

Standards Committee**19 April 2005**

Open for the purposes of FOI

Report of the Chief Executive

Standards Board for England Consultation on the Code of Conduct of Members**Recommendation**

- (i) that the responses are noted
- (ii) that the individual responses be forwarded to the Standards Board

Introduction / Summary

1. The Code of Conduct was introduced in 2002 and the Standards Board for England is now conducting a review of the content of the code. As part of the review, consultation is being taken to gauge opinions on the areas of the Code that would benefit from change and gather ideas about how that change could best be achieved.

Background Information

2. Copies of the consultation document were circulated to all Members of the Authority and the independent members of the Standards Committee, 7 responses were received.
3. Not every respondent completed a questionnaire - some responses were comments via email and when questionnaires were returned they were not all completed fully.
4. Given below is a summary of the responses received, the question posed by the Standards Board consultation is given in italics:
 - *Should the ten general principles be incorporated as a preamble to the Code of Conduct? (Q1)*
Those that responded to this question answered "yes"
 - *Are there any other principles which should be included in the Code of Conduct? (Q2)*
Those that responded to this question answered "No" In addition one respondent stated " as long as we respect them as a guide to our individual actions taking Honesty and Integrity as the main principles the only other ingredient required I feel is the need for common sense to prevail in helping us as individuals to make major decisions." Another respondent added the comment " if too many are included the document becomes overloaded. "
 - *Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement? (Q3)*
The responses of those who answered this question were split with 66% saying a broad statement and 33% saying more defined.
 - *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? (Q4)*
All respondents agreed that the ACAS definition would be suitable. In addition one respondent made the following statement "We really do tend to underestimate that

matter. ... I would urge that matters about the need to NOT be overtly critical of employees and officers in public meetings should be spelled out. Such criticism can be very destructive and damaging. It can harm the issue of respect for both the member who indulges in such practices, of the individual employee, but also to the whole organisation and is to be heavily discouraged.”

- *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? (Q5)*
Of those who answered with a simple yes or no 50% said yes and 50% said no. A further response was the following statement “ This area is like a minefield! Confidential means just that, and should only be revealed if it concerns a “life and death” situation, in which case public interest defence should be included.”
- *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? (Q6)*
The respondents who answered this question agreed that the Code of Conduct should cover only information which is in law “exempt” or “confidential”. One added an explanation” Members have a duty to uphold the law. Therefore if an authority had withheld information unlawfully such breaches should not be considered as such”
- *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? (Q7)*
66% of the respondents who answered this question agreed that the provision should continue to apply to certain activities in a member’s private life. One respondent stated “ Disrepute should only concern activities in a members official capacity however, criminal convictions/conduct should be considered as disrepute in a members private life”.
- *If the latter, [certain activities in a member’s private life] 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? (Q8)*
66% of the respondents who answered this question agreed that it should be a broad provision.
- *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?(Q9)*
The respondents who answered this question agreed with the statement.
- *If so, how could we define ‘inappropriate political purposes’? (Q10)*
Respondents recognised that writing a definition may be difficult – one person suggested that it may be easier to define “appropriate” rather than “inappropriate”, another said “ Only in respect of the situation whereby information was divulged about a political opponent’s lifestyle for example sexual orientation, affairs, business deeds”
- *Is the Code of Conduct right not to distinguish between physical and electronic resources? (Q11)*
The respondents who answered this question agreed that it was right not to make any distinction between physical and electronic resources.
- *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? (Q12)*
The respondents who answered this question agreed that the provision should be retained in full.

- *Should there be a further provision about making false, malicious or politically motivated allegations? (Q14)*
80% of the respondents who answered this question agreed that this further provision should be included and one of those respondents suggested adding “vexatious litigants”. One respondent said that the existing regulations cover this provision adequately.
- *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? (Q15)*
The majority of respondents to this question suggest that the code does need to provide effective protection and perhaps this could be included in the section about respect and bullying. But one respondent felt that the existing code dealt with the matter adequately.
- *Do you think the term “friend” requires further definition in the Code of Conduct? (Q16)*
The responses of those who answered this question were split with saying 66% “yes” and 33% saying “no”. One of the respondents added the following comments “.... It is extremely difficult to define; after all you know some of your friends better than others. For example, is a friend someone you just met at a football match and you get a ride home with him/her afterwards or is it someone you socialise with, have meals together, on a regular basis, or is it someone you basically work with and perhaps just go about with say on a firm’s or organisation’s outing?”
- *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? (Q17)*
66% of the respondents who answered this question agreed that the test should not be narrowed. 33% said the test should be narrowed.
- *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? (Q18)*
66% of the respondents who answered this question agreed that there should be a new category; one person suggested that this needed further consideration.
- *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 included at meetings? (Q19)*
The respondents who said that there should be a new category said that the interests should be declared at meetings.
- *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? (Q20)*
The responses of those who answered this question were split with 66% saying “yes” and 33% saying “no”
- *Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups? (Q21)*
One respondent said “no”, another stated “yes to the extent that where the membership of the other body is as a result of nomination by the local authority to represent the local authority interests, that members should be able to take a full part in the debate and vote”. A further respondent said “yes with regard to public service and charity membership, no to lobby groups.”
- *Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing? (Q22)*
66% of the respondents who answered this question agreed that members with a prejudicial interest should not be allowed to address the meeting before withdrawing. One respondent said that members with prejudicial interest should be able to address

the meeting before withdrawing “as long as their position was understood by those present.”

- *Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote? (Q23)*
66% of the respondents who answered this question said “no” One respondent said that members with such an interest should be able to address the meeting before withdrawing “as long as their position was understood by those present.”
- *Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests? (Q24)*
The respondents who answered this question said “no” although once respondent qualified the answer by adding “subject to clear guidelines”.
- *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? (Q25)*
The responses to this question were varied. One person said there should be no requirement to register membership of private clubs and organisations. Another response said that members should register any such memberships but that should be limited to within the area covered by the authority whilst two respondents felt that the area should not be subject to limitations.
- *Should the Code of Conduct require that the register of gifts and hospitality be made publicly available? (Q26)*
66% of the respondents who answered this question agreed that the register should be publicly available. One respondent said that it should only be publicly available if an item was of very high value, in excess of say £100.00
- *Should members also need to declare offers of gifts and hospitality that are declined? (Q27)*
The respondents who answered this question agreed that declined offers of gifts of hospitality did not need to be declared. One of the respondents added a comment “ No, as where would it all end? If you don’t accept a gift, that is nothing to do with anyone else.”
- *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? (Q28)*
The respondents who answered this question agreed that a declaration should be made but it was suggested that “ if the gifts in aggregate exceed the limit in any one year.” should be added. Concern was expressed about the difficulty of providing a workable definition.
- *Is £25 an appropriate threshold for the declaration of gifts and hospitality? (Q29)*
One respondent agreed that £25.00 was appropriate, another was undecided and a further respondent suggested that £50 would be more appropriate.

5. In addition to the answers to the specific consultation questions given above one respondent made the following general statement: “I do think that it should be spelled out who the Code applies to. All the documents read as applying to Councillors and to the various local authorities. There is no mention of Police Authorities or of either magistrate or Independent Members of those authorities. It should be expressly related to such office holders”.
6. One respondent did not complete the questionnaire but commented “ I think it is about right and I would not wish to add anything.”

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