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Dear Mr Tandoh

**Consultation on Amendments to the Model Code of Conduct for Local Authority Members
Response to the Department's Consultation Paper**

I set out below the response made on behalf of Coventry City Council in relation to the questions posed in the Department's Consultation Paper on amendments to the Model Code of Conduct. These comments were approved at a meeting of the full City Council on 27th February 2007. The consultation paper has been considered not only by the full City Council, but also has received detailed Scrutiny from the City Council's Standards Committee, Scrutiny Co-ordination Committee and the City Council's Cabinet.

The City Council welcomes the opportunity to comment on proposals to amend the Code of Conduct for Councillors. The City Council's detailed response to the questions set out in the consultation paper are set out below. The City Council very much supports the proposal to include a specific clause in the new Code in relation to bullying but believes that a definition of "bullying" should have been included in the proposed revision.

The response follows the numbered questions set out in the consultation paper.

- 1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?**

The City Council believes that the proposed amendments to the Code achieve this objective. The City Council are pleased to note that an objective test is being used in this regard rather than reliance on the subjective view of an elected Member. The City Council also support the clarification of this provision so that it is made clear that these rules on disclosure cover all information received by a Member in their official capacity or which relate to the work of the Council.



2. **Subject to powers being available to us to refer in the Code to actions by Members in their private capacity beyond actions which are directly relevant to the office of the Member, is the proposed text which limits the proscription of activities in Members' private capacity to those activities which have already been found to be unlawful by the Courts, appropriate?**

It is the view of the City Council that when an individual takes up public office, they take it upon themselves to observe the principles of conduct in public life. It is a fact that in modern society, Councillors will, therefore, need to consider the possible consequences of actions taken in their private life as these may well have an impact on their role as a public representative. There may well be occasions where a Councillor conducts her/himself in such a fashion which falls below the standards of conduct normally expected of Councillors, but which may not be criminal in nature. The City Council believes that the present wider ranging interpretation of this particular provision should continue and whilst it welcomes the Government's intention to amend the Local Government Act 2000, so that behaviour in a private capacity can fall within the remit of the Code, it does not agree that the Code should, at this stage, only cover private activities in which a criminal conviction may have been obtained. This could lead to a situation where there is a very real danger of similar behaviour being dealt with entirely differently simply because, for any number of reasons, a criminal conviction had not been obtained.

3. **Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way e.g. via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code, be required to follow it, or should the current position with regard to them being maintained?**

It is the view of the City Council that the Code of Recommended Practice on Local Authority Publicity does indeed serve a useful purpose. It provides useful guidance to authorities and has stood the test of time. The City Council would not support its abolition. In the absence of any central guidance, the City Council believes there would be a potential fall in consistencies in practice and so, at the very least, some such national guidance should exist.

The City Council believes that if the Code is to be incorporated into the Code of Conduct, then it should be made to apply to all those bodies to which the Code of Conduct applies.

4. **Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interest?**

The City Council very much supports the need for accountability and openness in the acceptance of gifts and hospitality. However, the City Council believes that this can be done simply by requiring that the registers of such gifts and hospitality maintained by local authorities are open to public inspection and/or published by them. It does not, however, believe that the acceptance of gifts and hospitality should be something which becomes a personal interest of a Councillor. The City Council believes it is nonsensical to categorise such items as a personal interest and expect a Councillor to have to declare this at every meeting which she/he attends. The requirement to make such declarations may well result in a lengthy period at the start of a meeting where these declarations have to be recorded

and yet elsewhere in the consultation document, a proposal is made to avoid that very scenario in terms of introducing the new public service interest! It also seems particularly onerous on Councillors to require them to recall every occasion on which they have received gifts or hospitality in the last 5 years. This is particularly so when a Councillor may have held office as Mayor or Deputy Lord Mayor, or similar role, and will have received various gifts and hospitality in that role.

5. **Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a Member, including family, friends, business associates and personal acquaintances?**

The City Council has always believed that the wording in terms of "relative" and "friend" in the present Code were neither appropriate or tenable. The City Council, therefore, welcomes the move to delete the definition of "relative" from the new proposed Code. However, the addition of the term "close personal association" does little to assist in the interpretation of this part of the Code. The term is not precise and is open to differing interpretations. The City Council would suggest that the new wording is too restrictive and would not cover business associates. At the very least reference to such associates should be included in the revised Code. Whilst the City Council welcomes the suggestion that the Standards Board for England will issue guidance on this issue, it would have preferred to have seen a far more definitive statement in the new Code of what relationships need to be declared. It would, therefore, propose that the wording is simplified and that the text should simply be whether a Councillor has a personal association.

6. **Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?**

The City Council believes it would be appropriate to include these issues in the current exemptions.

7. **Is the proposed text, relaxing the rules to allow increased representation at meetings, including where Members attend to make representations, answer questions or give evidence, appropriate?**

The City Council supports the proposal to delete the current requirement in the Code that a Councillor has to declare a personal interest where the decision could be regarded as having a greater effect on the Councillor than other residents in the City and replace it with wording that makes it clear that any such interest only arises where the Councillor would be affected to a greater extent than the majority of other Council tax payers, ratepayers or inhabitants of the Ward. This change will reduce the number of occasions on which a personal interest has to be declared and make the Code more effective.

The City Council also supports the proposal to introduce a new category of "public service interest" as this will enable Councillors who are members of other organisations, and often appointed by their Council to those positions, to speak and vote on issues relating to that organisation. At present, the Code can operate to prevent those Councillors with the most knowledge of a particular organisation from contributing to decisions in relation to that body and this situation should not be perpetuated.

8. **Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider amending the wording to say "you" instead of "he/she" or "him/her" would result in a clearer more accessible Code for Members?**

The City Council would welcome any wording which not only ensured gender neutrality throughout the Code, but also clarity in wording. Anything which results in the Code being more inclusive and understandable is to be welcomed. In its Code of Conduct for Employees, the City Council already uses the phrase "you", so this would ensure the two Codes are far more compatible.

By way of further comment, the City Council would add that whilst it welcomes the publication of the Consultation Paper, it regrets it has taken so long for the Government to develop these proposals. In a speech made by the Minister in October 2006, consultation on the Code was promised for November with a view to it being in place by May 2007. If it is still the Government's intention to introduce the Code by May 2007, this leaves very little time for any guidance to be issued by the Standards Board for England or training to be given to elected Members.

The City Council also welcomes the changes to the Code which are designed to provide better clarification, such as the amendment proposed at paragraph 5(a) and the simplification of paragraph of 5(b)(ii).

Although not asked to specifically comment on the proposed change, the City Council regrets the deletion of the provision which obliges a Member, if they become aware of a breach of the Code by another Member, to report that to the Standards Board. It is the City Council's view that this paragraph should be retained in its present form. The City Council believes that this clause is a key part of the ethical framework for local authorities and which reminds all elected Members of the obligations placed upon them.

The City Council also welcomes the provisions which will allow "sensitive information" in respect of a Member's private interests to be withheld from the public register.

Yours sincerely

Chris Hinde
Director of Legal and Democratic Services