

**Communities in control: Real people, real power**  
**Codes of Conduct for Local Authority Members and Employees.**

Response from Swindon Borough Council's Standards Committee to the consultation document:

<b>Question 1</b>	<b>Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?</b>
	Swindon Borough Council's Standards Committee agree with this as all Members should conduct themselves in a manner that does not bring the authority or their office into disrepute.
<b>Question 2</b>	<b>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.</b>
	We disagree with this. The definition should remain as it is now. Fixed penalty offences should not be excluded as these can relate to matters which are not minor criminal offences. The definition also needs to take into account 'conditional cautions' as these can include offences of assault and serious criminal damage of over £1,000.
<b>Question 3</b>	<b>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.</b>
	Yes. We suggest that this be incorporated in the Code otherwise there is a mismatch in wording between the definition as prescribed by the Secretary of State, and the definition set out in the Code.
<b>Question 4</b>	<b>Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?</b>
	Yes. Legal systems within other countries can be very different to that within the UK. It would be unfair to penalise a Member for what is considered to be a criminal activity in another country (for example, drinking alcohol) but is not a criminal activity within the UK.
<b>Question 5</b>	<b>Do you agree that an ethical investigation should not proceed until the criminal process has been completed?</b>
	Yes, as this is part of the natural justice process.
<b>Question 6</b>	<b>Do you think that the amendments to the members' code</b>

**APPENDIX 3**

	<b>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?</b>
	<p>Yes.</p> <p>In addition, the conflict between section 21 of the 2000 Act and paragraphs 11 and 12 of the Code should be resolved to make clear that an executive member can attend Scrutiny Committee to answer questions relating to that portfolio.</p> <p>Further, Swindon Borough Council has recently had an instance that at a meeting of its Cabinet, a proposal was discussed to close a school and for a local Academy to be expanded to run the school proposed for closure. At the meeting, the Lead Member for Children Services had to declare a prejudicial interest and not take part due to the fact he is a governor of the Academy to which he had been nominated by the council.</p> <p>It seems unreasonable to the Standards Committee that a council nominee on an outside body should not be able to make representations, answer questions or give evidence, even if members of the public do not have that same right. Accordingly, it is suggested that the words 'or where you are a council appointment or nominee on an outside body which is the subject matter of the business being discussed' be added to end of paragraph 12(2) of the Code.</p>
<b>Question 7</b>	<b>Are there any 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?</b>
	No
<b>Question 8</b>	<b>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.</b>
	No
<b>Question 9</b>	<b>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 undertake to observe the code?</b>
	Yes
<b>Question 10</b>	<b>Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?</b>
	Yes
<b>Question 11</b>	<b>Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined</b>

	<b>differently?</b>
	No, for the reasons set out in the response to question 2, above.
<b>Question 12</b>	<b>Do you agree with this definition of ‘official capacity’ for the purpose of the General Principles Order?</b>
	Yes

Model code of conduct for local government employees:

<b>Question 13</b>	<b>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?</b>
	There should be a requirement to have a Code but there is no need to specify what it should contain. That should be a matter for local discretion. Swindon Borough Council in common with many other authorities already have a code that is part of the terms and conditions of employment.
<b>Question 14</b>	<b>Should we apply the employees’ code to firefighters, teachers, community support officers, and solicitors?</b>
	No, for the reasons set out in the Consultation document.
<b>Question 15</b>	<b>Are there any other categories of employee in respect of whom it is not necessary to apply the code?</b>
	No
<b>Question 16</b>	<b>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?</b>
	We are not aware of anything else that should be included or omitted.
<b>Question 17</b>	<b>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?</b>
	Qualifying employees should be selected using the delegation model, and not the political restriction model as relatively junior employees could be included in the latter category. The important issue is one of accountability for decisions made and that relates more particularly to the delegation model.
<b>Question 18</b>	<b>Should the code contain a requirement for qualifying employees to publicly register any interests?</b>
	Yes – but only where there is a conflict between the

	employee's interest and the 'day job'.
<b>Question 19</b>	<b>Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?</b>
	The Standards Committee consider that those interests set out in bullet points 1 and 3 listed in the Consultation document should be included but not those set out in bullet points 2 and 4 unless there is a conflict of interest as referred to in question 18, above .
<b>Question 20</b>	<b>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?</b>
	Pertinent aspects have been captured.
<b>Question 21</b>	<b>Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?</b>
	Too many restrictions are placed by the proposed employees code.
<b>Question 22</b>	<b>Should the employees' code extend to employees of parish councils?</b>
	No