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22 December 2008

Dear Mr Holden

**COMMUNITIES IN CONTROL: REAL PEOPLE, REAL POWER  
CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES  
A CONSULTATION – RESPONSE OF NORTH YORKSHIRE COUNTY COUNCIL**

I am writing on behalf of County Councillor Carl Les, Executive Member for Corporate Affairs. I refer to the above consultation paper and set out below the responses of for the North Yorkshire County Council.

**Q1: Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?**

Yes, subject to rephrasing the provision in the Code to read as follows:

'Members must not bring their office or authority into disrepute by conduct which would lead them to be convicted of a serious criminal offence.'

Members considered that some clarification of the type and severity of criminal offence should be given.

**Q2: Do you agree with the definition of "criminal offence" for the purpose of the members' code? If not, what other definitions would you support, for instance should it include police cautions? Please give details.**

Members considered that more detail should be provided in relation to what would be considered a serious offence. After some debate it was considered that police cautions should be taken into account, but they require definition in Standards Board guidance.

**Q3: Do you agree with this definition of "official capacity" for the purpose of the members' code? If not, what other definition would you support? Please give details.**

Members agree the definition, but considered that it should also include 'giving the impression that you are acting in an official capacity'.

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**Q4: 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?**

Yes.

**Q5: Do you agree that unethical investigations should not proceed until the criminal process has been completed?**

It is considered that an investigation should not proceed, but there is no reason why initial assessment should not proceed.

**Q6: 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?**

The amendments are required.

**Q7: Are there any aspects of conduct currently included in the members' code that are not required? If so please could you specify which aspect and the reasons why you hold this view?**

There are no aspects of conduct in the Code that are not required.

**Q8: Are there any aspects of conduct in a members' official capacity not specified in the members' code that should be included? Please give details.**

No.

**Q9: 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 adopted the code provide members with sufficient time to undertake to observe the code?**

A two month period provides sufficient time.

**Q10. Do you agree with the addition of this new general principle applied specifically to conduct in a member's non-official capacity?**

No. It is considered that the proposed new general principle does not add anything to the existing Principle 8, and is too general. Members considered Principle 8 to be sufficient.

**Q11: Do you agree with this broad definition "criminal offence" for the purpose of the general principles order? Or do you consider that "criminal offence" should be defined differently?**

See Q 10.

**Q12: Do you agree with this definition of official capacity for the purpose of the general principles order?**

See Q. 3.

**Q13: Do you agree that a mandatory model code of conduct for local government employees, which could be incorporated into employees' terms and conditions of employment is needed?**

There should be a model which would provide the basis for an authority to develop a Code suited to that organisation.

**Q14: Should we apply the employees' code to firefighters, teachers, community support officers and solicitors?**

It is considered that if there is to be a mandatory code, there is no justification for singling out sections of employees to which it will not apply. If employees are also subject to other codes, they should operate to the higher of the two standards.

**Q15: Are there any other categories of employee in respect of whom it is not necessary to apply the code?**

No.

**Q16: Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included.**

It is suggested that the headings could be changed to more accurately reflect the Nolan Principles where possible.

In the section "relations with Members, the public and other employees" it was suggested that "sympathetically" be taken out of the final sentence. Members considered that the references to legislation throughout the proposed Core Values may lead to some difficulty in understanding for those that the Core Values were aimed at and it was suggested that these were not used.

In the Core Value relating to "investigations by Monitoring Officers" it was suggested that this be broadened to include other investigations, for example those undertaken by the Police, Auditors, the Ombudsman, etc.

**Q17: Should the selection of "qualifying employees" be made on the basis of a "political restriction" style model, or should qualifying employees be selected using the delegation model?**

The Committee considered that the delegation model is more appropriate, but that officers who have a significant influence on contracts, procurement, regulatory matters should also be included. It is considered important that definitions of employees to which this will apply are tightly drawn.

**Q18: Should the code contain a requirement for qualifying employees to publicly register any interests?**

It is considered that the register should not be in the public domain. If it is, then home addresses should be omitted.

**Q19: Does the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?**

Home addresses should be omitted. Interests and business undertakings of immediate family and friends can have an influence on an officer's work and should also be declared.

It is considered that the final line of the paragraph relating to personal interests stating that "the qualifying employee should discuss the matter with their Monitoring Officer" should be altered to read "the qualifying employee must discuss the matter with their Monitoring Officer".

In relation to declaring prejudicial interests of an employee, it is suggested that the employee's managers and the Monitoring Officer should be advised, as managers may be too close to make an objective judgement. They will then be able to make alternative arrangements for undertaking the duties.

**Q20: Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?**

The Code should include, in relation to declaring prejudicial interests, reference to interests of immediate family and friends which may influence an employee in the course of their work.

**Q21: Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are unnecessary?**

No.

**Q22:**

Not applicable.

Yours sincerely

Assistant Chief Executive Legal and Democratic Services