





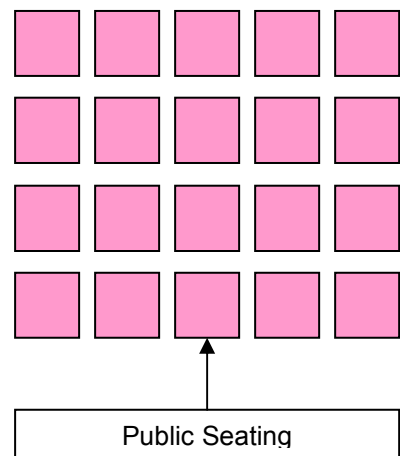
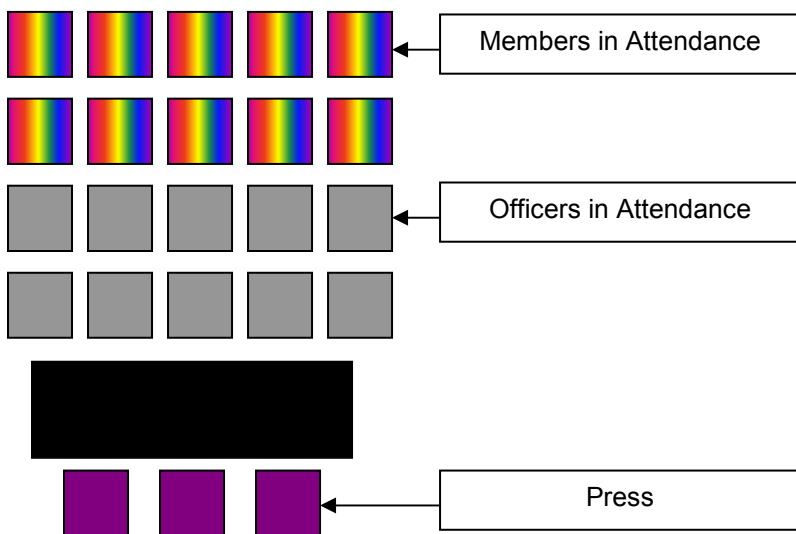
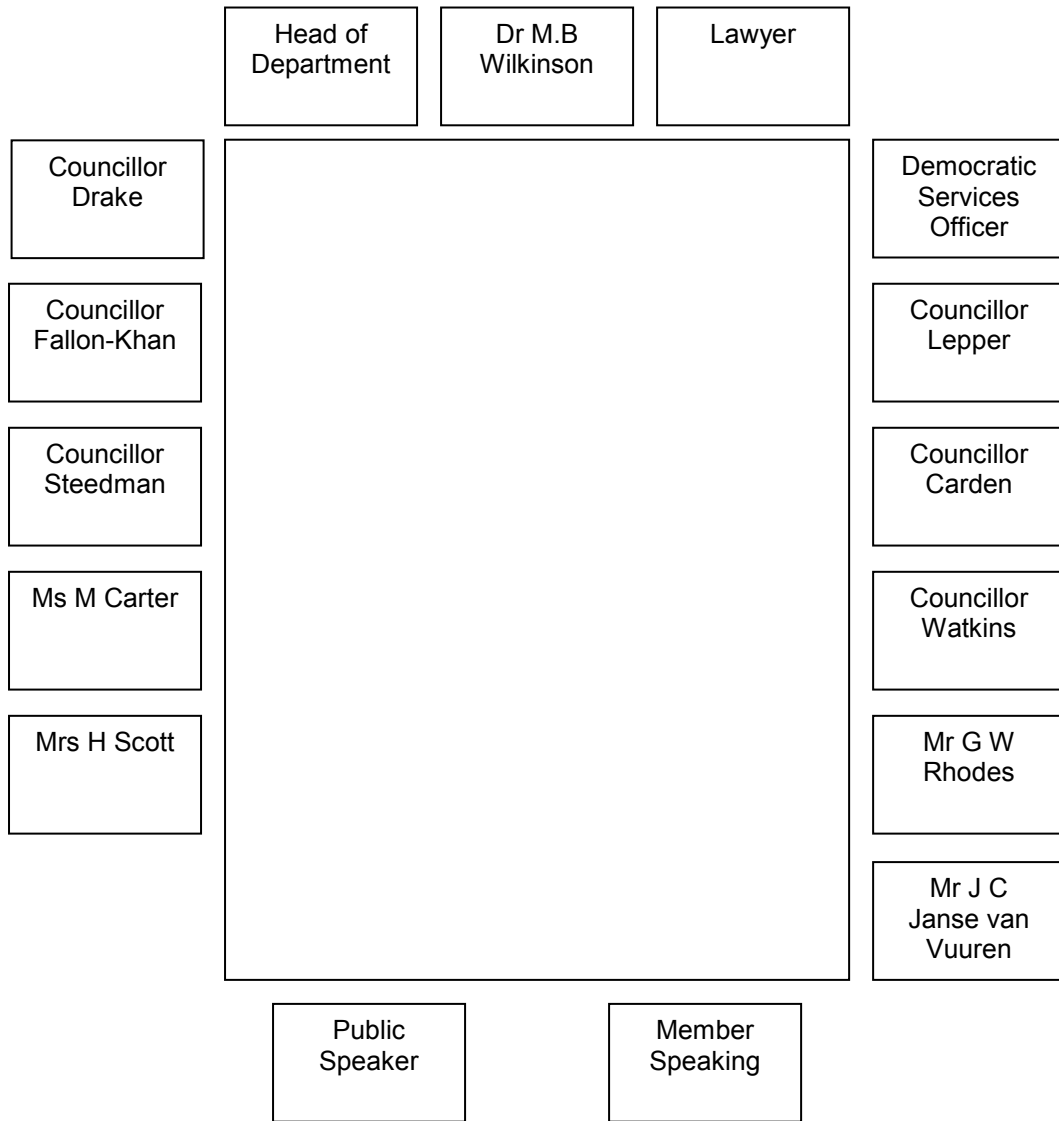
Brighton & Hove  
City Council

# Standards Committee

Title:	<b>Standards Committee</b>
Date:	<b>3 March 2009</b>
Time:	<b>5.00pm</b>
Venue	<b>Committee Room 1, Hove Town Hall</b>
Members:	<b>Councillors:</b> Carden, Drake, Fallon-Khan, Lepper, Steedman and Watkins  <b>Independent Members:</b> Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott  <b>Rottingdean Parish Council Representatives:</b> Mr J C Janse van Vuuren and Mr G W Rhodes
Contact:	<b>Jane Clarke</b> Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



## AGENDA

### 52. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

### 53. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 11 November 2008 (copy attached).

Contact Officer: Penny Jennings

Tel: 29-1065

### 54. CHAIRMAN'S COMMUNICATIONS

### 55. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 24 February 2009).

No public questions received by date of publication.

### 56. AUDIT OF MEMBER'S CODE OF CONDUCT

9 - 22

Report of the Director of Finance & Resources (copy attached).

Contact Officer: Ian Withers, Kathleen  
Downes

Tel: 29-1323

## STANDARDS COMMITTEE

### 57. GOOD GOVERNANCE REVIEW

Report of the Monitoring Officer (oral report).

*Contact Officer: Abraham Ghebre-Ghiorghis*                      *Tel: 29-1500*

### 58. CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY 23 - 70

Report of the Monitoring Officer (copy attached).

*Contact Officer: Liz Woodley*                      *Tel: 29-1509*

### 59. CORPORATE COMPLAINTS UPDATE 71 - 78

Report of the Monitoring Officer (copy attached).

*Contact Officer: Brian Foley*                      *Tel: 29-1229*

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email [jane.clarke@brighton-hove.gov.uk](mailto:jane.clarke@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Monday, 23 February 2009

**BRIGHTON & HOVE CITY COUNCIL****STANDARDS COMMITTEE****5.00pm 11 NOVEMBER 2008****COMMITTEE ROOM 1, HOVE TOWN HALL****MINUTES****Present:** Councillors: Carden, Drake, Fallon-Khan, Lepper, Steedman and Watkins**Independent Members:** Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott**Rottingdean Parish Council Representatives:** Mr J C Janse van Vuuren**Apologies:** Mr G W Rhodes (Rottingdean Parish Council)**PART ONE****30. PROCEDURAL BUSINESS****30A Declarations of Substitutes**

30.1 There were none.

**30B Declarations of Interest**

30.2 There were none.

**30C Exclusion of Press and Public**

30.3 The Committee considered whether the press and public should be excluded from the meeting during consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Schedule 12A, Part 5A, Section 100A(4) or 100(1) of the Local Government Act 1972 (as amended).

30.4 **RESOLVED** - That the press and public be not excluded from the meeting.**31. MINUTES OF THE PREVIOUS MEETING**31.1 **RESOLVED** - That the minutes of the meeting held on 16 September 2008 be signed by the Chairman as a correct record.

**32. CHAIRMAN'S COMMUNICATIONS**

32.1 The Chairman reported back on the Seventh Annual Conference of Standards Committees which he had attended recently in Birmingham. He stated that the focus of the sessions he had attended had related to the changes that had occurred following imposition of the new arrangements to carry out the first filter Local Assessment Process and generally towards Standards Committees. This mirrored the approach which had been adopted by Brighton & Hove as an authority and by Rottingdean Parish Council.

**33. PUBLIC QUESTIONS**

33.1 There were none.

**34. WRITTEN QUESTIONS FROM COUNCILLORS**

34.1 There were none.

**35. DEPUTATIONS**

35.1 There were none.

**36. PETITIONS**

36.1 There were none.

**37. LETTERS FROM COUNCILLORS**

37.1 There were none.

**38. CORPORATE COMPLAINTS UPDATE**

38.1 The Committee considered a report of the Director of Strategy and Governance detailing complaints received regarding Member conduct administered under new arrangements as defined by the Standards Committee (England) Regulations 2008 which had come into effect on 8 May 2008 and complaints dealt with under the corporate complaints procedures (for copy see minute book).

38.2 Ms Carter stated that it would be useful in order to seek to ensure consistency if Members could be provided with information relative to the outcome of Hearing Panels once they had made their determinations and their work was concluded. The Head of Law agreed that this would be appropriate explaining that thought would be given as to the most appropriate means of disseminating that information.

38.3 **RESOLVED** - That the contents of the report be noted.

**39. SEVENTH ANNUAL CONFERENCE OF STANDARDS COMMITTEES**

- 39.1 The Council's Standards and Complaints Manager gave an oral report detailing the content of the Seventh Annual Conference of Standards Committees held in Birmingham. The Chairman had also been in attendance as had Councillor Steedman and representatives of the East Sussex Fire Authority. Each of the Delegates had attended different sessions in order to obtain an overview of the conference as a whole. Following the appointment of a new Chief Executive there appeared to be a strong focus on issues relating to ethics and to taking a pro-active approach to ensure that standards were embedded at the heart of an organisation.
- 39.2 Councillor Steedman who had attended the event for the first time concurred that common themes had emerged from all of the workshops he had attended. Whilst he thought attendance at the Conference was worthwhile he did not consider that all of the sessions were of equal weight. The Chairman concurred in that view. He went on to explain that a greater emphasis was being placed on how Standards Committees publicised their work. There appeared to have been a significant and on-going increase in the number of complaints made relative to Parish Councils. Three Panel Hearings had taken place in Brighton & Hove under the new regime and the need for further Panel meetings to be setup was anticipated, although to date none had related to Rottingdean Parish Council, the one Parish within Brighton & Hove.
- 39.3 **RESOLVED** - That the position be noted.

**40. CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES**

- 40.1 The Committee considered a report of the Director of Strategy and Governance in respect of proposed Codes of Conduct for local authority members and employees (for copy see minute book).
- 40.2 The purpose of the report was to bring to the Committee's attention a recent consultation paper entitled "Communities in Control: Real People, Real Power Codes of Conduct for Local Authority Members and Employees". The paper had been issued by the CLG on revisions to the model code of conduct for members and the introduction of a model code for officers. The report sought to outline the key issues contained in the paper, and suggested potential responses to the questions proposed therein.
- 40.3 During the course of their discussions members were broadly in agreement with the observations in the report, but made additional observations which are recorded under the appropriate question.

**Question 1: Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?**

The Committee considered that it should.

**Question 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.**

The Committee considered the definition served its purpose and that there were some inconsistencies/omissions, for example “negligence was not captured except under health and safety legislation. Anti Social Behaviour Orders (ASBO’s) and police cautions were not included as they did not constitute a “criminal” offence. Cautions could also be issued by agencies other than the Police. The Committee considered that these issues should be raised.

**Question 3: 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**

The Committee considered the definition was clumsy but were in agreement that it would be difficult to come up with a “tighter” definition.

**Question 4: Do you agree that the member’s code should apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?**

The Committee were in agreement that a conviction abroad should only be considered where the same behaviour would amount to a criminal offence in the UK.

**Question 5: Do you agree that an ethical investigation should not proceed until the criminal process has been completed?**

The Committee were of the view that this was appropriate.

**Question 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.**

The Committee were in agreement that these definitions were required. It further considered that clarification could usefully be provided in connection with prejudicial interests – namely “Does the interest have to be the member’s interest, or that of a body to which the member belongs?”

**Question 7: Are there 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.**

The Committee were firmly of the view that all aspects of conduct currently included in the code were required.

**Question 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.**

The Committee did not consider that there were any additional aspects not specified in the member’s code which should be included.



**Question 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 observe the code?**

The Committee were of the view based on previous experience that this timescale was reasonable.

**Question 10: Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?**

The Chairman stated that the use of the word "principle" was a misnomer and referred to what should more appropriately be referred to as a "duty". The Committee concurred that this was inappropriate in the code as presently worded.

**Question 11: Do you agree with this broad definition of "criminal offence" for the purpose of the General Principle's order? Or do you consider that "criminal offence should be defined differently?**

The Committee were in agreement that this broad definition was appropriate.

**Question 12: Do you agree with the definition of "official capacity" for the purpose of the General Principles Order?**

The Committee were in agreement with the definition as set out.

**Question 13: Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment is needed?**

The Committee were in agreement that this would establish a stronger local government professional identity and should be supported.

**Question 14: Should we apply the employees' code to fire fighters, teachers, community support officers and solicitors?**

The Committee were of the view that this would be appropriate and should apply to all local public servants regardless of professional codes. It was noted that this was also the view of the East Sussex Fire Authority.

**Question 15: Are there categories of employee in respect of whom it is not necessary to apply the code?**

The Committee reiterated their views set out in respect of Question 14 above.

**Question 16: 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?**

The Committee were in agreement that it did.

**Question 17: 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 were strongly of the view that a two tier approach should be adopted and that junior officers (and temporary staff) should be afforded a greater degree of privacy than more junior members of staff and expressed unease were a delegation mode to be used.

**Question 18: Should the code contain a requirement for qualifying employees to publicly register any interests?**

The Committee were in agreement that this would be appropriate.

**Question 19: Do the criteria of what should be registered contain any categories that should be omitted or omit any categories that should be included?**

The Committee did not consider that any categories had been omitted nor should any additions be made.

**Question 20: 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 Committee were of the view that it did.

**Question 21: Does the section of the employees’ code which will apply to qualifying employees place too many restrictions in qualifying employees? Are there any sections of the Code that are not necessary?**

The Committee were of the view that this section of the code was acceptable as drafted.

**Question 22: Should the employees’ code extend to employees of parish councils?**

The Committee considered that this would be appropriate in order to be consistent.

- 40.4 **RESOLVED** – (1) that the proposed changes to the Code of Conduct and the provisions of the draft local model code for local authority employees be approved;
- (2) That the Monitoring Officer be instructed to respond to the consultation paper with the comments set out in the report, together with further comments made and set out in the text above.

**41. ANNUAL REPORT OF THE STANDARDS COMMITTEE**

41.1 The Committee considered a report of the Director of Strategy and Governance detailing the work carried out by the Committee during the period between September 2007 and October 2008 (for copy see minute book).

41.2 The report summarised (Section3) the main ethical requirements of the Local Government Act 2000, and showed how the Council had complied over the 14 months since its previous report of September 2007. Section 3.3 of the report detailed the Monitoring Officer arrangements and an overall assessment was set out in Paragraph 3.20.

41.3 **RESOLVED-** That the content of the report be approved and that the report be presented to the meeting of the Council to be held on 4 December 2008 by the Chairman.

**42. REVISED PROCEDURES FOR LOCAL ASSESSMENT, INVESTIGATION AND DETERMINATION OF COMPLAINTS**

42.1 The Committee considered a report of the Director of Strategy and Governance setting out the proposed updated procedures for local assessment, investigation and determination of complaints about member conduct (for copy see minute book).

42.2 It was noted that the procedures had been amended to reflect and take account of the most recent amendments received from the Standards Board including a circulated addenda sheet. Following imposition of the new arrangements Members had been called upon to hold three Assessment Hearing Panels and it was anticipated that further Panel meetings would need to be convened. Appendix A to the report detailed the sanctions which could be imposed by a Panel, the Procedure for Local Investigation of "Allegations of Member Misconduct". The circumstances under which a complaint could be referred back to the Standards Board and or deferred were also set out.

42.3 Ms Carter referred to an earlier Panel meeting. Under the previous guidance it had been possible for the Panel to consider the amount of weight they would give to some elements of the complaint and whether it was inappropriate/outside its remit to determine in respect of others. The current guidance did not appear to indicate whether or not this remained the case. The Head of Law stated that in his view the current guidance whilst not giving specific direction on that issue remained capable of that interpretation.

42.4 **RESOLVED –** That the updated procedures set out in the report be adopted.

The meeting concluded at 6.30pm

Signed

Chairman

Dated this

day of

<b>Subject:</b>	<b><i>Audit of Member's Code of Conduct</i></b>
<b>Date of Meeting:</b>	<b>3<sup>rd</sup> March 2009</b>
<b>Report of:</b>	<b><i>Director of Finance &amp; Resources</i></b>
<b>Contact Officers:</b>	<b><i>Ian Withers, Head of Audit &amp; Business Risk</i></b> Tel: 29-1323 <b><i>Kathleen Downes, Principal Auditor</i></b> Tel: 29-1318
E-mail:	ian.withers@brighton-hove.gov.uk kathleen.downes@brighton-hove.gov.uk
<b>Wards Affected:</b>	All

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 As part of the Internal Audit Plan for 2008-09, an audit was carried out on the Member's Code of Conduct – Locally Managed Framework. This followed changes effective from May 2008, requiring the council's Standards Committee to be responsible for initial assessment of all allegations involving Members breaching the Code of Conduct.
- 1.2 The Internal Audit Report was agreed and issued in November 2008. A full copy is attached at Appendix 1, the contents of which includes background, key issues arising and agreed actions.

**2. RECOMMENDATIONS:**

- 2.1 Members are requested to note the contents of the Internal Audit Report in particular the substantial assurance given over the governance arrangements provided by the Members Code of Conduct and the role of the Standards Committee.

**3. BACKGROUND:**

- 3.1 This is contained in the full Internal Audit Report at Appendix 1.
- 3.2 It should be noted that the audit report is about the arrangements to underpin the Code and compliance with those arrangements. Although the report does not deal with individual members compliance with the Code which is members personal responsibility it should be noted that up to the time of writing no complaints under the code have been upheld.

3.3 It should also be noted that all the recommendations in the Internal Audit report have been accepted and have been actioned or in the process of being actioned.

**4. CONSULTATION:**

4.1 There is no consultation conducted for this report.

**5. FINANCIAL & OTHER IMPLICATIONS:**

5.1 Financial Implications:

There are no direct financial implications arising from the recommendations contained within this report.

*Finance Officer Consulted: Patrick Rice*                      *Date: 18<sup>th</sup> February 2009*

5.2 Legal Implications:

The Internal Audit Report provides confirmation that the council is complying with its obligations under the Local Government Act 2000 and the Standards Committees (England) Regulations 2008.

*Laywer Consulted: Liz Woodley*                                      *Date: 18<sup>th</sup> February 2009*

5.3 Equalities Implications:

There are no direct equalities implications arising directly from this report.

5.4 Sustainability Implications:

There are no direct sustainability implications arising from this report.

5.5 Crime & Disorder Implications:

There no direct implications for the prevention of crime and disorder arising from this report.

5.6 Risk and Opportunity Management Implications:

The audit is part of the Annual Internal Audit Plan and its outcome is a key part of the Council's risk management process. The internal audit planning methodology is based on risk assessments that include the use of the council's risk registers.

## 5.7 Corporate / Citywide Implications:

Robust corporate governance arrangements are essential to the sound management of the City Council and the achievement of its objectives as set out in the Corporate Plan.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Internal Audit Report Members Code of Conduct – Locally Managed Framework.

#### **Background Documents:**

1. Internal Audit Plan 2008-09.
2. Members Code of Conduct (May 2008).

## *INTERNAL AUDIT REPORT*

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### MEMBER'S CODE OF CONDUCT – LOCALLY MANAGED FRAMEWORK

<b>ISSUED TO:</b>	Alex Bailey *	Director of Strategy and Governance
	Abraham Ghebre- Ghiorghis	Head of Law
	Mark Wall	Head of Democratic Services
	Liz Woodley	Senior Lawyer

\* *FINAL ONLY*

# Final



## **Contents**

	<b>Page</b>
Executive Summary	3
Introduction	
Audit Opinion	
Key Issues	
Detailed Report	4
Appendices	
A - Agreed Terms of Reference	8

## **Introduction**

The Members Code of Conduct, Standards Committee and Investigations Process provide important mechanisms in contributing to high standards of governance. They are designed to reduce the risk of inappropriate actions by Members and if required to ensure that any alleged breaches of the code are effectively investigated.

From May 2008 a new standards framework requires the council's Standards Committee responsibility for the initial assessment of all allegations that a Member may have breached the Code of Conduct. It also gives the Standards Committee responsibility for subsequent investigations, decisions and sanctions. With the council having moved to a Cabinet system of decision making, and adopting a revised constitution this is a major time of change for the governance arrangements.

This audit is part of the agreed Internal Audit Plan for 2008/09. It further contributes to the assessment of the council's corporate governance arrangements.

## **Audit Opinion**

**Substantial Assurance** is given on the governance arrangements provided by the Members Code of Conduct and the role of the Standards Committee in this framework.

The investigation policy/process is aligned to national best practice. Although it is premature to form a full judgement following the changes introduced in May 2008, our initial assessment is that the policy is being complied with.

## **Key Issues**

The paragraphs below summarise the key issues arising from the audit review. Where management actions have been agreed to improve controls and reduce the level of residual risks, these are communicated in full in the detailed report (page 4)

**The Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements**

The Code of Conduct was revised to take account of the new Cabinet arrangements introduced in May 2008. All Members have signed their "acceptance of office" which includes a statement to adhere to the Code. It was noted that the average number of declarations of gifts/hospitality made by a Member is only 2.3 per annum.

**The locally based standards assessment framework is in place and operating effectively**

The council has adopted a local framework for assessment of complaints. Procedures have yet to be finalised. (Rec 2.6)

**Membership of the Local Standards Committee follows best practice and local policy**

The membership of Standards Committee follows national guidance although on one occasion a substitute was permitted to attend a meeting. This is against best practice as prescribed by Standards Board for England (Rec 3.3)

<p><b>1. Process: Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements</b></p>	
<p><b>Finding or Issue:</b></p> <p>1.1 The council, like all other local authorities, had to adopt a new Member’s Code of Conduct in 2007, to ensure its Code remains in step with the nationally prescribed model code. The Council’s new Code came into force on 30 September 2007 and was adapted for the Council’s then current committee system. Revisions were then needed to allow for the change to Cabinet arrangements. This was to ensure that the Council complied with the requirements of the relevant Regulations as to the content of its Code. The Standards Committee considered these in January 2008 and recommended the Council to approve the revised Code. The Council agreed this recommendation at its meeting in April 2008 and resolved that the revised Code take effect at the Annual General meeting of the Council on 15 May 2008.</p> <p>1.2 Members are required to sign an “acceptance of office” after being elected which includes a declaration to abide by the Code of Conduct. All 54 Members had signed their declarations on 4 May 2007. This was within the prescribed mandatory 28 day timescale after the election. Co-Opted members are also required to sign their agreement with the Code of Conduct.</p> <p>1.3 Under the Code, Members are required to submit a declaration form for any offer of gift or hospitality (even if not taken) over £25. Members are reminded every month of this requirement. Of the 17 Members selected the average number of declarations made from October 2007 to September 2008 was 2.3 and ranged from 0 to 10.</p>	<p><b>Risk/Implications:</b></p> <p>Potential for non compliance with national model.</p>
<p><b>Recommendations:</b></p> <p>None</p>	

**2. Process: The locally based standards assessment framework is in place and operating effectively.**

**Finding or Issue:**

- 2.1 The Council has introduced its own framework and policy for dealing with complaints against Members that allege a breach of the Code of Conduct. This has been approved by Standards Committee which is responsible for discharging this process.
- 2.2 The Council's policy for assessing and hearing Member complaints follows a different logic to the National guidance, although is broadly aligned. The policy is under a "6th-month" review to ensure that it is a robust yet practical document. Any cases investigated under the new process will be used to inform the review.
- 2.3 The investigations and decisions made so far under the new process were reviewed and found to have properly followed the framework, although it is too early to carry out a full assessment as only one case has so far been reviewed. In the example examined meeting minutes had not been formalised due to concerns over the requirement for sub-committees to make disclosures to their parent committees. In the case of the Standards Committee, it was judged that the disclosure of such minutes may prejudice an on-going investigation if reported upwards before conclusion. The Head of Law is aware of this anomaly and is likely that the Constitution will be amended to reflect this.
- 2.4 The procedures that underpin the policy are still in draft format.

**Risk/Implications:**

Local framework may not be aligned to national guidance and best practice.

**Recommendations:**

- 2.5 *The sub-committees requirement to report upwards to its parent committee needs to be clarified.*
- 2.6 *The procedures relating to the process of investigation and determination of alleged breaches of the Member's Code of Conduct should be finalised and approved by the Standards Committee.*

**Management Response**

Re: 2.5. Agreed. There is a review of the constitution currently in place, which is designed to pick up and rectify anomalies, of which this is one. It will be recommended that the minutes of assessment panels are reported upwards on conclusion of the investigation process.

Re: 2.6. Agreed. The reviewed procedures are due to be presented to the next Standards Committee for approval.

**By Whom:** Head of Law

**By When:** End of January 2009

**Priority:**  
Medium

**3. Process: Membership of the Local Standards Committee follows best practice and local policy**

**Finding or Issue:**

- 3.1 The membership of Standards Committee follows national guidance and best practice, which include having:
- an independent member as its Chair.
  - only one executive Member as a member of this committee
  - 25% of the membership are independent members
- 3.2 The national guidance does not recommend the process of allowing substitute Councillors to attend Standards Committee meetings, as this committee is not intended to operate along party political lines. Brighton and Hove has decided to allow substitutions, although this has only happened on one occasion. In this particular instance, the request was submitted in advance, discussed and agreed with the Chair and Head of Law.

**Risk/Implications:**

Local processes may not follow national guidance and best practice.

**Recommendations:**

**3.3** *The use of substitutes for Standards Committee should be reviewed and follow national guidance and good practice from the Standards Board for England.*

**Management Response**

The use of substitutes at Committee is currently enshrined within the constitution. As mentioned before, this is currently being examined within the overall review of the constitution. The Standards Committee has already debated this issue and has made a request to the Governance Committee that it disappplies Rule 18/13 thus not permitting the use of substitutes for Standards Committee.

**By Whom:** Head of Law

**Priority:**

<b>By When:</b> End of January 2009	Medium
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## Appendix A

### Terms of Reference

<b>Subject</b>	Members Code of Conduct	<b>Prepared By</b>	K. Downes	<b>Date</b>	06/08/08
<b>Audit No</b>	A092/2009	<b>Client Agreement</b>	A. Ghebre-Ghiorghis A. Bailey	<b>Date</b>	07/08/08

#### 1. Background

From 8 May 2008 the new more locally based standards framework gives standards committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions.

This audit will also follow up a previous audit that covered the Members Code of Conduct in 2007/08.

This audit is part of the agreed Internal Audit plan for 2008/09.

#### 2. Audit Objectives

The overall objective is to provide assurance that the processes around the Members Code of Conduct are adequate.

- **That the Members Code of Conduct is aligned to the revised Council Governance (Cabinet style) arrangements.**
- **The Standards Committee (England) Regulations 2008 which establish a locally based standards assessment framework is in place and operating effectively.**
- **Membership of the Local Standards Committee complies with these Regulations.**

### 3. Audit Approach and Scope

The Audit will be carried out by a risk-based approach through:

- Undertaking structured interviews with key staff;
- Identifying the risks to achievement of objectives and documenting the processes in operation;
- Evaluating the controls in place and sample testing for effectiveness and adequacy, and
- Reporting findings and recommendations to management.

<b>Subject:</b>	<i>Code of recommended practice on local authority publicity</i>		
<b>Date of Meeting:</b>	<b>3 March 2009</b>		
<b>Report of:</b>	<i>Monitoring Officer</i>		
<b>Contact Officer:</b>	<b>Name:</b>	<i>Liz Woodley</i>	<b>Tel:</b> <b>29-1509</b>
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<b>Wards Affected:</b>	All		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report brings to the Committee's attention a recent consultation paper, "Communities in control: Real people, real power Code of recommended practice on local authority publicity" issued by CLG, inviting comments on the future of the Code of Recommended Practice on Local Authority Publicity.

**2. RECOMMENDATIONS:**

- 2.1 That Members consider the proposed response as set out in appendix 2 as appropriate.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The White Paper, "Communities in control: Real people, real power" was about passing power into the hands of local communities. The paper, "Communities in control: Real people, real power Code of recommended practice on local authority publicity" is the next in a series consulting on a number of policy commitments. It invites views on the content of the Publicity Code as an instrument for protecting public money while allowing councils to issue effective publicity.
- 3.2 The paper, which was published on 17 December 2008, is attached as Appendix 1 to the report. The deadline for responding to the paper is 12 March 2009. It is to be considered by the Council's Governance Committee at its meeting on 10 March 2009. Any comments made by the Standards Committee will be forwarded to that Committee, which will be responsible for making the council's formal response to the consultation paper.



## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Communities and Local Government Paper. "Communities in control: Real people, real power Code of recommended practice on local authority publicity".
2. Consultation Response to "Communities in control: Real people, real power Code of recommended practice on local authority publicity".

### **Documents In Members' Rooms:**

1. None.

### **Background Documents:**

1. None.





# Communities in Control: Real people, real power

## **Code of recommended practice on local authority publicity**

A consultation

[www.communities.gov.uk](http://www.communities.gov.uk)  
community, opportunity, prosperity



**Communities in Control: Real people, real power**  
**Code of recommended practice on local authority publicity**  
**A consultation**

December 2008  
Department for Communities and Local Government: London



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December 2008

Product Code: 08LGSR05679

ISBN: 978-1-4098-0922-7



# Contents

<b>Chapter 1</b>	<b>The consultation and how to respond</b>	<b>5</b>
	Communities in control consultation papers	5
	About this consultation	5
	Who we are consulting?	6
	How to respond	6
	What will happen to the responses?	7
	Publication of responses – confidentiality and data protection	7
	The consultation criteria	7
	Additional copies	8
	In context – previous consultation and relevant legislation	8
<b>Chapter 2</b>	<b>Effective communication and publicity</b>	<b>10</b>
	Effective communication	10
	The Publicity Code	10
	Local authority publicity	11
	Promoting democracy and the role of councillors	12
	Other guidance for councils	13
<b>Chapter 3</b>	<b>Review of the Publicity Code</b>	<b>14</b>
<b>Annex A</b>	<b>Full list of consultation questions</b>	<b>18</b>
<b>Annex B</b>	<b>Code of recommended practice on local authority publicity (1988)</b>	<b>20</b>
<b>Annex C</b>	<b>Code of recommended practice on local authority publicity (2001)</b>	<b>26</b>
<b>Annex D</b>	<b>The consultation code of practice</b>	<b>33</b>



# Chapter 1

## The consultation and how to respond

### Communities in Control consultation papers

- 1.1 The white paper, *Communities in Control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 white paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments and invites comments about the future of the Code of Recommended Practice on Local Authority Publicity (the 'Publicity Code'). It invites views on the content of the Publicity Code as an instrument for protecting public money (of either national or local taxpayers) while allowing councils to issue effective publicity.

### About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England. Authorities in Scotland and Wales have their own versions of the Publicity Code, which are the responsibility of the relevant devolved authorities.
- 1.4 The white paper *Communities in control* committed the Government to consulting on potential changes to the Publicity Code. This document is the first part of that consultation. The last Government consultation on the Publicity Code in January 2007 revealed support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources. Following that, the Councillors Commission received views that the Publicity Code may have been seen as a hindrance to councils promoting the role of the councillor. This consultation paper explains the importance of local authority publicity, seeks confirmation of the results of our earlier consultation in January 2007, seeks also to establish views of the Publicity Code across the local government sector and stakeholders and goes on to ask how a Publicity Code might function without being, or being perceived as, a disincentive to effective communication.
- 1.5 If the Government considers that revisions to the Publicity Code are required then the comments and views received in response to this consultation document will form the basis for a revised Publicity Code, the text of which we will consult on in 2009.

- 1.6 Chapter 2 of this paper explains more thoroughly the context of the consultation, with particular reference to the promotion of democracy and a positive image of the role of councillors.
- 1.7 Chapter 3 of this paper seeks views on what should constitute the Publicity Code.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in annex A. In order to aid your consideration of the possible content of a future Publicity Code, the current code is reproduced at annexes B and C.
- 1.9 We are minded, subject to responses to this consultation, to implement the measures arising from the response to this and any subsequent consultation on the Publicity Code so that they can come into effect in line with any guidance that may be issued about the currently proposed authorities' duty to promote democracy in 2009.

## Who we are consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from council officials and councillors. **The consultation period runs for 12 weeks to 12 March 2009.**

## How to respond

- 1.11 Your response must be received by 12 March 2009 and may be sent by e-mail or post to:

Karl Holden  
Conduct and Council Constitutions Team  
Communities and Local Government  
Zone 5/B2, Eland House  
Bressenden Place  
London  
SW1E 5DU  
e-mail: [publicitycode@communities.gsi.gov.uk](mailto:publicitycode@communities.gsi.gov.uk)

If you are replying by e mail please title your response 'Response to Publicity Code consultation'.

It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

## What will happen to the responses?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on possible changes to the Publicity Code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at [www.communities.gov.uk](http://www.communities.gov.uk)

## Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 1.15 If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.17 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## The Consultation Criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see annex D of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

## Additional copies

1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: [www.communities.gov.uk](http://www.communities.gov.uk).

## In context – previous consultations and relevant legislation

1.20 The consultation document *Consultation on Amendments to the Model Code of Conduct for Local Authority Members* published in January 2007 asked, among other things, if the Publicity Code served a useful purpose. The responses suggested support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources for publicity.

1.21 The Publicity Code is issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986 ("the 1986 Act"). Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Publicity Code in coming to any decision on publicity.

1.22 The Publicity Code does not, and cannot, override section 2 of the 1986 Act, which provides that a local authority shall not publish, or assist others to publish, material which in whole or in part appears designed to affect public support for a political party.

1.23 Section 6(4) of the 1986 Act defines publicity as 'any communication, in whatever form, addressed to the public at large or to a section of the public'. The Publicity Code will therefore be relevant across the whole range of local authority work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.

1.24 Section 6(2)(a) of the 1986 Act sets out the types of authority to which the Code can apply in England:

- a county, district or London borough council
- the Common Council of the City of London
- the Broads Authority
- a police authority established under section 3 of the Police Act 1996



- the Metropolitan Police Authority
- a joint authority established by Part 4 of the Local Government Act 1985
- the London Fire and Emergency Planning Authority
- the Council of the Isles of Scilly or
- a parish council

1.25 The Publicity Code also applies to National Parks Authorities by virtue of the Environment Act 1995.

1.26 By virtue of section 6(6) of the 1986 Act, nothing in the Publicity Code is to be construed as applying to any decision by a local authority in the discharge of their duties under Part 5A of the Local Government Act 1972 (which provides for access to meetings and documents of certain authorities, committees and sub-committees).

1.27 The Publicity Code was first published on 15 August 1988 and applied to local authorities in England Scotland and Wales. That Code was amended on 2 April 2001 in England only, as regards its application to county councils, district councils and London borough councils. This consultation is concerned with the application of the Publicity Code, including the amendments made in 2001, to local authorities in England.

1.28 The Publicity Code, as published in 1988, remains applicable in Scotland; the National Assembly for Wales issued a revised Code in October 2001 which applies in Wales.

# Chapter 2

## Effective communication and publicity

### Effective communication

- 2.1 For a community to be a healthy local democracy requires local understanding. Effective communication is key to developing that understanding. In recent years local authorities have used local publicity not only to keep their communities informed of the services that they provide, but also to encourage greater participation. Good, effective publicity, aimed at improving public awareness of councils' activities is to be welcomed and encouraged.

### The Publicity Code

- 2.2 Publicity, however, can be a sensitive matter because of the impact it can have and because of the costs associated with it, which can be considerable. It is essential, therefore, to ensure that decisions about local authority publicity are properly made.
- 2.3 It was against this background that the Publicity Code was introduced in 1988. The purpose of the Publicity Code was to set out clear principles of good practice. In doing so, it reflected conventions that applied to publicity which had traditionally been applied in both central and local government.
- 2.4 The Publicity Code took account of the fact that some local authority publicity dealt with issues that are controversial because of local circumstances or because of a difference of view between political parties locally or nationally. The principles were not intended to inhibit or prohibit the publication of information on politically sensitive or controversial issues, nor to stifle public debate. Rather, it set out matters it was considered a local authority should give consideration to, to ensure public funds were not misused and to safeguard those members of the public at whom the publicity was directed. The Publicity Code was especially relevant to publicity that dealt with controversial or sensitive issues.
- 2.5 The stated underlying objective of the Publicity Code was to ensure the proper use of public funds for publicity.

- 2.6 The Publicity Code has now been in place for twenty years. While many of the values it enshrines, such as ensuring that the authority should ensure that publicity produced is a proper use of public funds, are beyond dispute, we recognise that there may be an argument that a Publicity Code is not required, or not required in its present form, to ensure that this is the case. There are other safeguards in place which contribute to ensuring the proper use of public resource in an authority, principally through the authority's auditor but in addition, more locally, councils' spending can be held to account through overview and scrutiny committees, by the Audit Commission through Comprehensive Performance Assessment, Comprehensive Area Assessment and Use of Resources assessments and the behaviour of councillors through the local authority's standards committee. Ultimately, the council is accountable to its electorate.
- 2.7 The Publicity Code is thus part of a range of legislation intended to ensure that local authority publicly funded publicity is appropriate. Moreover, the Local Government Act 1972 gives local authorities the power to arrange to publicise services offered by them or by other local authorities in their community while the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication in their area of information relating to health or disease. In addition, Part 1 of the Local Government Act 2000 empowers local authorities to promote well-being in their communities.

## Local authority publicity

- 2.8 Since the 2001 white paper *Quality public services* there has been a move away from central government prescription to local government having more flexibility to decide how they wish to conduct business. The white paper began the process of devolving power to local government to enable it to make its own decisions about where to direct resources. This process continued with the 2006 white paper *Strong and prosperous communities*, the Local Government and Public Involvement in Health Act 2007 and continues in the 2008 white paper *Communities in control*.
- 2.9 Part of this process involved reinvigorating and rehabilitating politics at the local level. One aspect of this is acknowledging the political nature of local government; councils are political bodies, led by democratically elected politicians making decisions about local priorities. They are not simply neutral bodies for service delivery. We consider that it is important for the health of local democracy that citizens are aware of how decisions are made at the local level, and who is making them. To aid this, we consider that councils should be able to help publicise the role of the activities of the authority and the activities of individual councillors to help promote democracy in the community.

- 2.10 We want councils to be able to play a role in helping councillors to communicate with citizens and to allow people to understand who their elected representatives are, what views they have and what they are doing on behalf of those who elected them.
- 2.11 To achieve this, the Publicity Code should not prevent councils from producing publicity that explains clearly the political control of their council, who leads the council and the political composition of the council.
- 2.12 Nor should it be seen to prevent members having, in the interests of their constituents, a public voice funded by the taxpayer to inform their community about what activities they have been undertaking in their role as councillor, in either any particular role they fulfil on the council, or as a representative of their ward.
- 2.13 The Publicity Code should not form a barrier to members using publicly funded publicity to discuss, in the interest of their constituents, matters that are of personal interest to those members, nor should it bar them from providing useful and pertinent contact details and links to other bodies. All publicity funded by a local authority, or which they assist others to publish, is subject to the statutory prohibition that it cannot appear designed to affect public support for a political party.

## Promoting democracy and the role of councillors

- 2.14 In the Government's response to the Councillors Commission report, published in July 2008, the Department for Communities and Local Government acknowledged that there was confusion in local government about how far councils should promote and support councillors' activities and explained that the Department wanted to clarify this, so that any guidance or advice recognises the legitimate support that should be given to councillors. In addition the white paper *Communities in control*, also published in July, recognised that there was confusion within local government about how far local authorities should promote and support councillors' activities and, in this context, recognised the need to review the Publicity Code.
- 2.15 The Councillors Commission research also made it clear that in order to make the councillor role easier and more attractive, the level of awareness of the role needs to be raised. Council publicity can be an effective tool in demystifying the role and making currently under-represented groups, and the wider community as a whole, more aware of what is involved and what decisions councillors make on their behalf.
- 2.16 Those who work in local government should feel confident about operating in a political environment and giving elected councillors the support they require. The response to the Councillors Commission report announced the Government's intention of introducing a new duty on local authorities to support democracy and encouraged councils to take a range of actions as part of their new responsibility, including:

- **better information:** council publications and websites should provide clear information about political control, council meetings, councillors' surgeries and how to contact both councillors and local political parties
- **a two-way process:** using local radio, blogs, podcasts and interactive websites to improve dialogue between councillors and local people
- **getting people involved:** explaining to all communities how to be a councillor or take up other civic roles – including school governorships or health board membership – through websites and newsletters
- **promoting democracy:** councils could involve officials or former councillors in promoting local democracy through making positive presentations to local volunteer groups or boards about how to get involved in local governance roles and by promoting the role of the council and councillors in the community
- **targeting:** disseminating information about involvement in local democracy to groups not well represented among councillors in the area

2.17 The Government's response to the Councillors Commission report also expressed the Department's wish to see councillors encouraged to make use of more types of media, such as community radio or the internet as well as traditional methods of communication. Local authority publicity has a key role to play in delivering a positive media profile of the work of councillors. Councillors should be role models for their communities, being a role model means being visible and publicity can aid that visibility.

2.18 We want to ensure that councils, and councillors, do not consider themselves unduly restricted in the types of communication that they can engage in. To ensure that councils will not be inhibited in their new duty to promote democracy, councils will need to be prepared to publicise how to get involved in local decision making processes, will have to target publicity at groups that are under-represented in the democratic process and make the most effective use of advertising.

## Other guidance for councils

2.19 We also want to establish whether there is other guidance for councils, besides the Publicity Code, which is seen to be a disincentive in terms of being able to provide citizens with the publicity that they require or councillors with the support that they require and whether this guidance need clarifying or amending?

**Question 1:** Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?

# Chapter 3

## Review of the Publicity Code

3.1 The existing Publicity Code gives recommended practice on a number of aspects of publicity ranging from subject matter to assistance to others for publicity. This chapter gives a brief explanation of the current function of each section of the Publicity Code, it is not a proposal of what might constitute a revised Code. The explanation overlooks the distinctions between the 1988 Publicity Code (which continues to apply to certain bodies) and the Publicity Code as revised (which applies to principal bodies in England). A number of open questions about what changes might be required are also asked.

**Question 2:** Is there a requirement for different codes to apply to different types of authority?

**Question 3:** Should the Publicity Code specifically address the presentation of publicity on an authority's website?

### First section of the current Code: Subject matter

In summary, the current Publicity Code provides as follows: Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it, or to assist others to do so. Some of those powers relate directly to the authority's functions, others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions. The Publicity Code lists the matters an authority should consider when determining whether to issue publicity material (see annexes B and C).

**Question 4:** Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?

### Second section of the current Code: Costs

In summary, the current Publicity Code provides as follows: Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure and expenditure on publicity should always be cost-effective. The Publicity Code recognises that publicity can be expensive and that while in some cases publicity may justify cost by virtue of savings produced, the unquantifiable benefits of publicity are also important. The Publicity Code lists matters local authorities should consider in determining whether the costs of their publicity are justifiable.

**Question 5:** Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?

**Question 6:** Is there any aspect of the cost section that is not required or anything which should be added?

### Third section of the current Code: Content

In summary, the current Publicity Code provides as follows: Local authorities produce a variety of publicity material, from factual information about services to staff recruitment advertising. Publicity will also be produced to explain or justify the council's policies either in general or on specific topics. The Publicity Code requires that publicity describing the council's policies and aims should be as objective as possible, makes provision for the production of promotional material and states that publicity should not appear to undermine generally accepted moral standards. It also makes provision for the production of publicity material to support campaigns to influence behaviour or attitudes, for instance on health matters, but prohibits publicity campaigns intended to persuade the public to hold a particular view on a question of policy.

**Question 7:** Should the Publicity Code contain advice about ethical standards in publicity, or should this be left to local authorities to judge for themselves?

**Question 8:** Is there any aspect of the content section that is not required or anything which should be added?

### Fourth section of the current Code: Dissemination

In summary, the current Publicity Code provides as follows: Local authorities should ensure that information and publicity produced by the authority is available to those that want or need it. The Publicity Code makes clear that publicity material should be targeted at those who would best benefit from it and that material closely affecting vulnerable members of the community should be clear and unambiguous. It is also clear that unsolicited material is more intrusive than publicity available on application.

**Question 9:** Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?

**Question 10:** Is there any aspect of the dissemination section that is not required or anything which should be added?

### **Fifth section of the current Code: Advertising**

In summary, the current Publicity Code provides as follows: Advertising can be an expensive but effective method of getting a message across to a wide audience. While effective at conveying simple messages, advertising is inappropriate for explaining more complex policy issues and should be used appropriately. The Publicity Code prohibits the purchase of advertising space as a means of subsidising another organisation, or advertising on their behalf.

**Question 11:** Is there any aspect of the advertising section that is not required or anything which should be added?

### **Sixth section of the current Code: Recruitment advertising**

In summary, the current Publicity Code provides as follows: Local authority recruitment publicity should reflect the tradition of political impartiality in the local government service and the media chosen to advertise local authority positions should reflect the objective of maintaining the politically independent status of local authority staff. The current Publicity Code restricts any council posts from being advertised in political publications.

**Question 12:** Should adverts for local authority political assistants appear in political publications and websites?

**Question 13:** Is there any aspect of the recruitment advertising section that is not required or anything which should be added?

### **Seventh section of the current Code: Publicity about individual members of an authority**

In summary, the current Publicity Code provides as follows: A local authority discharges its functions corporately and it is inappropriate to publicise the activities of particular councillors except when councillors are representing the council as a whole. Personalisation of issues or image making should be avoided and the publicity should not be liable to misrepresentation as being party political.



**Question 14:** Given the emphasis given to supporting and raising awareness of the role of the councillor in the white paper, is there any aspect of the section on councillors that is not required, or anything which should be added?

### **Eighth section of the current Code: Timing of publicity – elections, referendums and petitions**

In summary, the current Publicity Code provides as follows: While a local authority may issue publicity during the period between notice of an election and the election itself, if it is not intended to affect the public's opinion of the authority or influence public opinion, care should be taken when publicity is issued after an announcement of an election, by-election or referendum affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion or using the authority's resources to promote the public image of a particular candidate or group of candidates.

Publicity issued by an authority in the period between the calling of a referendum and the date of the referendum should not be capable of perceived as seeking public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group.

Authorities should not mount publicity campaigns where the primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

**Question 15:** Is there any aspect of the timing of publicity section that is not required, or anything which should be added?

### **Ninth section of the current Code: Assistance to others for publicity**

In summary, the current Publicity Code provides as follows: Local authorities should ensure that the principles of the Publicity Code should be taken into account by local authorities in decisions on assistance to others to issue publicity. The authority should, if incorporating principles of the Publicity Code into guidance for applicants for grants, make the observance of the principles a condition of the grant or other assistance and ensure that provision is made to monitor publicity produced to ensure that the guidance is being observed. Authorities should make fair and equal provision for the display or dissemination of publicity material produced by charities or voluntary organisations.

**Question 16:** Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

# Annex A

## List of consultation questions

### Chapter 2: Effective communication and publicity

Question 1	Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?
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### Chapter 3: The Publicity Code

Question 2	Is there a requirement for different codes to apply to different types of authority?
Question 3	Should the Publicity Code specifically address the presentation of publicity on an authority's website?
Question 4	Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?
Question 5	Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?
Question 6	Is there any aspect of the cost section that is not required or anything which should be added?
Question 7	Should the Publicity Code contain advice about ethical standards, or should this be left to local authorities to judge for themselves?
Question 8	Is there any aspect of the content section that is not required or anything which should be added?
Question 9	Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?
Question 10	Is there any aspect of the dissemination section that is not required or anything which should be added?
Question 11	Is there any aspect of the advertising section that is not required or anything which should be added?
Question 12	Should adverts for local authority political assistants appear in political publications and websites?

Question 13	Is there any aspect of the recruitment advertising section that is not required or anything which should be added?
Question 14	Given the emphasis given to supporting and raising awareness of the role of the councillor in the White Paper, is there any aspect of the section on councillors that is not required, or anything which should be added?
Question 15	Is there any aspect of the timing of publicity section that is not required, or anything which should be added?
Question 16	Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

# Annex B

## Code of Recommended Practice on Local Authority Publicity as issued in 1988

### Code of Recommended Practice

#### Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
  - (i) the publicity should be relevant to the functions of the authority.
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
  - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

#### Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
  - (i) whether the publicity is statutorily required or is discretionary.
  - (ii) where it is statutorily required, the purpose to be served by the publicity.
  - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

### **Content and style**

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate – for example about the local authority’s sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority’s policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

### **Dissemination**

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.
24. Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.
25. Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

### **Advertising**

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

### **Recruitment advertising**

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

### **Publicity about individual members of an authority**

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.
40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.



41. For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.
42. This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

### **Timing of publicity**

43. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

### **Assistance to others for publicity**

44. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
  - (b) make the observance of that guidance a condition of the grant or other assistance;
  - (c) undertake monitoring to ensure that the guidance is observed.
45. It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

# Annex C

## **Code of Recommended Practice of Local Authority Publicity as amended in 2001 and which apply only to county councils, district councils and London borough councils in England**

### Code of Recommended Practice

#### **Subject matter**

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
  - (i) the publicity should be relevant to the functions of the authority.
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

#### **Costs**

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
  - (i) whether the publicity is statutorily required or is discretionary.
  - (ii) where it is statutorily required, the purpose to be served by the publicity.
  - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

### **Content and Style**

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate – for example about the local authority’s sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority’s policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

## **Dissemination**

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
25. There is no paragraph 25.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

## **Advertising**

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

### **Recruitment Advertising**

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

## **Individual Councillors**

- 39.** Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
- 40.** Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

## **Elections, referendums and petitions**

- 41.** The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.
- 42.** The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to:
- publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor
  - assist anyone else in publishing such material or
  - influence or assist others to influence local people in deciding whether or not to sign a petition

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

- 43.** County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

### **Assistance to others for publicity**

- 44.** The principles set out above apply to decisions on publicity issued by local authorities.

They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
  - (b) make the observance of that guidance a condition of the grant or other assistance;
  - (c) undertake monitoring to ensure that the guidance is observed.
- 45.** It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.



# Annex D

## Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

### The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

- A.3 The full consultation code of practice may be viewed at:  
[www.bre.berr.gov.uk/regulation/consultation/code/index.asp](http://www.bre.berr.gov.uk/regulation/consultation/code/index.asp)

- A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator  
Communities and Local Government  
Zone 6/H10  
Eland House  
Bressenden Place  
London  
SW1E 5DU

email: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)



## APPENDIX 2

### Summary

Code of Recommended Practice on Local Authority Publicity is currently being consulted on and responses are due on 12 March 2009.

The code, which was first introduced in 1986, needs to be refreshed to bring it in line with today's changing communications environment. It needs to reflect the current and evolving societal, political and technological landscapes if it is to be relevant.

The Government is carrying out a consultation on its '*Communities in Control: Real people, real power*' white paper, and within this document it proposes to amend the existing Code. The consultation is seeking views from local Councils and other agencies about the application of the Code and whether it should be revised to reflect and promote the needs of local communities. In short, it is asking whether local authority communications should reflect the status of Councils as political bodies led by democratically elected politicians who make decisions about local priorities.

The existing Code does not take into account best practice standards for communications and nor does it recognise that these standards are likely to change as communities, organisations and technology changes. Any proposed guideline should be aimed at encouraging effective communications based on modern, up-to-date best practice.

The council proposes to submit the following responses to the consultation which take in to account.

It is also worth including, as part of the formal response, the importance of the changing nature of technology and its impact on communications. When the Code was first proposed social media sites such as facebook, bebo, myspace, twitter etc, mobile phone technology, broadband technology that now creates integrated communications platforms (television, internet, radio and phone), were not in existence. Furthermore, the changes in technology have meant advertising has become cheaper if targeted through the correct channels and has opened up more avenues to engage with audiences.

Responses to:

Communities in Control: Real people, real power  
**Code of recommended practice on local authority publicity**

**Question 1:** *Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?*

Yes. The Local Government Act 1986 (section 2) (amended in 1988 and 2001) states that:

*A Council must not publish any material which in whole or in part appears designed to affect support for a political party. It cannot give financial or other assistance to any other organisation to publish such political material.*

This would seem counterintuitive in today's changing political environment. While it is accepted that councils should not be party political it ignores the fact that councils are governed by democratically elected representatives with a mandate to represent the views of their electorates. A strict interpretation of the legal position would suggest that councils would not be permitted to promote any policy of the elected representatives of the community.

Therefore, the legal position should be amended to reflect the political nature of local councils and provisions made to give councils the opportunity to promote policies that represent the views of the community. However, it is still important to make it clear that council should not promote one party over another.

Furthermore, the law should clarify the second paragraph where it states: "*It cannot give financial or other assistance to any other organisation to publish such political material.*"

Many political parties are affiliated with a number of organisations that councils also work with; for example, some housing associations only house people of certain religious faiths and may hold a particular political view or even have local politicians representing the organisation on their boards. What is the threshold for deciding whether providing financial assistance to an organisation for promoting the council's policies is not in breach of this legal requirement? To illustrate the point further, take the equalities legislation. If an organisation were to promote this policy does it then breach this section of the Act?

Councils should be given greater powers to support organisations that will take forward their policies if it (a) is legal; (b) represents the views of the local community; (c) and is consistent with in its support to other organisations ie not showing favouritism for particular organisations.

**Question 2:** *Is there a requirement for different codes to apply to different types of authority?*

No. However, there should be a set of 'guiding principles' in place to help local authorities devise a local code of practice.

**Question 3:** *Should the Publicity Code specifically address the presentation of publicity on an authority's website?*

No. The public are unlikely to be interested in this sort of information but councils should, as a matter of good practice, publish the information on their website so citizens can access it if they want to. But it should not be made mandatory and possibly included in a set of 'guiding principles'.

**Question 4:** *Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?*

The following sections should be amended:

Point 4, part (iii):

Councils should be given greater flexibility to be able to challenge central government, other tiers of local government, or other public authorities, even if they have the primary service or policy responsibility, on the basis that it runs contrary to local views. Local councils are also evolving into strategic commissioners of services and they should be given greater flexibility to voice the concerns of their communities if policies from other organisations, including central government, are not relevant, impractical or not welcomed by the local community.

Therefore, the existing Code would need to be amended to reflect the changing nature of local government.

Points 12, 13, 14, 15, 16 & 19:

Councils should be granted the freedom to campaign on issues of policy and be allowed to persuade the public to hold a particular view on a policy. For example, councils should be allowed to persuade the public about the importance of supporting measures to tackle climate change by adopting different attitudes and behaviours. Councils should also be granted greater flexibility to campaign on issues that are outside their direct influence but reflect local residents' views. For example, councils should be allowed to lobby supermarkets to reduce the amount of plastic bags they hand out if the public are opposed to plastic bags.

Point 20:

This should be amended. The level of local resident dissatisfaction with their councils is increasing and this is partly due to councils treating residents as 'passive recipients' rather than 'active participants'. The wording should be

changed to encourage councils to inform and involve residents in an effort to build understanding and participate in the decision-making process.

Point 29:

This should be amended to reflect the changing demands of audiences and the media landscape. Councils are competing in a congested media environment and they need to be more dynamic and responsive to their residents' needs and how the media operates. A decision to use advertising based on its cost-effectiveness should not be the sole criteria. Other factors such as the complexity of the issue, the demographics and psychographics of the intended audience should also be taken in to consideration when deciding which media to use.

Points 33 & 34:

This needs to be clarified. Councils work with many partners for the benefit of the community and from time to time it is appropriate that they deliver joint-communications, which might mean jointly purchasing advertising space to promote an initiative or run a joint campaign highlighting their work for the local community.

Points 39-42:

Councils should be allowed to promote the democratically elected representatives of their community. Suggest deleting point 39.

Points 44-45:

Councils should be given greater flexibility to support local partners and community organisations in promoting their services particularly when funded by the council.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, blogging, mobile phones and PDAs etc.

***Question 5: Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?***

Councils should be able to decide what criteria they should apply to assess the cost effectiveness of publicity. However, a set of 'guiding principles' could be useful in helping councils determine the cost effectiveness of publicity and this could be in relation to the size of the council and the community they serve.

***Question 6: Is there any aspect of the cost section that is not required or anything which should be added?***

No.

**Question 7:** *Should the Publicity Code contain advice about ethical standards in publicity, or should this be left to local authorities to judge for themselves?*

A set of 'guiding principles' might be useful, but it is our view that this should be left to local authorities to judge for themselves.

**Question 8:** *Is there any aspect of the content section that is not required or anything which should be added?*

Points 11-19:

Councils should be granted the freedom to campaign on issues of policy and be allowed to persuade the public to hold a particular view on a policy. For example, councils should be allowed to persuade the public about the importance of supporting measures to tackle climate change by adopting different attitudes and behaviours. Councils should also be granted greater flexibility to campaign on issues that are outside their direct influence but reflect local residents' views. For example, councils should be allowed to lobby supermarkets to reduce the amount of plastic bags they hand out if the public are opposed to plastic bags.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, emails, blogging, mobile phones and PDAs etc.

**Question 9:** *Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?*

Councils should be encouraged to ask their residents whether they wish to receive information or not and if so what sort of information would they like. Only by asking will they be able to identify who wants information and who doesn't. Furthermore, the legal definition surrounding UK privacy laws is quite complex. The UK is party to various international human rights treaties which recognise the existence of a right to privacy, yet UK law does not contain a single enshrined right to privacy. No Act of Parliament creates such a right, and the common law only allows a limited recognition of privacy rights in specific situations.

Therefore, it should be down to the local authority to respect an individuals' right to privacy, which is already contained in the Human Rights Act (article 8), and this could be included in the council's local code on publicity/communications.

**Question 10:** *Is there any aspect of the dissemination section that is not required or anything which should be added?*

Point 20:

This should be amended. The number of residents that are dissatisfied with their councils is increasing and this is partly due to councils treating residents

as 'passive recipients' rather than 'active participants'. The wording should be changed to encourage councils to inform and involve residents in an effort to build understanding and participate in the decision-making process.

Point 22:

This should be amended to include communities where English is a second language, visually impaired and those with learning disabilities. Communications need to be devised in the appropriate format and disseminated through the relevant channels.

The evolving nature of communications and technology should also be acknowledged eg the emergence of new channels such as social media (Facebook, Twitter, Bebo etc), internet, emails, blogging, mobile phones and PDAs etc which were not around when the code was first drafted.

**Question 11:** *Is there any aspect of the advertising section that is not required or anything which should be added?*

Point 29:

This should be amended to reflect the changing demands of audiences and the media landscape. Councils are competing in a congested media environment and they need to be more dynamic and responsive to their residents' needs and how the media operates. A decision to use advertising based on its cost-effectiveness should not be the sole criteria. Other factors such as the complexity of the issue, the demographics and psychographics of the intended audience should also be taken in to consideration when deciding which media to use.

Point 31:

This should be revised. For example, councils should be able to use media that reach audiences outside the local area to promote the place as a destination to visit.

Points 33 & 34:

This needs to be clarified. Councils work with many partners for the benefit of the community and from time to time it is appropriate that they deliver joint-communications, which might mean jointly purchasing advertising space to promote an initiative or run a joint campaign highlighting their work for the local community.

**Question 12:** *Should adverts for local authority political assistants appear in political publications and websites?*

Yes.

**Question 13:** *Is there any aspect of the recruitment advertising section that is not required or anything which should be added?*

No.



**Question 14:** *Given the emphasis given to supporting and raising awareness of the role of the councillor in the white paper, is there any aspect of the section on councillors that is not required, or anything which should be added?*

No.

**Question 15:** *Is there any aspect of the timing of publicity section that is not required, or anything which should be added?*

This section should remain.

**Question 16:** *Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?*

Points 44-45:

Councils should be given greater flexibility to support local partners and community organisations in promoting their services particularly when funded by the council.

Finally, the evolving communications environment needs to be taken in to account to include the emergence of new technology such as social media (Facebook, Twitter, Bebo etc), internet, blogging, mobile phones and PDAs etc.



**Subject:** *Complaints Update***Date of Meeting:** **03 March 2009****Report of:** *Monitoring Officer***Contact Officer:** Name: *Brian Foley* Tel: **29-3109**E-mail: [brian.foley@brighton-hove.gov.uk](mailto:brian.foley@brighton-hove.gov.uk)**Wards Affected:** All**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Complaints regarding Member conduct are administered under new arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008. These regulations are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
- 1.2 Corporate complaints are dealt with under the Corporate Complaints Procedure at Stage 1, Stage 2 and via the Local Government Ombudsman. The powers of the Ombudsman are set out in the Local Government Act 1974.

**2. RECOMMENDATIONS:**

- 2.1 The Standards Committee is asked to note the report.

**3. RELEVANT BACKGROUND INFORMATION**

- 3.1 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.2 **Summary of complaints about member conduct**

Complaints previously reported to Standards Committee

The outcomes of complaints previously reported to Standards Committee were:

## **Complaint 1**

Case Number **SCT047STDS**

Complainant: Member of the public

Date of complaint: 08 July 2008

Date of Assessment Panel : 14 August 2008

### **Allegation:**

The complaints relate to representations made to the Planning Applications Sub-Committee. The complaint alleges the member has breached:

*Section 6(a) that you 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*

*Section 12(1), that the member had a prejudicial interest in any business of the authority and failed to withdraw from the room or chamber where a meeting considering the business was being held.*

### **Decision of Assessment Panel:**

Complaint to be investigated.

### **Outcome:**

Complaint withdrawn.

## **Complaint 2**

**(This matter was identical to Complaint 1 but from a different member of the public)**

Case Number **SCT048STDS**

Complainant: Member of the public

Date of complaint: 20 July 2008

Date of Assessment Panel : 14 August 2008

Date of Determination: 24 October 2008

### **Allegation:**

The complaints relate to representations made to the Planning Applications Sub-Committee. The complaint alleges the member has breached:

*Section 6(a) that you 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*

*Section 12(1), that the member had a prejudicial interest in any business of the authority and failed to withdraw from the room or chamber where a meeting considering the business was being held.*

**Decision of Assessment Panel:**

Complaint to be investigated.

**Outcome:**

The Panel agreed with the findings within the Investigator's Report and concluded there had been no breach of the code of conduct.

**Complaint 3**

Case Number **SCT049STDS**

Complainant: Member of the public

Date of complaint: 08 July 2008

Date of Assessment Panel : 14 August 2008

**Allegation:**

The complaints relate to a decision made by a Planning Applications Sub-Committee. The complaint alleges the member has breached sections 8(2)(a), 9(1), 10(1), and 12(1) of the Code of Conduct in that there was a personal and prejudicial interest which the member failed to declare and failed to withdraw from the room or chamber where the business of the meeting was being considered.

**Decision of Assessment Panel:**

An element of the complaint to be investigated.

**Outcome:**

Complaint withdrawn.

**Complaint 4**

**(This matter was identical to Complaint 3 but from a different member of the public)**

Case Number **SCT050STDS**

Complainant: Member of the public

Date of complaint: 08 July 2008

Date of Assessment Panel : 14 August 2008

Date of Determination: 24 October 2008

**Allegation:**

The complaints relate to a decision made by a Planning Applications Sub-Committee. The complaint alleges the member has breached sections 8(2)(a), 9(1), 10(1), and 12(1) of the Code of Conduct in that there was a personal and prejudicial interest which the member failed to declare and failed to withdraw from the room or chamber where the business of the meeting was being considered.

**Decision of Assessment Panel:**

An element of the complaint to be investigated.

**Outcome:**

The Panel agreed with the findings within the Investigator's Report and concluded there had been no breach of the code of conduct.

**Complaint 5**

Case Number **SCT052STDS**

Complainant: An Elected Member

Date of complaint: 12 September 2008

Date of Assessment Panel: 21 October 2008

**Allegation:**

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states 'You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute'.

**Decision of the Assessment Panel:**

The Assessment Panel decided that no action should be taken in respect of the complaint.

**Complaint 6**

Case Number **SCT053STDS**

Complainant: Member of the public

Date of complaint: 16 September 2008

Date of Assessment Panel : 21 October 2008

**Allegation:**

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

It was further alleged that the Subject Member has a prejudicial interest in the matter and should therefore not make a public judgement on a planning application yet to be submitted or registered.

**Decision of the Assessment Panel:**

The Assessment Panel decided that no action should be taken in respect of the complaint.

## Complaints not previously reported to Standards Committee

### **Complaints 7 - 15**

Case Number **SCT 054 STDS to SCT 062 STDS**

Complainant: Members of the public

Date of complaint: 29 - 31 October 2008

Date of Assessment Panel : 11 November 2008

#### **Allegations:**

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states "*You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute*", and

Section 3(1) of the Code of Conduct which states, "*You must treat others with respect*".

#### **Decisions of Assessment Panel:**

The Assessment Panel decided that no action should be taken in respect of the complaint.

### **Complaints 16 and 17**

There are a further two complaints currently under consideration which when concluded will be included in a subsequent report to the Standards Committee.

## **3.3 Summary of complaints received under the corporate complaints procedures to end of December 2008**

### Local Government Ombudsman Complaints

To the end of December 2008 there have been 85 complaints received by the Ombudsman compared to 67 in the same period of the previous year. There have been no findings of Maladministration with Injustice. There have been 8 cases (9%) resolved by Local Settlement. Four of those cases resulted in financial redress with total payments of £1825. There have been 34 findings (40%) of No Maladministration. The remaining complaints were either closed at the Ombudsman's Discretion (8%), were Outside the LGO's Jurisdiction (13%), returned to the Council as Premature (21%) or have not yet been determined (9%).

The services receiving most complaints from the Ombudsman were Schools Admissions (12%), Development Control (12%), Repairs and Maintenance (11%), Housing Allocations (8%). Housing Estate Management (7%), and Housing Benefits (6%), and Revenues (6%).

### Stage Two Complaints

To the end of December 2008 there have been 123 requests for Stage Two Investigations compared to 115 in the same period of last year. Four awards of compensation resulted in total payments of £1400.

The services receiving most complaints at Stage Two were City Clean (14%) Development Control (14%), Housing Car Parks and Garages (9%), Repairs and Maintenance (9%), Housing Benefits (7%) Parking Management (6%) Revenues (5%).

### Stage One Complaints

To the end of December 2008 there have been 1240 complaints at Stage One compared to 1279 in the same period of last year. Compensation payments totalled £285.

The services receiving most complaints at Stage One were Refuse Collection (12%), Repairs and Maintenance (11%), Housing Estate Management (9%), Revenues (8%), Parking Management (7%), Development Control (5%), and Housing Benefits (4%).

## **4. CONSULTATION**

4.1 There is no consultation conducted for this report.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

5.1 There are no financial implications.

*Finance Officer Consulted: Anne Silley*

*Date: 19/02/2009*

### Legal Implications:

5.2 There are no legal implications.

*Lawyer Consulted: Liz Woodley*

*Date: 18/02/2009*

### Equalities Implications:

5.3 There are no equalities implications.

### Sustainability Implications:

5.4 There are no sustainability implications.



Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications.

Risk and Opportunity Management Implications:

- 5.6 There are no Risk and Opportunity management Implications.

Corporate / Citywide Implications:

- 5.7 There are no Corporate or Citywide implications.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. None.

**Documents In Members' Rooms:**

1. None.

**Background Documents:**

1. None.

