

**CONSULTATION ON DRAFT CODE OF CONDUCT FOR LOCAL GOVERNMENT  
EMPLOYEES**

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**Responsible Cabinet Member(s) - Councillor Don Bristow,  
Resource Management Portfolio**

**Responsible Director(s) - Paul Wildsmith, Director of Corporate Services**

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**Purpose of Report**

1. To invite the Council to respond to a Consultation Paper entitled 'A Model Code of Conduct for Local Government Employees', which seeks views on proposals for a Code of Conduct which would apply to employees in Local Government.

**Information and Analysis**

2. The Office of the Deputy Prime Minister wrote to the Chief Executive on 19th August, 2004 inviting the Council to respond to the Consultation Paper which seeks views on proposals for a Code of Conduct which would apply to employees in Local Government.
3. Section 82 of the Local Government Act 2000 makes provision for the Secretary of State to specify by Order a Code of Conduct for relevant Local Government employees. Such a Code would form part of Authorities' Standing Orders, and would become part of employees' terms and conditions. The Code will cover all relevant Authorities in England, i.e. principal Authorities (including Unitary Authorities) and Parish Councils. Views are invited by 19th November, 2004.
4. The issues have been considered by the Standards Committee and the Joint Consultative Committee. Their comments are reflected in this report where appropriate. The views of the Unions locally are set out at the relevant paragraphs in the report. They have also expressed concern that the wording of paragraph 5(a) of the proposed code could give rise to difficulties; if an employee wishes to apply for planning permission in a personal capacity, that may conflict with the Council's interests, e.g. the proposal may be contrary to the provisions of the Local Plan. The code is not intended to cover that type of situation but clarification will be needed, either in the final version of the Code or in local advice notes.
5. The attached (**Appendix**) is a copy of a Consultation Paper issued by the Office of the Deputy Prime Minister entitled 'a Model Code of Conduct for Local Government Employees'. Closely mirroring the existing Code of Conduct for Councillors, it would give Council staff a duty to behave professionally and treat others with respect.
6. The proposed Code covers standards, proper stewardship of public money, political neutrality, openness, conflict of interests, fairness in the appointment, pay, discipline, promotion etc. of staff and declaration of hospitality and gifts. It also offers protection from

victimisation for employees who blow the whistle on bad practices.

7. Most Councils, including Darlington, already operate a voluntary Code of Conduct on the lines of a model produced by the Employers Organisation in 1994. The existing local code does not have statutory backing but all staff are expected to adhere to its provisions. The proposed code is seeking to establish, along with the Councillors Code, a common core of fundamental values to underpin standards of conduct in Local Government.
8. What is clear from the Draft Model Code is that it is much less detailed than the existing Employees Code of Conduct which operates in Darlington. This suggests that it may be desirable to continue to have the Local Code of Conduct still in place even when the new model has been adopted, perhaps by way of a supplementary protocol. One of the key virtues of the existing Code of Conduct is that it goes into considerable detail and gives examples of situations which employees need to be aware of.
9. So far as the Model in the Consultation paper is concerned, the Government has posed a number of questions in the text, summarised on page 18 of the Appendix to this report. The officers' comments on those questions are as follows :-

- (a) Q1 – Is the Government right to exclude teachers, firefighters and community support officers?

The Officers' view is that all employees should be included.

- (b) Q2 – 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?

Again, the view is that all employees shall be included.

- (c) Q3 – Do you agree that council managers should be subject to the same code as other employees? [N.B. This refers to the Elected Mayor/Council Manager style of executive local government]

Not applicable

- (d) Q4 – Should different rules, or a separate Code, apply to political assistants? [No such appointments in Darlington]

Not applicable

- (e) Q5 – Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources?

This provision is one which would benefit from further detail and examples being given to staff of where it might apply – if it is important that the Model Code be kept brief, then an additional local document could be used to amplify this particular provision.

- (f) Q6 – Is it appropriate for the code to impact on an employee’s private life or should it only apply to an employee at work?

The Code should apply to an employee only in private life if it could impact on the employee’s work situation.

- (g) Q7 – As with the members’ code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered?

Q8 – If so, what should the list contain? Should it mirror part 3 of the councillor’s code or be restricted to financial interests?

A standard list of interests etc. would be helpful and it is suggested that it should be along the lines of the list contained in the Members Code where the interest could bring about conflict with the Council’s interests.

- (h) Q9 – Should such a list be available to the public?

Employees are answerable to the Council and not directly to the electorate. In that regard their position is different from that of a Member of the Council and it is suggested that any list of interests etc. should be available to only Members of the Council and External Auditors, in addition of course to internal audit service and the Monitoring Officer.

- (i) Q10 – 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?

Any such salary limit is bound to be arbitrary and as the Authority’s functions are discharged by employees at all levels, it seems appropriate for all members of staff to fall within the provisions.

- (j) Q11 – 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?

The provision ought to be limited to interests which may have a bearing on the way in which the functions of the Authority are discharged by the employee. However, in the case of gifts, it is submitted that all gifts and offers of gifts need to be declared; if they are offered in the course of employment, then the assumption must be that they could have a bearing on the way in which the functions of the Authority are discharged by the employee in question.

- (k) Q12 – Does the proposal on the reporting of misconduct provide suitable protection for employees?

There is legislative protection for employees who report alleged misconduct and that appears to be adequate.

- (l) Q13 – Should the Code impose a duty on employees to report misconduct?

This would be difficult to enforce and it is suggested should not be pursued.

[The Unions would prefer employees to be ‘encouraged’ to report misconduct.]

- (m) Q14 – 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?)

It is suggested that the term ‘friend’ could properly be used in the draft Code and need not be defined but rely on common sense interpretation in any particular case, as is the case with the Members’ Code of Conduct. The definition is not without its difficulties but the case studies on the interpretation of the Members’ Code of Conduct will enable the expression to be interpreted with a degree of certainty.

- (n) Q15 – Does the phrase ‘relative or friend’ as defined above adequately cover all the relationships with which this part of the code should be concerned?

The phrase ‘relative or friend’ is wide enough to cover all relationships with which the Code should be concerned.

- (o) Q16 – Do you have any comments on what arrangements might be appropriate for ensuring employees are informed about the Code?

Internal newsletters plus a personal copy to each employee, for which they would sign to acknowledge they have received, read and understood it.

### **Outcome of Consultation**

10. The Consultation and the draft response had been considered by both the Standards Committee and the JCC and their comments are reflected in this report.

### **Legal Implications**

11. This report has been drafted by the Borough Solicitor and Monitoring Officer and has taken account of legal implications in accordance with the Council’s approved procedures. There are no issues which the Borough Solicitor and Monitoring Officer considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

12. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **Council Policy Framework**

13. The issues contained within this report do not represent change to Council policy or the Council's policy framework

## **Decision Deadline**

14. For the purpose of the 'call-in' procedure this does not represent an urgent matter

## **Conclusion**

15. The principles supported by the draft Code are totally acceptable but some further detail either needs to be included in the Code or included in a local protocol to be read in conjunction with the Code, in order to provide further explanation and assistance by way of example to employees who may be affected by any particular provision. It would be a retrograde step simply to rely on the model when the Council already has a more detailed Code of Conduct in place. There are also new provisions which would benefit from further clarification/local procedures.

## **Recommendation**

16. It is recommended that the responses to the specific questions posed by ODPM be communicated to them by way of the Council's formal response on the Consultation.

## **Reasons**

17. The recommendation is supported as the Council would wish to comment to ODPM on the Consultation and influence the final version of the Code.

**Paul Wildsmith**  
**Director of Corporate Services**

## **Background Papers**

- (i) Code of Conduct for Employees of Darlington Borough Council
- (ii) Letter from ODPM of 19th August, 2004 enclosing Consultation Paper
- (iii) Notes of JCC meeting, 19th October, 2004

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