

Liberal Democrat Response to Model Code Consultation

Communities in Control: real people, real power Codes of conduct for local authority members and employees

A consultation

Members code of conduct.

The function of the code of conduct should be to provide members with guidance in regard to their actions/behaviour as an elected member of a local authority.

At the same time it should provide the general public with a clear idea of what it might reasonably expect from its elected representatives/officers with regard to their public duties. The code should not seek to direct the private lives of individuals, or place on elected representatives' duties and obligations which one would not expect to apply to ordinary members of the public.

Consultation Questions

Do you agree that members' Code should apply to a member's conduct when acting in their non-official capacity?

Overall there are no objections to this but there were some concerns that this could be seen to be unreasonable and maybe only in exceptional and specific and described circumstances should non-official conduct be covered by the code.

Do you agree with this definition of 'criminal offence; for the purpose of the members' code?

The principle of concentrating on serious criminal offences and excluding minor criminal offences e.g. car parking offences is sound however there may be a case for listing other minor offences which would not attract a fixed penalty.

Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.

Agree with this definition.

Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

It is fair that the code should only cover criminal offences that would be criminal offences in the UK.

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Yes.

Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

The items in reference to Parish Councils are a matter for them to comment on. Clarification regarding membership of other bodies would be welcomed.

The financial limit for registering gifts is too low, it should be raised to at least £50 and index linked. There should also be a time limit of three years to correspond with the time limit when gifts cease to be personal interests for the purposes of meetings.

Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

It would be useful to have further clarification regarding prejudicial interests which can cause great discussion as members err on the side of caution and absent themselves when they may not need to do so.

Are there any aspects of the conduct in a members' official capacity not specified in the members' code that should be included? Please give details.

They seem to be covered.

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?

Members' undertaking for the current code should be carried over to the new code allowing the members to sign up to the new code within the two months' timescale. The timescale could be extended for larger authorities which may struggle to get members trained in that time.

Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

Overall there are no objections to this but there were some concerns that this could be seen to be unreasonable and maybe only in exceptional and specific and described circumstances should non-official conduct be covered by the code.

Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?

There are no objections to this.

Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

There are no objections to this.

Do you agree that a mandatory model of code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment?

There should be an employees' code of practice incorporated into their terms and conditions but not necessarily the same as the Councillors' one.

Should we apply the employees' code to fire-fighters, teachers, community support officers and solicitors?

The employees' code should apply to all employees otherwise it would be discriminatory.

Are there any other categories of employee in respect of whom it is not necessary to apply the code?

The employees' code should apply to all employees otherwise it would be discriminatory.

Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

The core values should be incorporated in the code for all employees employed directly and indirectly.

Should the selection of 'qualifying employees' be made on the basis of a 'political restriction' style model or should qualifying employees be selected using the delegation model?

This could be a decision for the Council. The delegation model could be used as this exists, is transparent and bound by the constitution and understood. There are concerns about 'sub-delegated' powers to relatively junior staff and whether the checks and monitoring of these decisions are robust.

Should the code contain a requirement for qualifying employees to publicly register any interest?

Yes but only the same interests that Members are required to register, however there are concerns about listing the home address of officers.

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

The code should identify what is relevant to a particular post. What might be relevant for a planning officer would be different for an officer in social services.

Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?

A prejudicial interest is the same for both members and employees and both parties should behave in the same way by withdrawing from the decision making process. There should be alternative ways to deal with this but if there are no alternatives there needs to be special controls in place.

Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

There should not be too many restrictions on qualifying employees but it depends on what they declare. The code should identify what is relevant to a particular post. What might be relevant for a planning officer would be different for an officer in social services.

Should the employees' code extend to employees of parish councils?

Yes if they have qualifying employees otherwise it would be discriminatory.