

Report to

Standards Committee
Scrutiny Co-ordination Committee
Cabinet
Council

27 November 2008
17 December 2008
13 January 2009
13 January 2009

Report of

Director of Finance and Legal Services

Title

Proposed changes to Member Code of Conduct

1 Purpose of the Report

This report asks the City Council to submit a response to the Department for Communities and Local Government in relation to its consultation paper on proposed changes to the Model Code of Conduct. The report seeks the views of both the Standards Committee and Cabinet, so that they can make appropriate recommendations to full Council.

2 Recommendations

For Standards Committee:-

- 2.1 To recommend the Standards Committee to consider the draft response attached at Appendix 2.
- 2.2 To make such recommendations as the Standards Committee consider appropriate to Cabinet and the full Council to assist them in their consideration of the issues.

For Cabinet:-

- 2.3 To recommend the Cabinet to consider the draft response attached as Appendix 2 to this report, together with any comments received from the Standards Committee.
- 2.4 To make such recommendations as Cabinet consider appropriate to full Council at its meeting on 13 January 2009.

For Council:-

- 2.5 To agree the response to the consultation document issued by the Department for Communities and Local Government taking into account all comments received, and to delegate authority to the Head of Legal Services to finalise that response in the light of the Council's views.

3 Information/Background

- 3.1 The Department for Communities and Local Government (“the Department”) have produced a consultation paper entitled “Communities in control: Real people, real power. Codes of conduct for local authority members and employees”. This report only addresses the proposal to amend the Member Code of Conduct. A copy of the existing Member Code of Conduct is attached at **Appendix 1**. There is a separate report relating to the proposed introduction of a Code of Conduct for Employees.

4 Proposal and Other Option(s) to be Considered

Application of the Code to Members' Conduct in their Non-Official Capacity

- 4.1 One of the proposals for change is to revise the order of the Code with the intention of making it easier to interpret and apply. This is to be achieved by dividing the code into two sections: the first dealing with the Member's conduct when acting in an official capacity and reflecting what is in the current Code. The second section would deal with the Member's conduct in their non-official capacity.
- 4.2 Trust in Local Authority members is one of the cornerstones of local democracy. Members should inspire trust and confidence from those who elected them and set an example of leadership for their communities. Members should be expected to act lawfully and the Department proposes to extend this expectation to when Members are not acting in their official role as Members.
- 4.3 The Department considers that certain behaviour, even when there is no direct link to the Member's official role, can have an adverse affect on the level of public trust in local authority Members and local government as a whole. In view of this, the proposal is to prohibit particular conduct where the conduct would constitute a criminal offence.
- 4.4 'Criminal offence' is proposed to be defined as any criminal offence for which the Member has been convicted in a criminal court, but for which the Member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction. The Department's intention is that the offences capable of attracting fixed penalty notices should be excluded from the Members' Code. The reason for this is that it is considered that this approach would ensure that the most minor criminal offences, for example minor motoring offences, parking offences and dropping litter, as well as cautions and orders falling short of a criminal conviction by Court, will not be included in the remit of the Members' Code.
- 4.5 However, the Department considers that serious criminal offences should come under the remit of the Members' Code such as assault, harassment, fraud and offences relating to child pornography would be included in the remit of the Code. Should these proposals be implemented, the Standards Board for England would issue guidance for local authority Standards Committees on how a criminal offence should be treated in its application to the Members' Code. This would mean, for example, that a Member who was convicted of a criminal offence of assault or harassment could be held to have breached the Code even if the event, which led to the conviction, took place entirely outside the Member's official capacity.
- 4.6 The Department also believe it appropriate to clarify the meaning of 'official capacity' and propose this to be defined as a Member being engaged in the business of their authority, including the business of the office to which they were elected or appointed, or acting,

claiming to act or giving the impression that they were acting as a representative of their authority.

- 4.7 At present, investigations into alleged breaches of the Code are initiated by a written allegation made to the Standards Committee. The Department proposes to continue with the same process when dealing with allegations relating to Members' conduct in their non-official capacity.
- 4.8 Where the allegation involves criminal activity that is, at the time of the allegation being made, being investigated by the Police or prosecuted through the Courts, the Department proposes that the Standards Committee or Standards Board, as the case may be, would cease their investigation process until the criminal process had been completed. Any subsequent action under the conduct regime in respect of a Member's private conduct would follow the conclusion of the criminal proceedings. The Member would not be suspended during the period of the criminal process. The criminal process would be considered to have been completed at the conclusion of any appeals process.
- 4.9 The following proposed amendments reflect discussions that the Department had with the Standards Board which, in particular, reflects the Board's experience of the practical operation of the Code over the past year.

5 Offences Carried Out Abroad

- 5.1 The Department proposes that the Code will engage with conduct committed in a foreign country, where that conduct constitutes a criminal offence in that country, but only where the conduct would also constitute a criminal offence if it were committed in the UK. However, the Code would only apply if the individual was convicted in the country in which the offence was committed.

6 Parish Councils

- 6.1 It is a proposal to make it mandatory for parish councils that a Member with a prejudicial interest may make representations at a meeting only if members of the public are able to attend that meeting for the same purpose. This is currently the arrangement for normal Elected Members. However, currently, if a parish council wishes this provision to apply, it must make a conscious decision to adopt this option within its code. This amendment would save unnecessary administration and ensure consistency across parish councils.

7 Membership of Other Bodies

- 7.1 It has been suggested that paragraphs 5.1.8.1 (a)(i) and (ii) of the current Code be amended to clarify that these sections are referring to other bodies that Members are a member of or which exercise functions of a public nature and is not a reference to the local authority to which a Member forms part.
- 7.2 Current wording of paragraph 8.1.5.1 (a)(viii) could be amended to clarify that a Member is required to register a gift or hospitality with an estimated value of at least £25 in the Register of Members' Interests.
- 7.3 Paragraph 5.1.10.2 be amended to remove the double negative in the current wording used in order to make it clear that a prejudicial interest exists where the business of your authority affects your financial position or the financial position of a person listed in paragraph 5.1.8.1 of the Code or it relates to the determining of any approval, consent,

licence, commission or registration in relation to you or those persons listed in paragraph 5.1.8.1 of the Code.

- 7.4 Paragraph 5.1.10.2 (b) could be clarified to include variation, attaching, removing or amending conditions, waiving or evoking applications.
- 7.5 Paragraph 5.1.10.2 (c) could be amended to clarify that a Member would not have a prejudicial interest in the business of the authority, where that business related to giving evidence before a Standards Committee hearing regarding an allegation that a Member had failed to comply with the Code.
- 7.6 The Department proposes that Members would have two months from the date that their authority adopts any new code, as a result of this consultation, to give a written undertaking that they will observe the new code. Failure to do so would mean that they would cease to be Members of the authority.

8 Proposed Amendments to the General Principles

- 8.1 Currently there are 10 General Principles which underpin the provisions of the Code. The Principles govern the conduct of Members and a failure to act in accordance with them may lead to a failure to comply with the Members' code. The 10 Principles are also included at **Appendix 1** (paragraph 5.1). The Department proposes to amend the General Principles so that they apply to a Member when acting in an official capacity and by adding a new Principle so as to apply when acting in a non-official capacity where the Member's conduct would constitute a criminal offence. The following is proposed to be added:-

"Duty to abide by the law – Members should not engage in conduct which constitutes a criminal offence".

- 8.2 It is also proposed that for the purposes of the revised General Principles that 'official capacity' be defined as "being engaged in the business of their authority, including the business of the office to which they are elected or appointed, or acting, claiming to act or giving the impression that they are acting as a representative of their authority". This mirrors the wording referred to earlier in this report for consistency.
- 8.3 At **Appendix 2** is a list of 12 questions that the Department is seeking responses to. To assist the Committee suggested responses are included.

9 Other specific implications

- 9.1

	Implications (See below)	No Implications
Best Value		
Children and Young People		
Climate Change & Sustainable Development		
Comparable Benchmark Data		
Corporate Parenting		
Coventry Community Plan		
Crime and Disorder		

	Implications (See below)	No Implications
Equal Opportunities		
Finance		
Health and Safety		
Human Resources		
Human Rights Act		
Impact on Partner Organisations		
Information and Communications Technology		
Legal Implications	√	
Neighbourhood Management		
Property Implications		
Race Equality Scheme		
Risk Management		
Trade Union Consultation		
Voluntary Sector – The Coventry Compact		

10 Timescale and expected outcomes

- 10.1 The deadline for responses to the consultation is 24 December 2008. The Department has been contacted for an extension of time to submit the Council's response. The Department has stated that it will be considering responses during January 2009 due to the high volume of responses expected.

11 Legal implications

- 11.1 The Department is proposing to revoke the existing Code and a new, revised Order would be made to reflect the proposed changes. Where a complaint is received that a member has breached the Code it will in the main require the matter to be considered by the Standards Committee in the first instance in order to decide how the complaint is to be addressed.

	Yes	No
Key Decision		√
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	Scrutiny Co-ordination Committee 17 December 2008	
Council Consideration (if yes, date of Council meeting)	13 January 2009	

List of background papers

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Papers open to Public Inspection

Description of paper

Location CH59

Communities in control: Real people, real power. Codes of conduct for local authority members and employees. A Consultation

PART 5

CODES AND PROTOCOLS

5.1

**Code of Conduct for Elected and Co-opted Members
(Executive Arrangements)**

The Ten General Principles of Public Life

The Code of Conduct incorporates the following Ten Principles of Public Life:-

Selflessness – Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect For Others – Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to Uphold the Law – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership – Members should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

The Code of Conduct, as it applies to elected members, is set out below:-

Part 1 - General provisions

5.1.1 Introduction and interpretation

5.1.1.1 This Code applies to **you** as a member of an authority.

5.1.1.2 You should read this Code together with the general principles prescribed by the Secretary of State.^(a)

5.1.1.3 It is your responsibility to comply with the provisions of this Code.

5.1.1.4 In this Code:-

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

5.1.1.5 In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

5.1.2 Scope

5.1.2.1 Subject to sub-paragraphs 5.1.2.2 to 5.1.2.5, you must comply with this Code whenever you:-

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.

5.1.2.2 Subject to sub-paragraphs 5.1.2.3 and 5.1.2.4, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

5.1.2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 5.1.3.2(c), 5.1.5 and 5.1.6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

^(a) See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).

- 5.1.2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 5.1.2.3) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- 5.1.2.5 Where you act as a representative of your authority:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 5.1.3 **General obligations**
- 5.1.3.1 You must treat others with respect.
- 5.1.3.2 You must not:-
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006^(a));
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- 5.1.3.3 In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph 5.1.3.2(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
- 5.1.4. You must not:-
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;

^(a) 2006c.3

- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5.1.5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 5.1.6 You:-
 - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority:
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.^(a)
- 5.1.7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
 - (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer;where that officer is acting pursuant to his or her statutory duties.
- 5.1.7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

^(a) 1986 c.10

Part 2 – Interests

5.1.8 Personal interests

5.1.8.1 You have a personal interest in any business of your authority where either:-

- (a) it relates to or is likely to affect:
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

5.1.8.2 In sub-paragraph 5.1.8.1(b), a relevant person is:

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 5.1.8.1(a)(i) or (ii).

5.1.9 Disclosure of personal interests

- 5.1.9.1 Subject to sub-paragraphs 5.1.9.2 to 5.1.9.7, where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 5.1.9.2 Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 5.1.8.1(a)(i) or 5.1.8.1(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 5.1.9.3 Where you have a personal interest in any business of the authority of the type mentioned in paragraph 5.1.8.1(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 5.1.9.4 Sub-paragraph 5.1.9.1 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 5.1.9.5 Where you have a personal interest but, by virtue of paragraph 5.1.14, sensitive information relating to it is not registered in your authority's

register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

5.1.9.6 Subject to paragraph 5.1.12.1(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

5.1.9.7 In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000 ^(a)

5.1.10 **Prejudicial interest generally**

5.1.10.1 Subject to sub-paragraph 5.1.10.2, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

5.1.10.2 You do not have a prejudicial interest in any business of the authority where that business:

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 5.1.8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 5.1.8; or
- (c) relates to the functions of your authority in respect of:
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

^(a) See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I 2000/3272).

5.1.11 **Prejudicial interests arising in relation to overview and scrutiny committees**

5.1.11.1 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:-

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

5.1.12 **Effect of prejudicial interests on participation**

5.1.12.1 Subject to sub-paragraph 5.1.12.2, where you have a prejudicial interest in any business of your authority:

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph 5.1.12.2 applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

5.1.12.2 Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3 – Registration

5.1.13 Registration of Members' Interests

5.1.13.1 Subject to paragraph 5.1.14, you must, within 28 days of:-

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 5.1.8.1(a), by providing written notification to your authority's monitoring officer.

5.1.13.2 Subject to paragraph 5.1.14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph 5.1.13.1, register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

5.1.14 Sensitive information

5.1.14.1 Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 5.1.13.

5.1.14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 5.1.14.1 is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

5.1.14.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Appendix 2

PROPOSED RESPONSES TO CONSULTATION PAPER RE: Communities in control: Real people, real power. Code of conduct for Members.

QUESTION NO	QUESTION	RESPONSE
1	Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?	Yes, provided that it relates to members convicted of the criminal offences referred to within the consultation document (ie the more serious offences only).
2	Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.	Yes, we agree with the definition. We do not consider that police cautions should be included as they generally relate to offences which are considered not appropriate to prosecute.
3	Do you agree with the definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.	The proposed wording replicates the existing wording within the Code but condenses the wording into one paragraph rather than two (see 5.1.2.1 of the code). This does not clarify the definition. Additional new guidance would assist in providing more examples of when the Code applies (particularly when members claim to act or give the impression of acting as a member of the Council).
4	Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?	The Council can see potential difficulties with this proposal. For instance, authorities would be put to expense in obtaining and translating legal documents from another languages into English to confirm the conviction. In addition, there could be differences between charges (and defences to those charges) within different countries and which may/may not be consistent with English law. It has the potential to create inconsistencies in view of these comments.
5	Do you agree that an ethical investigation should not proceed until the criminal process has been completed?	Yes (to include the outcome of any appeals).

6	Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?	Yes, as they will assist in some clarification. It would also be helpful to clarify that any of the 10 General Principles, are not followed, then this 'could' cause a member to breach the Code (ie not following the General Principles is insufficient alone to breach the Code).
7	Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?	No.
8	Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.	No.
9	Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code.	Three months would be preferred.
10	Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity? Ie Members should not engage in conduct which constitutes a criminal offence.	Yes as this would be consistent with the proposed new breach of the code relating to being convicted of a criminal offence.
11	Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?	Yes the definition is agreed as it would be consistent with the definition of 'criminal offence' for the proposed changes to the code dealing with a member acting in a non-official capacity.
12	Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?	Yes for consistency (but see also response to question 3 above).