

Responses to 29 Specific Questions Posed in the Consultation Paper

The general principles

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

Response Yes

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

Response Yes

- a) The rule against bias/predetermination (see paragraph 8 of attached letter).
- b) Principles of conduct in respect of the determination of planning applications (see paragraph 9 of attached letter)

Disrespect and freedom of speech

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

Response A defined statement so as to minimise uncertainty.

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?

Response Yes and yes.

Confidential information

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?

Response We agree with the Board's view that it should not be a breach of the Code to release confidential/exempt information if it can be demonstrated that the decision to treat it as exempt or confidential was unlawful.

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?

Response Yes

Disrepute and private conduct

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?

Response The Code should not cover activities wholly unrelated to a Member's official capacity.

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?

Response It should be restricted to criminal conduct only.

Misuse of resources

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?

Response Agreed.

10. If so, how could we define 'inappropriate political purposes'?

Response This should not be left to local protocols. There needs to be certainty and consistency e.g. around postage costs.

11. Is the Code of Conduct right not to distinguish between physical and electronic resources?

Response No. The Code should permit some private usage of electronic facilities provided by the Council (subject to reasonable limitations) – but not private use of other Council resources.

Duty to report breaches

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?

Response Removed altogether.

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?

Response Not applicable, given reply to Q.12.

14. Should there be a further provision about making false, malicious or politically-motivated allegations?

Response There should be a provision about making false or malicious complaints.

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?

Response An express provision requiring Members not to intimidate or threaten complainants would be useful.

Personal interests

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

Response Yes.

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?

Response The personal interest and prejudicial interest tests should certainly be defined more precisely. At present they are no more precise than the old test of significant and clear & substantial interests.

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?

Response Yes, provided the rules are clear.

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?

Response Yes to ensure consistency with other interests.

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?

Response Yes, provided they are replaced with a clearer exemption.

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

Response

- a) Yes in respect of public service.
- b) The rules on membership of lobby groups need to be clarified and to reflect the rule against bias/predetermination (see answer to Q.2). The Code should make it clear that a member of a lobby group must withdraw whenever the Council is carrying out a quasi-judicial function (e.g. licensing) or administrative process where the rules of procedural fairness apply (e.g. planning), that relate to the aims of the Group. However a member of a lobby group should not be disqualified from participating in other Council decision making about the matter and indeed could have campaigned for election on that very issue.
- c) The rules on membership of charities are difficult to understand given the lack of prescription about membership of clubs etc.

Prejudicial interests

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

Response Generally no (but see Q.23).

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

Response Yes.

Registration of interests

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?

Response No, subject to the Board's recommended safeguard.

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?

Response No and there is no reason to treat membership of charities differently.

Gifts and hospitality

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

Response Yes – in the light of the Freedom of Information Act.

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

Response No.

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?

Response Yes – if in the same 12 month period.

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

Response Yes.