committee.
- h) The introduction of a Model Code of Conduct is long overdue and the proposal for a two tier model could be practical but there are legal concerns regarding the proposal to exempt employees who are already subject to professional codes e.g. solicitors and teachers. This would result in a very confusing regime and would exempt some employees from the core principles in the proposed Code. It is recommended that this be objected to.
- i) Also, it should be noted that the proposed Code includes mandatory whistleblowing, a provision which has been removed from the Code of Conduct for Elected Members.
- j) A further flaw in the proposed Code is a provision which provides that an employer must register any contracts between the Authority and any company the employee has an interest in but this is too limited because a contract may be with the employee personally or with other people or bodies to whom the employer has a close relationship, even if they do not constitute a company.
- k) Section 82(7) of the Local Government Act, 2000 provides that the provisions of the Code made under Section 82(1) of the Act will be deemed to be incorporated in employees' terms and conditions of employment."

5. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	

6. Background Papers – Local Government Act 1972

Communities in Control: Real People, Real Power – Codes of Conduct for Local Authority members and Employees - DCLG October 08.

7. Consultations

None.

8. Report Author

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