

**GENERAL PRINCIPLES OF CONDUCT IN
LOCAL GOVERNMENT**

THE GOVERNMENTS FINAL PROPOSALS

Introduction

1. In July 2000 the Government published a consultation paper setting out the nine general principles that it proposed should guide the conduct of members and co-opted members of relevant authorities in England¹. In light of the responses to the consultation paper, the Government intends to make various changes to the draft principles. The revised General Principles will be laid before Parliament for approval under the affirmative resolution procedure in the spring. A draft order containing the revised principles is at **Annex A**.

2. The principles form the basis of the model code of conduct to be introduced under section 49 of the 2000 Act. The Government has today published a consultation paper on proposals for the model code².

Responses

3. Two hundred and sixty six responses were received to the consultation exercise. Over fifty percent of the respondents were content with the principles as they had been drafted. Of the rest, the overwhelming majority made only minor drafting changes designed to remove perceived ambiguities or aid clarity. The Government has accepted many of these – details are at annex A. Aside from these, the consultation responses raised three substantive issues:

Confidentiality

4. There was some concern that the proposed principles did not deal with treatment of confidential material. An earlier white paper *Modern Local Government In Touch with the People*³ had proposed that amongst the principles there should be one requiring members to:

“Ensure that confidential material, including material about individuals, is handled in accordance with the law and – having regard to the public interest – any decisions on such handling taken by the council; and is not used for private purposes.”

5. The consultation paper published in July proposed dropping this principle. It explained that the Government sought to distinguish between:

- statements that reflect the fundamental values that should be the hallmark of public service in local government, and which therefore belong in a statement of general principles; and

¹ *General Principles of Conduct in Local Government: A consultation paper* by DETR July 2000. Relevant authorities are defined in section 49 (6) of the Local Government Act 2000. For the purposes of the general principles, they include county, district, London Borough and parish councils; the Common Council of the City of London, the Greater London Authority, the London Fire and Emergency Planning Authority, police authorities in England and Wales, the Council of the Isles of Scilly, fire authorities, the Broads Authority and national parks.

² *A Model Code of Conduct for Members : A consultation paper* by DETR February 2001.

³ CM4014 issued July 1998

- the specific actions that should be expected of local authority members in order to demonstrate that they are observing these values, and which might more appropriately be contained in a code of conduct.

6. In the Government's view, the White Paper proposal imposed specific requirements on members, and, therefore, belonged in the code of conduct. Some respondents to the consultation exercise felt that the omission of a statement on "confidentiality" weakened the principles. However, the Government believes that the Openness principle, as now drafted, properly reflects the fundamental value of public service in Local Government by requiring members to be as open as possible about their own and the authority's action. The Government believes that the code of conduct, not the principles, should impose specific requirements on members limiting the way in which they deal with confidential information. The consultation paper on the code of conduct, published today, therefore includes such provisions.

Wording

7. There was concern that some of the principles appeared to have been written only with elected members of local authorities in mind. However, the principles are to apply to all members – whether elected, nominated or appointed – of all relevant authorities. Many respondents asked, therefore, that they be amended to reflect the different roles and status of members of relevant authorities. The Government agrees and the principles at **annex A** have been suitably amended.

Equality

8. Concern was expressed that the principles did not reflect the need for members to act in a non-discriminatory way. The Government agrees that the principles need strengthening and propose, therefore, to add a new principle entitled "respect for others". This requires members to promote equality by not discriminating unlawfully against any person and by treating everyone with respect, regardless of his or her race, age, religion, gender, sexual orientation or disability.

The 10 General Principles – detailed consideration

9. Taking the above concerns into account, together with minor drafting changes, the following amendments were made to the principles listed in the consultation paper:

Selflessness

The consultation paper said

You are elected or appointed solely to serve the public interest. You should never use your position as a member to gain for yourself your family or your friends any financial benefits, preferential treatment or other advantage, or to confer such benefits, treatment or advantage improperly on others.

The Government agrees with a number of respondents who commented that

- It would not be possible for members to "never use their position to gain....[..].an advantage" since your family will always benefit on certain things, just like any other member of the community.
- The current version is unnecessarily long.

The General Principle in the order therefore now requires that:

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

Honesty and Integrity

The consultation paper said

You should not put yourself in a position where your honesty or integrity is called into question by any financial or other obligation. As well as avoiding actual impropriety, you should avoid any appearance of it.

The Government agrees with a number of respondents who commented that the phrase “by any financial or other obligation’ was superfluous.

The principle in the order now requires that:

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

Objectivity

The consultation paper said

In carrying out public business such as making appointments, awarding contracts, or recommending individuals for rewards or benefits, you should make decisions on merit.

The Government agrees with a number of respondents who commented that the term ‘public business’ was too narrow.

The order now requires that:

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

Accountability

The consultation paper said

You are accountable to the electorate and to the authority’s wider community for your actions and for the way in which you carry out your responsibility as a member. You should co-operate fully and honestly with whatever scrutiny is appropriate to your office.

The Government agrees with a number of respondents who commented that

- As already mentioned the Police, Fire & Parks authorities are not directly elected.
- The definition of “wider community” was open to question.
- Using “public” would be a more appropriate term for both the electorate and wider community.

The order now requires that:

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

Openness

The consultation paper said

You should be as open as possible about your own actions and those of the authority, and seek to ensure that disclosure of any information held by your authority is restricted only in accordance with the law and your authority's requirements on confidentiality.

The Government agrees with a number of respondents who commented that inserting a reference to "giving reasons" would strengthen the principle and bring it into line with the equivalent Nolan principle. As already discussed, the Government believes that limitations on members' ability to be open are to be dealt with in the code of conduct

The order therefore requires that:

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

Personal Judgement

The consultation paper said

Whilst you may very properly take account of the views of others, including your political group, it is your responsibility to decide what view to take, and if appropriate how to vote, on any issue which is before you.

The Government accepts the point made by a number of respondents that the reference to "political group" was not appropriate to all members of relevant authorities, but has decided to retain it to emphasise that members who are elected may be properly influenced by their political group.

The order now requires that:

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

Respect for Others

The Government proposes to include a new principle:

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

This articulates the new anti-discrimination provision and subsumes part of the old leadership principle about the relationship between members and officers. The latter reflects drafting changes to take account of consultation comments. That

- The word 'professional' could be interpreted to exclude non-'professionals'.
- A reference to 'integrity' should be added.

The general consensus on the principles of "duty to uphold the law", "stewardship and leadership" was that the Government had hit the right balance. Therefore they have been left substantially unchanged. In the order they now read:

Duty to uphold the law

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

Stewardship

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

Leadership

The consultation paper said

You should promote and support these general principles by leadership and example. You must respect the political impartiality and professional role of the authority's statutory officers, and other employees, and always act in a way that preserves public confidence in the authority.

The second half of this principle has now been picked up in the new principle of respect for others.

Given this additional principle, the order now requires that:

Members should promote and support these principles by leadership and example, and should always act in a way that preserves public confidence.

Draft Order laid before Parliament under section 105 (6) of the Local Government Act 2000, for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

2001 No.

LOCAL GOVERNMENT, ENGLAND

LOCAL GOVERNMENT, WALES

The Relevant Authorities (General Principles) Order 2001

<i>Made</i> - - - -	2001
<i>Laid before Parliament</i>	2001
<i>Coming into force</i> - -	2001

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by section 49 (1) of the Local Government Act 2000(a), and of all other powers enabling him in that behalf, and having carried out such consultation as is required by virtue of section 49 (3) and 49 (4) of the Act hereby makes the following Order:

Citation and Commencement

1.—(1) This Order may be cited as the Relevant Authorities (General Principles) Order 2001 and shall come into force on ***.

(2) This Order applies in relation to England and to police authorities in Wales.

Interpretation

2. In this Order—

“the Act” means the Local Government Act 2000.

“members” means members and co-opted members of relevant authorities.

“statutory officers” means heads of paid service, chief finance officers and monitoring officers.

General principles

3.—(1) The Secretary of State hereby specifies in the Schedule to this Order, the principles which are to govern the conduct of members and co-opted members of relevant authorities.

(2) The Schedule to this Order shall not have effect in relation to the activities of a member that are undertaken other than in an official capacity, except and insofar as, otherwise indicated.

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

SCHEDULE

ARTICLE 3

THE GENERAL PRINCIPLES

Selflessness

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

Honesty and Integrity

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

Objectivity

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

Accountability

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

Openness

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

Personal Judgement

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

Respect for Others

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

Duty to Uphold the Law

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

Stewardship

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

Leadership

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

EXPLANATORY NOTE

(This note is not part of the Order)