

APPENDIX 2

Harrow Council

Suggested Response to Consultation
March 2007

CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS

Q1 Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but allow some information to be made public in defined circumstances when to do so would be in the public interest?

Comment: There is a need to clarify when the disclosure will be “reasonable in the public interest”. The paragraph as currently drafted does not make it clear whether it is a two part test, (a) that disclosure must be reasonable and in the public interest AND (b) made in good faith or whether there will be a defence if either test is satisfied. There is also the need to clarify whether the paragraph applies solely to the receipt of the information received by the member in his/her official capacity and that not as a private individual or any other capacity.

Q2. 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 a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Comment: This paragraph suggests that the code would only apply to activities in a Member's private capacity, which the Courts have found to be unlawful. This suggests a high threshold of behaviour, which would be permitted before any action could be taken under this paragraph. Conduct which could amount to a criminal offence but which has not been the subject of prosecution, should be regarded as bringing the member's office or authority into disrepute and be included in the Code.

Q3. 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, eg 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 be maintained?

Comment: The Publicity Code is a useful tool which assists officers and members address certain issues particularly in the run up to elections. If the Publicity Code were to be abolished guidance should be issued to continue to assist authorities. The Code of Conduct is to apply to the authorities as defined in Paragraph 1 of the Model Code and should therefore apply to authorities not currently subject to it. Any review of the Publicity Code could consider how it could be adapted to apply those all authorities.

Q4. 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 interests?

Comment: This provision is excessive and onerous. To require a gift or hospitality of £25.00 to be registered in the Register of interest is bureaucratic. Further the requirement for such an interest to be disclosed for five years is again somewhat excessive and burdensome (for members to remember that they had received such gifts or hospitality.) The issue of gifts and hospitality does not fit with interests and should continue to be deal with separately. . Most authorities currently maintain a Register of Gifts and Hospitality, and consideration could be given to making this Register available for inspection in the same manner as the Register of Interest).

Q5 Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationship 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?

Comment: The current code refers to “relative” and provides a useful defined. Although useful guidance is given on who is constituted as a “friend” this nevertheless causes difficulties for some members. The new code refers to “family” but provides no definition. In addition there is now a reference to “close personal association” which would extend beyond friendship, and which is

unclear. The words “family” and “close personal association” should be defined.

Q6 Would it be appropriate for new exceptions to be included in the text as additional to be list of items, which are not to be regarded as prejudicial?

Comment: The further exceptions are welcomed. However, paragraph 9(2)(b)(vi) should perhaps be extended to include persons on whom the title is being conferred who may be a relative, friend or close personal associate of any member.

Q7. Is the proposed text relaxing the rules to allow increased representations at meetings, including where members attend to make representation, answers requisitions or give evidence appropriate?

Comment: This paragraph is intended to relax the effects of the Richardson judgement, to allow the member to attend any meeting, make representations and answer questions before withdrawing from the room or chamber. However, as drafted, it appears that the member shall not have a prejudicial interest, which leaves it open to the member to remain in the room and take part in the discussion and decision. The paragraph should be amended to make it clear that the member has a prejudicial interest but that despite this prejudicial interest he/she is not precluded from attending the meeting, making representations and answering questions but must then withdraw from the room and in any event prior to the decision being reached. It is not clear at what point the member should make his/her representation or answer questions from the committee, and whether the member(s) may stay for the debate. Clear guidance on how this proposal is to operate is necessary.

Q8. Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say “you” instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

Comment: The code as drafted using “he or she” him or her” is clear and gender neutral.