



Office of the
Deputy Prime Minister

Creating sustainable communities

A Model Code of Conduct for Local Government Employees

A Consultation Paper



Office of the
Deputy Prime Minister

Creating sustainable communities

A Model Code of Conduct for Local Government Employees

A Consultation Paper

August 2004

Office of the Deputy Prime Minister: London

The Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Telephone 020 7944 4400
Web site www.odpm.gov.uk

© Crown copyright 2004

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

For any other use of this material, please write to HMSO Licensing, St Clements House,
2-16 Colegate, Norwich NR3 1BQ Fax: 01603 723000 or e-mail: licensing@hmso.gov.uk.

Further copies of this guidance are available from:

ODPM Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Email: odpm@twoten.press.net

Printed in Great Britain on material comprising 75% post-consumer waste and 25% ECF pulp (cover) and 100% post-consumer waste (text).

August 2004

Product code: xxLRGGxxxxx

CONTENTS

| | | |
|----------------|--|----|
| 1 | Introduction | 5 |
| 2 | Background | 7 |
| 3 | Scope and Coverage | 8 |
| | Categories of employees covered | 8 |
| | Council Managers | 8 |
| | Political Assistants | 9 |
| 4 | Detailed Proposals | 10 |
| 5 | Next Steps | 15 |
| 6 | Draft Model Code of Conduct for Local Authority Employees | 16 |
| Annex A | Summary of Questions posed | 18 |
| Annex B | List of Consultees | 20 |
| Annex C | Consultation Criteria | 21 |

1. Introduction

1.1 The Local Government Act 2000 provided a new statutory framework to govern the conduct of members and employees of relevant authorities in England and police authorities in Wales. Under the provisions of the Act¹ the Secretary of State may, by order, issue a code regarding the conduct which is expected of qualifying employees of relevant authorities in England and police authorities in Wales. Once issued, this code will become part of such an employee's terms and conditions of employment.

1.2 This consultation seeks views on the Government's proposals for a model employees' code of conduct. Copies are being sent to the bodies listed at Annex B. The paper will be of particular interest to local government employees, their employers and the public sector unions. All authorities to which this consultation document is being copied are invited to draw it to the attention of their employees.

1.3 Comments on this consultation paper, by email or on paper, should be sent to:

William Tandoh
Democracy and Local Governance Division
Office of the Deputy Prime Minister,
Zone 5/A1
Eland House
Bressenden Place
London SW1E 5DU

e-mail: william.tandoh@odpm.gsi.gov.uk

The closing date for comments is **19 November 2004**. When commenting please make clear whether you represent any organisation or group, and in what capacity you are responding.

1.4 Further copies of the consultation paper are available from the above address or by telephoning 0207 944 8765. It is also available in the Local Government section of The Office's website at www.odpm.gov.uk

In due course, the Office may wish to publish contributions, or deposit them in the Office's library. Unless, therefore, a respondent specifically asks that a contribution be treated as confidential, it may be published, or otherwise made public. Confidential contributions will be included in any statistical summary of the numbers of comments received and views expressed. Correspondents should be aware that, in exceptional circumstances, confidentiality cannot always be guaranteed, for example where a response includes evidence of a serious crime. Any automatic confidentiality disclaimer generated by your organisation's IT system will not be respected unless you specifically include a request to the contrary in the main text of your response.

¹ Section 82

A summary of responses will be published on the ODPM web site by the end of February 2005. Paper copies of the summary will also be made available. The contact details will be as set out in paragraph 1.3.

This consultation document has been produced in accordance with the Government's Code of Practice on Consultation. The principal criteria governing this Code are reproduced at Annex C.

2. Background

2.1 The Local Government Act 2000 provides² for the Secretary of State to specify, by order, a code of conduct for relevant local government employees (“the *employees’ code of conduct*”).

2.2 Before making an order the Secretary of State is required³ to consult representatives and employees of relevant authorities, the Audit Commission and the Commission for Local Administration in England.

2.3 The Government has already made orders setting out general principles of conduct, and model codes, for elected and co-opted members of relevant local authorities. These, together with the proposed code of conduct for employees in Section 6, seek to establish a common core of fundamental values that should underpin standards of conduct in local government.

2.4 In August 2000, the Secretary of State invited the Local Government Association, Local Government Employers Organisation and the public sector unions to establish a working party to advise the Government on the scope and content of an employees’ code of conduct. The working party submitted its recommendations at the end of November of that year. The Government would like to thank the working party for its detailed consideration of the issues and further help in the development of the proposed code. The draft Code in Section 6 draws heavily on the work and recommendations of the working party.

2.5 The draft code defines the minimum standards of conduct that employees of relevant authorities will be expected to observe when carrying out their duties. By virtue of section 82(7) of the Act, once the Order containing the code has been made, these standards will be deemed to have been incorporated in employees’ terms and conditions of employment. The employing authority, therefore, can deal with any breaches of the code in the same way as any other breaches of employees’ contracts or terms and conditions.

² Section 82

³ by Section 82(4)

3. Scope and Coverage

Categories of employees covered

3.1 Local authorities employ around 1.5 million people in a wide variety of jobs. The employees' code of conduct will⁴ apply to them all, unless they are specifically excluded by regulations.

3.2 Reflecting the conclusions of the working party referred to at paragraph 2.4, the Government proposes to exclude firefighters and teachers from being subject to the local government employees' code. This is because they already have their own codes of conduct. Consultees might wish to consider whether there is also a case for excluding school support staff, who, like teachers are guided in their conduct by the school's policies and held accountable, through the head teacher, to the governing body.

3.3 In addition, under the Police Reform Act 2002 the Home Office is committed to producing a code of practice, which will cover standards of conduct, for community support officers.

3.4 The Government does not at present propose to make any further exclusions. Therefore, subject to the outcome of this consultation, the employees' code of conduct will apply to all other employees of relevant authorities.

Q.1 Is the Government right to exclude firefighters, teachers and community support officers?

Q.2 Are there other categories of employee who should not be subject to the employees' code, for example, school support staff? If so, which categories, and why should they be excluded?

Council Managers

3.5 Part II of the Local Government Act 2000 provided that principal local authorities (ie. county, district and London borough councils) must adopt executive arrangements. The broad models allowed included mayor/council manager; mayor/cabinet or leader/cabinet. In the first of these structures, the council manager would be an employee of the whole authority, but could be responsible for taking decisions relating to the delivery and implementation of the policy framework agreed by the council.

3.6 It has been argued that the functions exercised by a council manager make his or her role similar to that of an executive member of an authority; and that a council manager should therefore be subject to a code of conduct that mirrors those to which elected members are subject.

⁴ by Section 82

3.7 However, many other employees take decisions that are delegated to them by the council; and the Government therefore believes that a council manager should not be regarded as being in a fundamentally different position. Like other employees of the council, they should be subject to the employees' code. It, however, defines the *minimum* standards, so the employing authority could if appropriate impose additional, more stringent, conditions as part of a council manager's terms and conditions of employment.

Q.3 Do you agree that council managers should be subject to the same code as other employees?

Political Assistants

3.8 The Local Government and Housing Act 1989 makes provision for up to three persons to be employed as 'political assistants' to work with the three main parties of an authority. Each of the three largest political groups (subject to the third largest having at least 10% of the members of the authority) is entitled to appoint one political assistant. The assistants usually undertake research and provide administrative support for the groups. An elected mayor may appoint a political assistant and the Mayor of London may appoint two political advisers. Mayors' assistants are additional to the complement of assistants for political groups.

3.9 While such assistants do not serve all members of the authority, they are employees of the authority. The Government therefore proposes that they should be subject to the employees' code. This would be on the understanding that, in the case of these staff, the principle of impartiality in the Code should not imply a duty of political neutrality.

Q.4 Should different rules, or a separate Code, apply to political assistants?

4. Detailed Proposals

4.1 Relevant authorities employ a very wide range of staff. It would not be possible, within a single code of conduct, to provide a set of detailed requirements for every local government employee. In many cases, employees will be subject to detailed terms and conditions of employment, which are tailored to their particular job. In all cases, staff will be expected to comply with written, or oral, instructions about the way in which they tackle their duties.

4.2 The employees' code of conduct seeks to establish a set of "core principles" which underpin the concept of public service and which are applicable to all employees of relevant authorities, regardless of the precise nature of the job they do. The Government proposes that the code should establish requirements in the following areas:

- Honesty, Integrity, Impartiality and Objectivity
- Accountability
- Respect for Others
- Stewardship
- Personal Interests
- Registration of Interests
- Reporting Procedures
- Openness
- Appointment of Staff
- Duty of Trust

Honesty, Integrity, Impartiality and Objectivity

1. An employee must perform his duties with honesty, integrity, impartiality and objectivity.

Paragraph 1 provides a short overarching statement of the qualities expected of relevant authority employees, regardless of their position within the authority.

Accountability

2. An employee must be accountable to the authority for his actions.

Paragraph 2 sets out the accountability of an employee to his employer.

Respect for Others

3. An employee must –

- (a) treat others with respect;**
- (b) not discriminate unlawfully against any person; and**
- (c) treat members and co-opted members of the authority professionally**

Paragraph 3 makes any failure to comply with these provisions a breach of the conditions of employment.

Stewardship

4. An employee must –

- (a) use any public funds entrusted to or handled by him in a responsible and lawful manner; and**
- (b) not make personal use of property or facilities of the authority unless properly authorised to do so.**

Paragraph 4 makes any failure to comply with these provisions a breach of the conditions of employment.

Q.5 Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources?

Personal Interests

5. An employee must not in his official or personal capacity

- (a) allow his personal interests to conflict with the authority's requirements; or**
- (b) use his position improperly to confer an advantage or disadvantage on any person.**

Paragraph 5 articulates further the requirement in paragraph 1. It deals with the need for employees to ensure that their personal interests do not conflict with their public duty. For example, it might be that an official's spouse is an employee of a firm tendering to provide a service to the authority. It would be inappropriate for that official to take part in the tender assessment process.

This paragraph reflects the fact that the activities of an authority's employee outside the working environment are under public scrutiny in a way that that private sector employees are not; the Code therefore requires higher standards of conduct from them.

Q.6 Is it appropriate for the code to impact on an employee's private life or should it only apply to an employee at work?

Registration of Interests

- 6. An employee must comply with any requirements of the authority –**
- (a) to register or declare interests; and**
 - (b) to declare hospitality, benefits or gifts received as a consequence of his employment**

This provision deals with the registration of employees' interests that may have a bearing on the way in which the functions of the authority are discharged.

- Q.7 As with the members' code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered?**
- Q.8 If so, what should the list contain? Should it mirror part 3 of the councillors' code or be restricted to financial interests?**
- Q.9 Should such a list be available to the public?**
- Q.10 Alternatively, could the need for a list be restricted to officers above a certain salary, as applies, for example, to the current political restrictions regime?**
- Q.11 Should this provision be explicitly limited to interests, gifts etc that may have a bearing on the way in which the functions of the authority are discharged by the employee?**

Reporting Procedures

- 7. An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.**

This provision aims to address the need to protect employees who “blow the whistle” from victimisation. The Government attaches considerable importance to the need to ensure that individuals who are concerned about the conduct of their authority or individuals within it should be encouraged to make those concerns known.

Unlike elected and co-opted members of authorities, employees of authorities who “blow the whistle” are afforded some statutory protection. The Public Interest Disclosure Act 1998 builds on employment legislation by affording a measure of protection to workers who are dismissed or subject to detrimental treatment as a result of having ‘blown the whistle’.

The Government does not believe that it is necessary, therefore, to go further and impose a duty on employees to report misconduct. However, to strengthen the protection afforded to employees who do report their concerns, the Government proposes that it should be a breach of an employee's terms and conditions of employment if they victimise another employee who has used the authority's reporting procedures to report the misconduct of others.

Q.12 Does the proposal on the reporting of misconduct provide suitable protection for employees?

Q.13 Should the Code impose a duty on employees to report misconduct?

Openness

8. An employee must –

- (a) not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and**
- (b) not prevent another person from gaining access to information to which that person is entitled by law.**

Paragraph 8(b) reinforces the provisions in section 100H of the Local Government Act 1972 which introduced a criminal offence for anyone who intentionally obstructs a person from gaining access to information to which they are entitled. This part of the code applies, among other things, to the information to which a person is entitled by virtue of any regulations made under section 22 of the Local Government Act 2000, for example, access to committee meetings which are open to the public, written records of decisions made and reasons for those decisions, background papers and other relevant documents.

Appointment of Staff

9. (1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

(2) In this paragraph –

- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and**
- (b) “partner” in subparagraph (a) above means a member of a couple who live together.**

This paragraph gives effect to the working party's views that this sometimes sensitive issue should be addressed within the code. Employees of authorities are, as a matter of course, frequently involved in decisions that bear on the appointment, promotion, discipline, and terms or conditions of employment of staff. The Government takes the view that it would be appropriate therefore to emphasise the need to ensure that such decisions are made impartially and objectively.

Paragraph 9(1) therefore prohibits employees from being involved in the appointment of or any other decision relating to the discipline, promotion or pay and conditions of an employee or potential employee who is a relative or close friend. Paragraph 9(2) defines "relative" and "partner" for the purposes of paragraph 9(1).

The term 'friend' is not defined in the code. The Standards Board for England's guidance on this point, in the context of the members' code of conduct, is that: *"friendship' connotes a relationship going beyond regular contact with colleagues in the course of employment... Social contact is likely to be a strong indicator of friendship, but not necessarily the only one."*

Q.14 Is 'friend' the appropriate term to use in the draft code? If so, should it be defined, and what should the definition be? (for example, a person with whom the employee spends recreational time outside the work environment, or actively shares a mutual interest?)

Q.15 Does the phrase 'relative or friend' as defined above adequately cover all the relationships with which this part of the code should be concerned?

Duty of Trust

10. An employee must, at all times, act in accordance with the trust that the public is entitled to place in him.

Paragraph 10 emphasises the need for local government employees to carry out their duties in a way that secures public confidence in their actions.

5. Next Steps

5.1 Once the consultation process has ended the results will be collated and, if necessary, amendments made. An Order will be prepared setting out the Code. If there are fundamental changes proposed a full further consultation will take place.

5.2 The Government is keen to ensure that all employees are aware of the provisions of the code. We shall therefore discuss with the Local Government Association, Local Government Employers Organisation and the public sector unions the date on which the Order should be brought into force and the date on which it will become part of employees' terms and conditions of employment.

5.3 Arrangements must also be made for ensuring that all employees are properly informed about the content of the code before it comes into force.

Q.16 Do you have any comments on what arrangements might be appropriate for ensuring employees are informed about the code?

6. Draft Model Code of Conduct for Local Authority Employees

THE EMPLOYEES' CODE OF CONDUCT

Honesty, Integrity, Impartiality and Objectivity

1. An employee must perform his duties with honesty, integrity, impartiality and objectivity.

Accountability

2. An employee must be accountable to the authority for his actions.

Respect for Others

3. An employee must –
 - a) treat others with respect;
 - b) not discriminate unlawfully against any person; and
 - c) treat members and co-opted members of the authority professionally.

Stewardship

4. An employee must –
 - a) use any public funds entrusted to or handled by him in a responsible and lawful manner; and
 - b) not make personal use of property or facilities of the authority unless properly authorised to do so.

Personal Interests

5. An employee must not in his official or personal capacity –
 - a) allow his personal interests to conflict with the authority's requirements; or
 - b) use his position improperly to confer an advantage or disadvantage on any person.

Registration of Interests

6. An employee must comply with any requirements of the authority –
 - a) to register or declare interests; and
 - b) to declare hospitality, benefits or gifts received as a consequence of his employment.

Reporting procedures

7. An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

Openness

8. An employee must –
 - a) not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
 - b) not prevent another person from gaining access to information to which that person is entitled by law.

Appointment of staff

9. (1) An employee must not be involved in the appointment of any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.
(2) In this paragraph –
 - a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - b) “partner” in sub-paragraph (a) above means a member of a couple who live together.

Duty of trust

10. An employee must at all times act in accordance with the trust that the public is entitled to place in him.

ANNEX A

Summary of questions posed

- Q.1 Is the Government right to exclude teachers, firefighters and community support officers? (paras 3.2, 3.3)
- Q.2 Are there other categories of employee who should not be subject to the employees' code, for example, school support staff? If so, which categories, and why should they be excluded? (para 3.2)
- Q.3 Do you agree that council managers should be subject to the same code as other employees? (paras 3.5-3.7)
- Q.4 Should different rules, or a separate Code, apply to political assistants? (paras 3.8-3.9)
- Q.5 Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources? (para 4 of Section 4)
- Q.6 Is it appropriate for the code to impact on an employee's private life or should it only apply to an employee at work? (para 5 of Section 4)
- Q.7 As with the members' code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered? (para 6 of Section 4)
- Q.8 If so, what should the list contain? Should it mirror part 3 of the councillors' code or be restricted to financial interests? (para 6 of Section 4)
- Q.9 Should such a list be available to the public? (para 6 of Section 4)
- Q.10 Alternatively, could the need for a list be restricted to officers above a certain salary, as applies, for example, to the current political restrictions regime? (para 6 of Section 4)
- Q.11 Should this provision be explicitly limited to interests, gifts etc, that may have a bearing on the way in which the functions of the authority are discharged by the employee? (para 6 of Section 4)
- Q.12 Does the proposal on the reporting of misconduct provide suitable protection for employees? (para 7 of Section 4)
- Q.13 Should the Code impose a duty on employees to report misconduct? (para 7 of Section 4)
- Q.14 Is 'friend' the appropriate term to use in the draft code? If so, should it be defined, and what should the definition be? (for example, a person with whom the employee spends recreational time outside the work environment, or actively shares a mutual interest?) (para 9 of Section 4)

Q.15 Does the phrase 'relative or friend' as defined above adequately cover all the relationships with which this part of the code should be concerned? (para 9 of Section 4)

Q.16 Do you have any comments on what arrangements might be appropriate for ensuring employees are informed about the code? (paras 5.2 and 5.3)

ANNEX B

List of Consultees

Copies of this consultation paper are being sent to:

- All principal local authorities in England
- Town and parish councils in England
- National Parks
- Fire and Rescue and Fire and Civil Defence Authorities in England
- Police authorities in England and Wales
- Local Government Associations and other organisations representing relevant authorities.

Copies are also being sent to:

- The Audit Commission
- The Commission for Local Administration in England
- The Standards Board for England
- Public Sector Unions
- Other bodies and academic institutions that may have an interest in the issues raised.

ANNEX C

Consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at
www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact David Plant, ODPM Consultation Co-ordinator, Room 3.19, 26 Whitehall, London, SW1A 2WH;

or by email to:
david.plant@odpm.gsi.gov.uk

