

Hoey Ainscough Associates Ltd, in association with Weightmans LLP, present

STANDARDS: ONE YEAR ON

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Weightmans LLP

New Fetter Lane

London

www.hoeyainscough.co.uk

www.weightmans.com

CODES OF CONDUCT DISCUSSION PAPER

Background

This paper sets out our conclusions on the way local codes have been implemented based on the work we have done with a wide range of authorities and then raises some issues for discussion about the way local codes are working.

Types of Code

- Three model codes were produced by national bodies last year - a DCLG codes; an LGA code and a NALC code.
- The NALC code is a simplified variant of the old code and is largely 'rules-based'
- The DCLG and LGA codes move away from this approach and are more 'principles-based'.
- All of the codes we have seen locally have either been the DCLG/LGA code or a variant of the old code/NALC code
- Some codes have sought to combine both the old code and the DCLG/LGA code into a longer code
- Some counties/areas have adopted what they call a local code, the x shire code, but these vary very little from one of the models
- There tends to have been a uniform approach agreed across an area, either for all authorities within a county (including districts and parishes) to adopt the same code, or else for the district and its parishes to adopt one code, with the County adopting another

Provisions within the code

- Where councils have adopted a code based on the old code, they have generally kept it 'as is' but with the addition of statutory provisions relating to DPIs
- Where councils have trimmed down the old code, typically they have removed provisions relating to disrepute and disrespect as these were seen as the cause of trivial or vexatious complaints
- Where councils have adopted the DCLG/LGA code 'disrespectful/bullying' behaviour and provisions relating to confidential information seem to be the areas where gaps are most clearly felt

- Where there are gaps in codes the Nolan Principles are being used instead when assessing whether there has been a breach of the code

Interests provisions

- Most councils have gone beyond the statutory minimum provisions of the DPIs and included a section on 'other interests' in their code
- These tend to reflect the old 'prejudicial interest' tests as to whether you have an interest but there is no standard practice as to what they are called, and sometimes inconsistency can even occur within the same code
- For these 'other interests' there is no consistency across authorities as to whether you merely declare them; declare, speak and withdraw; or declare and withdraw without speaking
- Where councils have not included 'other interests' but have simply adopted the minimal DPI requirements, this is always where the DCLG or LGA code has been adopted
- In these cases, members do not understand the consequences and are surprised that they no longer have to declare interests relating to other family members or friends, but say that they would do so anyway regardless of whether the code requires it
- Provisions on DPIs are interpreted differently from authority to authority
- Members tend still to talk in terms of personal and prejudicial interests regardless of what their code calls them although they are also familiar with the term DPIs
- Many councils have included additional registration requirements beyond DPIs to include membership of outside organisations

Issues for discussion

- Do you recognise this picture?
- Do you think your new code is better/worse/about the same as the old code and why?
- Have you encountered any gaps when it comes to trying to deal with behaviour?
- How aware of the changes are your members? Do they think it better/worse/about the same?
- How is the new code working with regard to parish behaviour?
- Are your interests provisions effective and understood by members?
- Do you expect to revise your code soon?
- If so, do you expect this to be done across your county or do you expect to see greater divergence across the area as people identify different requirements?