



DERBY CITY COUNCIL

STANDARDS COMMITTEE  
15 APRIL 2005

Report of the Director of Corporate Services

## Review of the Code of Conduct

### RECOMMENDATION

1. To respond to the questions put forward in the consultation document on the review of the Code of Conduct.

### SUPPORTING INFORMATION

- 2.1 The Standards Board for England announced in February a review of the Code of Conduct.
- 2.2 Consultation on the review has started and the attached documents set out details of the review and the questions to be answered. The deadline for responses is 17 June 2005.

- 2.3 Suggested responses are set out below:

- 1 **Should the ten general principles be incorporated as a preamble to the Code of Conduct?**

Yes – including the definitions of the principles, as we believe that these are necessary for an understanding of how the terms are used in this context. We consider they should remain principles rather than standards.

- 2 **Are there any other principles, which should be included in the Code of Conduct?**

No

- 3 **Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?**

It should remain a broad test – There is a concern that the current test does not deal with situations that may compromise the impartiality of officers and other members of the Council.

We consider the Code could usefully give guidance about what actions are appropriate when acting on behalf of constituents; eg, when is it appropriate for a member to:

- act as an advocate for a local constituent at a Council meeting/hearing or against the Council at a tribunal/Court hearing?
- to seek to influence the views of members of Committees who will be determining applications/licences or dealing with complaints, outside those meetings?
- to claim to act in a personal capacity when representing friends who are seeking services, grants or licences from the Council?

**4 Should the Code of Conduct include a specific provision on bullying? If so, is the ACAS definition of bullying quoted in the full consultation paper appropriate for this?**

Yes and the ACAS definition is considered appropriate

**5. Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?**

No. In most cases members could say the public interest would be served by a disclosure. They should go through the Freedom of Information application and appeal processes to determine whether the information is rightly regarded as confidential.

**6 Do you think the Code of Conduct should cover only information, which is in law "exempt" or "confidential", to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?**

Yes provided that the Freedom of Information Act application and appeals procedure is the route to follow to test the legality of the failure to disclose.

**7 Should the provision relating to disrepute be limited to activities undertaken in a member's official capacity or should it continue to apply to certain activities in a member's private life?**

The existing situation should continue. The Code only applies when a member acts in an official capacity other than the two exemptions which should continue to apply.

**8 If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?**

It should continue to be a broad provision but there should be a demonstrable link of the private conduct to performance of public office.

- 9 **We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?**
- Yes
- 10 **If so, how could we define 'inappropriate political purposes'?**
- It should be left to the definitions included in the publicity code and local protocols.
- 11 **Is the Code of Conduct right not to distinguish between physical and electronic resources?**
- Yes - in all cases the public funds the resources used. In the case of emails and web sites the addresses used may lead the public to reasonably believe the material has been sent by or on behalf of the Council.
- 12 **Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?**
- It should be removed altogether as it does not help relationships between members. Members will continue to report serious failures as they do now.
- 13 **If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?**
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- 14 **Should there be a further provision about making false, malicious or politically-motivated allegations?**
- Yes but due to the difficulties of proving motive and the fact that people may have more than one motive for their actions we believe this should be limited to knowingly false allegations. It should be a breach of the Code to make them. If the allegations made are true, then they should be considered regardless of the motivation of the person reporting them.
- 15 **Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?**
- The Code already covers this in our view.

16 **Do you think the term 'friend' requires further definition in the Code of Conduct?**

No, but we think it would be helpful if the Code specifically refers to the guidance given in the consultation document.

17 **Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?**

No, but there are practical difficulties due to possible delay caused by referring these matters to the Standards Committee when the decisions being determined need a speedy resolution. We would like to see a return to the approach that if more than 2/3 of the Committee have the same interest they must declare it, and can then proceed to a vote.

18 **Should a new category of 'public service interests' be created, relating to service on other public bodies and which is subject to different rules of conduct?**

There is benefit in the creation of a new category, but the same rules should apply to all members having prejudicial interests whatever their source given the need to act fairly particularly when carrying out quasi judicial functions.

19 **If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?**

Yes to maintain public confidence.

20 **Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?**

No

21 **Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?**

No – having a prejudicial interest may lead to bias or a lack of objectivity regardless of its source

22 **Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?**

No. Members are not ordinary members of the public. This would not give an appearance of being fair.

- 23 **Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?**

No, because they would have greater influence than members of the public.

- 24 **Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?**

No

- 25 **Should members be required to register membership of private clubs and organisations? And if so, should it be limited to organisations within or near an authority's area?**

Yes - there is a perception that certain organisations aim to influence local decision making

- 26 **Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?**

Yes

- 27 **Should members also need to declare offers of gifts and hospitality that are declined?**

No – but they could have a discretion to do so if they wanted to

- 28 **Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?**

A gift or series of gifts with a value of more than £100 in any 12 month period

- 29 **Is £25 is an appropriate threshold for the declaration of gifts and hospitality?**

Yes.

#### 2.4 The ACAS definition of bullying referred to in Answer 4 reads:

"Bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine an individual or a group of individuals, gradually eroding their confidence and capability which may cause them to suffer stress...."

For more information contact:	Michael Foote Tel 01332 255448 e-mail 01332 256232
Background papers:	None
List of appendices	Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial**

1. None directly arising.

**Legal**

2. A revised Code of Conduct would need to be authorised by the Office of the Deputy Prime Minister.

**Personnel**

3. None directly arising.

**Equalities impact**

4. None.

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