

Southend-on-Sea Borough Council

Department of the Chief Executive & Town Clerk

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First Class

Ms Emma Ramano
The Standards Board for England
First Floor
Cottons Centre
Cottons Lane
London
SE1 2QG

Dear Sir,

“A Code for the Future” - Consultation

Your consultation on the Code of Conduct for Members, has been considered by the Council's Standards Committee.

The Committee makes the following general comments – and the answers to the 29 specific questions are attached at Annex A:-

- 1) The existing Code is onerous and there is a general sense of grievance that the same rigorous requirements do not apply to Members of Parliament.
- 2) Paragraph 5(b)(ii) of the Code is unclear as to when resources can be used for political purposes. It should also refer specifically to private use of Council resources.
- 3) In Paragraph 9 of the Code it should be made clear whether a Member must declare the nature of a personal interest which is also prejudicial.
- 4) Paragraph 10 of the Code should state categorically when an interest is not to be regarded as prejudicial. The use of the term “may” leads to great uncertainty.
- 5) The ‘exceptions’ in Paragraph 10(2) are not wide enough to deal with certain situations which often arise. For example;
 - a) What happens in the situation where a significant number of Councillors sit on the management committees of Community Centres which are funded by the Council and a budget proposal comes forward to close the Centres. Such Members will have a personal and prejudicial interest in the matter. Standards Board advice is that advantage could not be taken of the exception in paragraph 10(2)(c) in view of the fundamental nature of the decision. Furthermore, the Dispensation regime is defective (see 7 below). It cannot be right that so many Members (including perhaps the Leader, relevant portfolio holder and the Leaders of the opposition) are disenfranchised in this way on a key budget issue.
 - b) Paragraph 10.2(g) only refers to allowances – it should also extend to granting indemnities to Members under the Local Authorities (Indemnity for Members and Officers) Order 2004.

- 6) Paragraph 12(2) of the Code is very confusing and should be redrafted. In particular it could be argued that at all times a Scrutiny Committee is “exercising the functions of the authority”.
- 7) The Code refers to the possibility of Members being granted a dispensation by the Standards Committee in Paragraph 12(1)(a). However it is important to note that the Standards Committee Dispensation Regulations 2002 are defective in respect of Regulation 3(1)(a)(ii). Furthermore it is often quite impractical to convene a Standards Committee in the necessary timescale and it is unclear when it is appropriate for a dispensation to be granted under Regulation 3(1)(a)(i). Guidance is needed as to when public confidence is likely to be better served by a reduced number of Members taking a decision, than by allowing a significant group of Members with prejudicial interests to participate.
- 8) It would be helpful if the Code also dealt with the issues of bias and predetermination. Having a comprehensive Code is highly desirable and these are clearly ‘conduct’ issues since they are dealt with in the Standards Board’s guidance note issued in September 2004 on lobby groups etc. A clear rule would also avoid having to determine whether a Member who participates in a decision when he is biased, has breached any of the general provisions in the Code, such as bringing the Authority into disrepute.
- 9) It would be helpful if the Code also dealt specifically with interests in the context of planning where particular problems arise. Reliance on an Informal Planning Code is not desirable and there should be consistency on what constitutes personal/prejudicial interests (e.g. Councillor lives near application site, e.g. Councillor is a user of facility that is seeking permission, be it bank, shop, casino, football club or mobile phone company) and minimum standards of conduct in terms of speaking to developers etc.

Yours faithfully,

J. K. Williams
Deputy Town Clerk and Monitoring Officer