



Department for

Communities

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**Review of the Northern Ireland
Local Government Code of Conduct
for Councillors**

Public Consultation

DECEMBER 2016

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1. Introduction

This consultation sets out proposals to amend the current Northern Ireland Local Government Code of Conduct for Councillors (the Councillors' Code). These proposals have been put forward following a review of Parts 3 and 8 of the Councillors' Code carried out by the independent Code of Conduct Review Group (the Review Group). The Review Group, in considering whether to make recommendations for a revised Code, sought the views of councillors, groups representing councillors and councils, the Northern Ireland Commissioner for Complaints and the Local Government Auditor.

2. About this consultation

2.1 Who this consultation is aimed at

This consultation is seeking views on the proposals to amend the Councillors' Code, in particular, from councillors and those persons who interact with councillors and councils. The Department also welcomes the views of the general public.

2.2 Purpose of the consultation

The Department proposes to amend the Councillors' Code in line with the recommendations of the Review Group and seeks comments on the proposed amendments.

2.3 Scope of consultation

This consultation applies to Northern Ireland.

2.4 Duration of the consultation

The consultation period shall run **until 28th February 2017**.

2.5 How to respond to this consultation

Please email your consultation response to:

lgpdconsultations@communities-ni.gov.uk

Please ensure your response reaches us **by 28th February 2017**.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. We will acknowledge your response.

2.6 Consultation response

We will consider the responses received and publish a synopsis of those responses and the Departmental response on the Department's website.

In line with good practice and sustainable development this document has been published electronically.

3. How we consult

3.1 Consultation principles

This consultation is being conducted in line with the Fresh Start Agreement – (Appendix F6 – *Eight Steps to Good Practice in Public Consultation – Engagement*). These eight steps give clear guidance to Northern Ireland Departments on conducting consultations.

3.2 Freedom of information

The information you send us may need to be passed to colleagues within the Department for Communities in Northern Ireland (“the Department”).

Following the end of the consultation we shall publish a summary of responses received. Information provided in response to our consultations, including personal information, may be disclosed in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998. If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality.

To find out more about the general principles of Freedom of Information and how it is applied within the Department, please contact Information Management Branch (IMB):

Email: foi@communities-ni.gsi.gov.uk

IMB cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the [Freedom of Information Act](#).

4. Overview

This consultation sets out proposals to amend the current Northern Ireland Local Government Code of Conduct for Councillors. We would welcome views on the proposed amendments. Any amendment to the Councillors' Code will require the approval of the Assembly.

4.1 Background

The current Councillors' Code is underpinned by 12 principles of conduct which are intended to promote the highest possible standards of behaviour for councillors and which mirrored the principles contained in the code of conduct for Members of the Legislative Assembly (the MLA Code) which was in place at the time the Councillors' Code was being developed.

The Councillors' Code was approved by the Assembly on 28th May 2014. At this time, a review of the MLA Code was underway and the then Minister with responsibility for local government undertook to consider whether any changes should be made to the Councillors' Code in light of the review of the MLA Code.

Some concerns had also been raised regarding Part 8 (decision making) of the Councillors' Code and the then Minister appointed an independent review working group to review both the Principles in Part 3 of the Councillors' Code (taking account of the changes made to the MLA Code) and the rules on decision-making in Part 8.

4.2 The Work of the Review Group

The Review Working Group (Review Group) considered the changes made to the principles contained in the MLA Code and the issues raised concerning Part 8 of the Councillors' Code. This work commenced in November 2015 and finished in April 2016, when the Review Group presented its report to the then Minister with responsibility for local government.

To enable the Review Group to understand fully the issues regarding the Councillors' Code, the group decided to hold information gathering events to provide political parties, councillors, chief executives/senior officers, local government representative bodies, the Northern Ireland Ombudsman and the Local Government Auditor with an opportunity to provide their views in person; written submissions were also sought.

5. The Review Group's Proposals

A copy of the Review Group's Report, which contains more details on the establishment of the Review Group, and its proposals and recommendations in relation to the Councillors' Code and ethical standards framework, is being issued along with this consultation document.

The Department would like to hear any views or comments regarding the Review Group's Report.

5.1 Summary of Recommendations of the Review Group

Part 3 - Principles

The Review Group, taking account of the views of stakeholders, considered that the principles in the Councillors' Code should be

amended to reflect the principles and supporting descriptors provided for in the revised MLA Code. The Review Group also indicated that it would be advantageous to have as much consistency between the Councillors' Code and the MLA Code, as this would help to build both the public and elected members' understanding of the requirements placed on all elected representatives (see page 20 of the Review Group Report).

The Review Group made five recommendations in respect of the Principles of Conduct (see Annex A for full details):

Recommendation 1 - The principles of conduct in the Councillors' Code should be revised to reflect, as far as possible, those revised principles and descriptors provided in the MLA Code approved by the Assembly in June 2015.

Recommendation 2 - Consideration should be given to making the current principle of "Public duty" an enforceable rule in the Councillors' Code.

Recommendation 3 - The Review Group recommends the following wording for the new Rule of Public Duty –

"Public Duty

You shall uphold the criminal law. You fail to uphold the law only if you are convicted of, or admit formally, an offence committed when acting in your capacity as a Councillor."

Recommendation 4 - The principles of conduct in the Councillors' Code should be considered aspirational, in line with the revised principles in the MLA Code approved by the Assembly in June 2015.

Recommendation 5 - The Review Group recommends that paragraph 3.2 in Part 3 of the current Councillors' Code should be revised as follows –

“Councillors should observe the following principles of conduct. Whilst these principles will be taken into account when considering the investigation and determination of any potential breaches of the rules of conduct, the Principles are not themselves enforceable.”

Part 8 – Decision Making

The Review Group heard a number of views expressed with regard to Part 8 of the Councillors' Code (see pages 29 to 35 of the Review Group Report). These views highlighted areas of a councillor's work which seemed to be hindered by the application of some of the decision-making rules in Part 8 of the Code and the need for consistency in its application and clarity for councillors to determine how they should work within their council and serve their constituents.

The Review Group made two recommendations to address these issues :

Recommendation 6 - The wording of Rule 8.1 in the Councillors' Code should be revised, so that:

- Rules 8.1(a) to (h) apply to all decisions; and

- Rules 8.1(i)-(l) apply to quasi-judicial decisions (e.g. planning, licensing, etc.), to decisions on appointments and the awarding of contracts.

Recommendation 7 - The Review Group recommends that Part 8 of the Councillors' Code should be revised *in accordance with the previous recommendation* (see Annex A or page 36 of the Review Working Group Report for the revised wording).

6. Proposed amendments to the Councillors' Code

The Department has produced a revised version of the Councillors' Code (see attached Annex B) incorporating the proposals of the Review Group and would be grateful for any comments you may have on it and, in particular, any response to the questions set out below on the specific changes.

6.1 Amendments to Part 3 (the Principles)

In summary, the Principles have been amended as follows-

Principles

- The principles have been amended to reflect the content and wording of the MLA Code;
- The current Principle of "Public Duty" has been removed. Public Duty is now an additional rule (see Rule 4.2 of the revised Councillors' Code);
- Paragraph 3.2 of the Councillors' Code is amended to clarify that the Principles are now considered to be aspirational and not enforceable on their own, in line with the MLA Code.

Question 1. - Do you agree with the changes made to the Principles contained in the Councillors' Code?

Question 2. – Do you agree that the Principle of “Public Duty” should be replaced with an enforceable rule?

Question 3. – Do you agree that the Principles should be aspirational rather than enforceable on their own?

Please provide any additional information which may support your view.

6.2 Amendments to Part 8 (Decision-Making)

Part 8 (Decision-Making) of the Councillors' Code has been amended to clarify that Rules 8.1(a) to (h) will apply to all council decisions and that, in addition, Rules 8.1(i) to (l) will apply to quasi-judicial decisions (for example, planning and licensing) and to decisions on making appointments and the awarding of contracts.

Question 4. – Do you agree that Rules 8.1 (a) to (h) in Part 8 should be applied to all decisions?

Question 5. – Do you agree that Rules 8.1 (i) to (l) should only apply to

(a) quasi-judicial decisions;

(b) making appointments; and

(c) the awarding of contracts?

Please provide any additional information which may support your views.

7. Additional recommendations of the Review Group

The Review Group, during its evidence gathering sessions, also heard concerns from the participants on matters which were outside the remit of the Review Group and not part of the Councillors' Code i.e. Training, Advice and Procedures. The Review Group considered it important to highlight in its Report those concerns which were consistently raised – these have been set out in the Review Group Report as Emerging Issues together with recommendations for consideration.

The Department would welcome any comments you may have on these Emerging Issues and the recommendations of the Review Group (see page 38 of the Review Group Report). The Department will consider these comments as part of its development of any future changes to the Ethical Standards Framework in councils and its delivery and effectiveness.

8. Way forward

The Department will consider all responses to this consultation and issue a report summarising the responses and replying to any issues raised. Any proposed change to the current code of conduct for councillors will require the Department to lay a copy of the revised Councillors' Code in the Assembly for its approval.

Annex A

Recommendations of the Review Working Group

Part 3 – Proposed Principles of Conduct

Recommendation 1

The principles of conduct in the Councillors' Code should be revised to reflect, as far as possible, those revised principles and descriptors provided in the MLA Code approved by the Assembly in June 2015. See proposed revised principles below:

PROPOSED REVISED PRINCIPLES OF CONDUCT FOR THE COUNCILLORS' CODE

Selflessness

You should act solely in terms of the public interest.

Integrity

You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in the performance of your duties as a councillor. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships.

Objectivity

You must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.

Openness

You should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

You should be truthful.

Leadership

You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Equality

You should promote equality of opportunity and not discriminate against any person, treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependents.

Promoting Good Relations

You should act in a way that is conducive to promoting good relations by tackling prejudice, promoting understanding and respect and encouraging participation between people on the grounds of different religion, political opinion, race, gender, age, sexual orientation and disability.

Respect

You should show respect and consideration for others at all time.

Good Working Relationships

You should work responsibly with other councillors for the benefit of the whole community. Your working relationship with council staff should at all times be professional, courteous and based on mutual respect.

Recommendation 2

Consideration should be given to making the current principle of "Public duty" an enforceable rule in the Councillors' Code.

Recommendation 3

The Review Group recommends the following wording for the new Rule of Public Duty

"Public Duty

You shall uphold the criminal law. You fail to uphold the law only if you are convicted of, or admit formally, an offence committed when acting in your capacity as a Councillor".

Recommendation 4

The principles of conduct in the Councillors' Code should be considered aspirational, in line with the revised principles in the MLA Code approved by the Assembly in June 2015.

Recommendation 5

The Review Group recommends that paragraph 3.2 in Part 3 of the current Councillors' Code should be revised as follows –

"Councillors should observe the following principles of conduct. Whilst these principles will be taken into account when considering the investigation and determination of any potential breaches of the rules of conduct, the Principles are not themselves enforceable."

Part 8 – Proposed Decision-Making Rules

Recommendation 6

The wording of Rule 8.1 in the Councillors' Code should be revised, so that:

- Rules 8.1(a) to (h) apply to all decisions; and
- Rules 8.1(i)-(l) apply to quasi-judicial decisions (e.g. planning, licensing, etc.), to decisions on appointments and the awarding of contracts.

Recommendation 7

The Review Group recommends that Part 8 of the Code should be revised as follows:

"8. RULES RELATING TO DECISION-MAKING

8.1 It must be acknowledged that councillors fulfil different roles at different times.

For example, they can sit as a council member, committee chair, member of a committee or of their party political group, representing a district electoral area or their constituents or as a council-appointed member of an outside body.

Some of these roles can cause members to be in conflict.

However, it is up to each individual member to decide which role they are carrying out at any time and observe the rules accordingly.

General Rules – Applicable when making all decisions

When participating in meetings or reaching decisions regarding the business of your council, you must

- (a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;
- (c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- (e) act in accordance with any relevant statutory criteria;
- (f) act fairly and be seen to act fairly;
- (g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;

Additional Rules – Decisions regarding quasi-judicial issues, making appointments and awarding contracts

In addition to the general rules which relate to all decisions, for decisions in relation to quasi-judicial issues, making appointments and awarding contracts, you must also:

- (i) not organise support for, or opposition against, a particular recommendation on the matter being considered;
- (j) not lobby other councillors on the matter being considered;
- (k) not comply with political group decisions on the matter being considered, where these differ from your own views; and
- (l) not act as an advocate to promote a particular recommendation in relation to the matter being considered."