

- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION NO

SUGGESTED NEXT STEPS:

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet 22 February 2007
- To an O & S Committee
- To an Area Committee
- Further Consultation

Audit And Standards Committee - 21 February 2007.

Consultation on Amendments to the Member Code of Conduct

Report of the Strategic Director of Performance and Development

Recommendation

That the Committee comments on the proposed draft response

1. Introduction

The Government is consulting on proposed amendments to the Member Code of conduct. The changes proposed and the specific questions raised are set out below. A copy of the Consultation has been sent to all elected members.

2. Unlawful Discrimination, Bullying and Intimidation

The Government proposes to delete the reference to unlawful discrimination in the current code as the Adjudication Panel has no power to make findings of unlawful discrimination and replace this with a requirement 'not to do anything which would seriously prejudice the authority's statutory duties relating to equalities'. In addition it proposes to add a specific provisions proscribing bullying and intimidation. The new wording of paragraph 2 is set out below.

- 2 (1) treat others with respect
(2) A member must not-
- (a) do anything which may seriously prejudice his or her authority's ability to comply with any of its statutory duties under the equality enactments (as defined in section 33 Equality Act 2006).
 - (b) bully any person;
 - (c) in his or her official capacity, or any other circumstance, intimidate or attempt to intimidate any person who is or is likely to be
 - A complainant
 - A witness, or
 - Supporting the administration of any investigation or proceedings
- In relation to an allegation that a member has failed to comply with his or her authority's code of conduct;
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority

3. Disclosure of Confidential Information

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

3 A member must not-

- (a) disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where-
 - (i) he or she has the consent of the person authorised to give it
 - (ii) he or she is required by law to do so; or
 - (iii) the disclosure is
 - (aa) reasonable and in the public interest;
 - (bb) made in good faith and does not breach any reasonable requirements of the authority
- (b) prevent another person from gaining access to information which that person is entitled by law

The Government is concerned to ensure that the public interest test is not misused by those seeking to make political capital through disclosure of properly confidential information. The Standards Board intends to issue further guidance on how they would expect members to interpret this provision. They expect that such guidance would indicate that members should be able to disclose information where they reasonably believe that the disclosure will indicate evidence of a criminal offence, where the authority is failing to comply with its legal obligations, that a miscarriage of justice has or may occur, that the health and safety of anyone has been endangered or the environment has been damaged.

The Government suggests that the wording might be improved to make it clear that the rules apply not only to information received by a member in his official capacity but also information which relates to the work of the Council. This is to avoid claims from members that he or she did not receive the information in his/her official capacity.

4. Behaviour outside official duties

Q2: Subject to the powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

- 4 (1) A member must not in his or her official capacity, or any other circumstance, conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.
- (2) The conduct referred to in paragraph (1) may include a criminal offence including one committed by the member before taking office but for which he or she is not convicted until after that date

A High Court case in October 2006 suggested that conduct in a member's private capacity can only come within the scope of the code where it is established that there is a direct link with the member's office e.g. if the member uses his office for personal gain. This is because of the use of the words 'in performing his/her functions' in the primary legislation.

This is a narrower interpretation than has previously applied to the code. Up to now the Government had assumed that it was possible to take a wider view of what private conduct could be relevant i.e. those actions that could affect the member's reputation and electors confidence in him or her. The Government considers that where a member's behaviour has been found unlawful by a court then the member may be perceived to have brought his or her office into disrepute.

In order to readdress the balance the Government has therefore decided to amend section 49 to 52 Local Government Act 2000 so that behaviour in a private capacity might fall within the scope of the code. This amendment is included in the current Bill before Parliament.

Should the new provision be enacted the Government intends that only unlawful private behaviour should be caught within the scope of the code i.e. private behaviour for which a member has been convicted by a court and not behaviour which falls short of a criminal offence. It also proposes that criminal behaviour occurring before taking office but for which the member is not convicted until after taking office should be capable of being taken into account in deciding whether or not a member has brought his/her office into disrepute. Paragraph 4(2) seeks to give effect to these intentions.

5. Using or seeking to use improper influence & the Publicity Code

Paragraph 5(a) currently provides that a member must not in his or her official capacity or otherwise use his or her position to confer or secure an improper advantage/disadvantage for any person. Read literally this could exclude unsuccessful attempts. The government therefore proposes to add the words 'attempt to use' to cover this potential loophole.

In addition the government proposes to simplify paragraph 5(b) (ii) to make it clearer that a local authority's resources should not be used improperly for party political purposes.

It also intends to add a specific reference to the Code of Recommended Practice on Local Authority Publicity. The Code supplements the basic restriction in the 1986 Act requiring authorities not to use their resources for political purposes by providing instructions about the content, style and distribution of promotional activity and material produced by authorities. The Code does not currently apply to the Greater London Authority, fire and rescue authorities and national parks authorities although the member code does apply. A copy of the current Code is attached as an Appendix. The Government asks in particular-

Q3: Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, e.g. via guidance issued by

local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

The new wording of paragraph 5 is set out below

5. (a) A member must not in his or her official capacity or in any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and
- (b) must when using or authorising the use by others of the resources of the authority –
- (i) act in accordance with the authority's requirements;
 - (ii) ensure that such resources are not used improperly for political purposes(including party political purposes)
 - (iii) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986

6. Gifts and Hospitality

The Government proposes that the receipt of gifts or hospitality of over £25 in value should be registered in the same way as other personal interests. The requirement to disclose such a personal interest at a meeting would cease after five years following the receipt of the gift or hospitality although the receipt would remain on the register. The current code does not automatically make the receipt of gifts and hospitality a personal interest which is declarable at meetings. If this is to be the case Members might wish to consider whether the value threshold remains appropriate. The Government asks in particular-

Q4: Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

7. A member has a personal interest in any matter where-

(a) it relates to....(vi) any gift or hospitality over the value of £25 received by the member

8 (3) A member with a personal interest of the type mentioned in paragraph 7(a)(vi) need not disclose the nature or the existence of that interest to the meeting if the interest was registered more than 5 years before the date of the meeting.

7. Friends, Families and Close Personal Associates

The Government wishes to ensure the definition of personal interest includes matters affecting a range of personal, business and professional associates as well as people who could be called 'family or friends'. The Government therefore intends to add the words 'any person with whom the member has a close personal association' and delete the definitions of relatives and friends.

Q5: Does the proposed text relating to friends family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

- 7 A member has a personal interest in any matter where-
- (c) a decision on the matter might reasonably be regarded as affecting the well-being or financial position of-
 - (i) the member, one of the member's family or a friend, or any person with whom the member has a close personal association;

A further proposed change to the Code makes it explicit that a member can only be expected to disclose such interests where the member is aware or ought reasonably to be aware of the interest.

8. Definition of Personal Interests

The Government wishes to allow members to participate in council meetings etc more frequently by limiting the definition of personal interest (other than registered personal interests) to circumstances where in relation to county councils

'the interest might be reasonably regarded as affecting the member to a greater extent than the majority of other council tax payers, rate payers or inhabitants of the electoral division which is affected by the particular matter'

Currently the code requires a member to judge his or her interest against the whole of the Council area, not just the part affected by the proposal. The proposed change narrows the focus and should reduce the number of personal interests, which may arise.

In relation to authorities with electoral divisions or wards then the test is applied to the appropriate division or ward as appropriate for the authority. However in relation to Parish Councils the code will still require a parish councillor to judge their interest against the whole area.

9. Public Service Interests

The Government proposes that certain personal interests which are required to be registered are classified as 'public service interests'. The requirements to declare such interests at meetings are relaxed to the extent that they need only be declared if the member speaks on the matter. The new definition is set out below

- A member has a public service interest in a matter where that matter relates to-
- (i) another relevant authority of which he or she is a member
 - (ii) another public authority in which he or she holds a position of general control or management or
 - (iii) a body to which he or she is appointed or nominated by the authority

10. Prejudicial Interests

The current code set out a number of exemptions whereby a member could regard himself or herself as not having a prejudicial interest. These exemptions were not automatic and the member had to consider his or her individual circumstances before deciding whether or not to rely on the exemption.

The new code has removed the 'discretion' and in relation to the new list of exemptions the Code says they are not to be regarded as prejudicial. In addition to the usual exemptions relating to housing, school meals etc, statutory sick pay and member allowances the Government has added some new exemptions. The new wording is set out below

- 9(2) A member does not have a prejudicial interest in a matter where-
- (a) he or she has a 'public service interest in a matter, unless
 - (i) the matter relates to the financial affairs of the body to which that public service interest relates; or
 - (ii) the matter relates to the determining of any approval, consent, licence, permission or registration in relation to that body

 - (b) that matter relates to the functions of the authority in respect of-
 - (i) housing, where he or she is a tenant of the authority provided that those functions do not relate particularly to the member's tenancy or lease
 - (ii) school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education or is a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
 - (iv) an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989
 - (v) an indemnity given under an order made under section 101 of the Local Government Act 2000
 - (vi) considering the bestowing of the title of freeman on the member; and
 - (vii) setting council tax under the Local Government Finance Act 1992

The new provisions make it clear that in relation to public service interests providing it does not relate to the financial affairs of the body or the determining of any approval etc no prejudicial interest will arise and members can speak and vote at such meetings. The definition of public service interest is extended for these purposes to include a charity, a lobbying or philanthropic body of which he/she is a member.

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

One of the issues which has arisen in the past is members rights to join the Local Government Pension Scheme and it might sensible to include express provision relating to member pension entitlements under the Superannuation Act 1972.

11. Representations at Meetings

The proposed code contains a new provision which provides that even where a member would normally have a prejudicial interest but attends a meeting to make representations, answer questions or give evidence no prejudicial interest will arise provided the committee agrees they may do so and the member immediately withdraws from the room where the meeting is being held after making such representations or giving such evidence. The Government asks in particular

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

The new wording in the code is set out below

9(3) A member does not have a prejudicial interest in a matter where she or he attends a meeting for the purpose of making representations, answering questions or giving evidence relating to the matter, provided the meeting agrees that the member may do so and after making representations, answering questions, or giving evidence, the member withdraws from the room where the meeting is being held.

All members with a prejudicial interest regardless of the category of interest would still continue to be subject to the requirement that members should not seek improperly to influence a decision about the matter. The rules on prejudicial interests are only relaxed for the duration of the member's attendance at the meeting to make representations etc.

12. Other Matters

The Consultation proposes a number of other changes

- **Requirement to report other members**
The Government has removed the requirement to report other members for suspected breaches of the code to the Standards Board as this has been perceived by some as encouraging members to make trivial allegations. However in order to protect those who do report serious misconduct a prohibition on intimidation has been included. This is to demonstrate to members that victimising complainants or witnesses will rebound on them as such intimidation will itself be a breach of the code.
- **Deemed prejudicial interests**
To tidy up the wording relating to the prohibition on members of overview and scrutiny committees scrutinising decisions of bodies of the authority of which they are also member. Under the current code it could be argued that a

member is only prohibited if they still remain a member of that other body even though he or she had not participated in the actual decision.

The new code proposes to apply this prohibition to membership of another body of the authority at the time of the decision or action was taken provided the member was present for the consideration of that particular matter. It also clarifies that executive decisions are also covered. Therefore this restriction will apply to former executive members now sitting on overview and scrutiny committees who were involved in making relevant decisions.

- **Attendance at Standards Committee hearings**

The Government intends to amend the Local Authorities (Code of Conduct) (Local Determination) Regulations to make it clear that a member may attend a hearing of the standards committee into his or her conduct in order to be able to defend himself or herself.

- **Sensitive Information**

Paragraph 14 requires members to register all their personal interests. However some members may be employed in sensitive areas of employment e.g. scientific research, which if made public would threaten the safety of the member and/or his or her family.

The Government therefore proposes that a member who considers that the information which he or she would need to register is sensitive can apply to the Monitoring Officer for the interest not to be registered. If the Monitoring Officer is satisfied that the information is sensitive and the risk of violence or intimidation to the member or those he or she lives with is real then the member need not include the sensitive information on the register.

If information ceases to be sensitive the member must notify the monitoring officer and register the information within 28 days of becoming aware of the change of circumstances.

- **National Parks and Boards Authorities**

At the request of DEFRA certain additional exemptions from prejudicial interests for members of National Parks and Broads Authorities, which allow interests in matters relating to farming, land, certain charges or navigation not to be treated as prejudicial, are to be removed to address criticisms that preferential treatment has been given to certain landowners and navigators.

- **Gender Neutrality of language**

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

- **Consolidated Code**

The Government proposes that the four current codes for Local Authorities, Parish Councils, Police Authorities and National Parks and Boards Authorities should be consolidated into one code. The proposed code will therefore cover all these authorities.

13 General

Members are asked to consider the proposed changes and make recommendations on the proposed response to Cabinet

DAVID CARTER
Strategic Director of
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Shire Hall
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23 January 2007

CODE OF RECOMMENDED PRACTICE ON LOCAL
AUTHORITY PUBLICITY

6-194

1. We are directed by the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which they have issued under their powers under section 4 of the Local Government Act 1986, as amended by section 27 of the Local Government Act 1988.

2. Section 4 provides for the Secretary of State to issue codes of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section, as amended, also requires that local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.

3. The code has been prepared following consultations with the associations of local authorities, the local authorities with whom the Secretaries of State thought consultation desirable, and other bodies concerned. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.

4. The code has no significant implications for either local authority expenditure or manpower.

ANNEX

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CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

INTRODUCTION

Status of the Code

1. This Code is issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up following the consultations with interested parties in local government required by section 4(4) of the Act. It has been approved by a resolution of each House of Parliament. 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 Code in coming to any decision on publicity.

Why have a Code?

2. Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public

PART 6—SELECTED DEPARTMENTAL CIRCULARS AND MEMORANDA

aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a council's activities, is to be welcomed. This Code is not intended to discourage such publicity.

3. Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should

apply to all publicity at public expense, and which traditionally have applied in both central and local government.

4. The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, nor stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity. 6-195

Scope of the Code

5. The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. (That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party). The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by section 2.

6. Section 6 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 Code will therefore be relevant across the whole range of local authorities' 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.

7. The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.

8. The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.

9. By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

CODE OF RECOMMENDED PRACTICE

6-196

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

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so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.

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.

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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. 6-196

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 6-196

PART 6—SELECTED DEPARTMENTAL CIRCULARS AND MEMORANDA

- performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
- 6-196 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

- 6-197 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.
- 6-196 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.

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32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out. **6-197.1**

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. **6-197.2**

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: **6-197.3**

- (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.

GENERAL NOTE

This Code has been amended for England by DETR Circular 06/2001, and the revised code is set out in an Annex to that Circular. A fresh code for Wales was issued by the National Assembly in October 2001.

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