

**ANGUS COUNCIL****EDUCATION COMMITTEE - 25 JANUARY 2000****POLICY AND RESOURCES COMMITTEE - 8 FEBRUARY 2000****STANDARDS IN PUBLIC LIFE - THE SCOTTISH EXECUTIVE'S PROPOSALS****JOINT REPORT BY CHIEF EXECUTIVE, DIRECTOR OF LAW AND ADMINISTRATION AND  
DIRECTOR OF EDUCATION****ABSTRACT**

This Report seeks agreement to the terms of a Council response to the consultation paper by the Scottish Executive entitled "Standards in Public Life".

**1. RECOMMENDATION**

It is recommended that the Committee:-

1. notes that, in the light of the timescale for submission of comments, the attached comments have been submitted to the Scottish Executive, following consultation with the Convener and Vice Convener of this Committee; and
2. considers whether they would wish to make any further comments to the Scottish Executive in this regard.

**2. NEW ETHICAL FRAMEWORK**

A copy of the consultation document entitled "Standards in Public Life" which seeks comments on the proposed Ethical Standards in Public Life etc (Scotland) Bill is in the Members' Lounge. In the foreword to the document, Scottish Ministers point out that the proposed Bill draws on the Scottish tradition of public service and on the principles of openness, accountability and transparency. The aim is to support and buttress high standards of public service - high standards must not only be maintained, they must also be seen to be maintained. The Bill is intended to ensure that both elected Councillors and appointed members of public bodies will be governed by the same standards. It is also intended to rectify the unsatisfactory situation where there is no effective sanction if current standards are breached.

**3. REPEAL OF SECTION 2A (SECTION 28)**

The Scottish Executive also plans to use the Bill as the opportunity to repeal Section 2A of the Local Government Act 1986 (more commonly known as Section 28), the legislation which bars Councils from "intentionally promoting homosexuality" in schools or through publishing material or funding organisations. Scottish Ministers state that the Scottish Executive is committed to the principles of equal opportunities and to tackling exclusion in all walks of life in Scotland and that these principles apply to sexual orientation as much as to differences of sex and race.

#### 4. CONSULTATION PERIOD

Comments on the consultation paper and draft Bill were sought by 14 January. In order to meet this timescale, comments were prepared and discussed with the Convener and Vice Convener of this Committee. It has been made clear in the Council's response that further comments may be submitted following consideration by this Committee.

#### 5. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

#### 6. CONSULTATION

Consultation has taken place with the Director of Finance.

**A B Watson, Chief Executive**  
**Catherine A Coull, Director of Law and Administration**  
**Jim Anderson, Director of Education**

June 1998 servicereview

Note:- No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

C/cac/reports/p&r

**CONSULTATION PAPER - STANDARDS IN PUBLIC LIFE  
COMMENTS FROM ANGUS COUNCIL**

**1. NEW ETHICAL FRAMEWORK**

- 1.1 Angus Council very much welcomes the proposals outlined in the consultation paper and the proposed Bill. The Council shares the commitment of the Scottish Executive and Scottish Parliament to the highest standards in public service and particularly welcomes the fact that the new Bill will cover not only local government but also other public bodies. The need for standard principles of conduct to apply not only to councillors but to all those in public life, including those who sit on quangos, is a matter on which this Council has commented in strong terms in regard to earlier consultation documents. The belief of the Scottish Executive that there is a compelling argument that people in public office - by whatever route they have attained that position - should be held to similar standards of conduct is welcomed and totally supported by this Council.
- 1.2 The Council agrees with the analysis of the Scottish Executive that the weaknesses of the present system are twofold - in that they arise from extensive modifications made over a number of years which have resulted in an overly complex framework; and from the lack of any effective sanctions or means of enforcement.
- 1.3 With regard to the code of conduct for local government, this Council supports the proposal that local government should have the opportunity to shape and influence the code and that accordingly COSLA should prepare a first draft for the approval of Parliament. The principles set out in the Nolan Report would provide a good starting point but the code will require to be much more detailed if it is to guide councillors appropriately. With regard to public bodies, it is noted that the Scottish Executive's proposal is that a new statutory model code be established and that all the bodies concerned be required to adopt a version of this code suited to their circumstances. However, the Council does not think that it is appropriate for local government and other public bodies to be treated differently in this regard. It is strongly felt that there should be an attempt made to prescribe a national code which would cover all elected and appointed persons and that consideration should also be given to this code applying to MSPs. If the public is to have confidence in the new arrangements then it is considered that all those in public life should be subject, not only to the same standards, but also to the same code.
- 1.4 This Council would also urge that the code should cover bodies such as Local Enterprise Companies, Further Education College Boards and University Courts. It is accepted that members of these types of organisation are regulated in other ways, but given that such individuals are part of the public sector and responsible for considerable public funds, they should be subject to the same standards. The Council also considers that the proposed code of conduct should cover all those who are members of a public body, including employees and ex officio members together with co-opted members of local authorities. It is also suggested that consideration should be given to the proposed code covering also members of Community Councils. Many Community Councils find it difficult to attract sufficient members and accordingly many Community Councillors are returned uncontested or are co-opted onto the council. It is felt that it would improve the standing of Community Councillors and increase public confidence in them, for them to be subject to the same code of conduct as other persons in public life.
- 1.5 This Council supports the proposal that, while adherence to the code will be a personal responsibility for each councillor and member of a public body, there will be a duty on each Council and public body to promote its members' observance of high standards of conduct

and to assist them to observe their code of conduct. However, given that this proposed duty is expressed in very general terms, the Council considers that it would be appropriate for guidance to be issued by the Standards Commission, to ensure a similarity of approach across the public sector.

- 1.6** The proposal to maintain Registers of Interests is supported, as is the proposal that the Standards Commission would issue guidance in this regard. This Council would urge that close consultation should take place between the Standards Commission and local government in this matter to ensure that the rules about declaration and registration are simple and easy to follow. Under the current rules, it is entirely possible for a Councillor to be in breach of the code simply through inadvertence, overlooking a particular interest when registering interests, or by an opinion reached, in good faith, that a particular situation did not require the registration or declaration of an interest. It is extremely important, therefore, that the new provisions should be as straightforward as possible.
- 1.7** With regard to the proposed sanctions for breaches of the code, the Council is of the view that some further thought needs to be given to the possibility of suspension from attending any meeting of the authority, committee, sub committee or other body for up to 12 months. While it is accepted that this proposal provides a parallel with the Westminster situation, it is considered that such suspension, for a period of months, could disadvantage a councillor's constituents. Suspension from meetings for 12 months would appear to indicate a fairly serious breach of the code and it is difficult to see how the status of a councillor in such a situation would not otherwise be affected.
- 1.8** Some further consideration should also be given to the proposals regarding interim suspension. Given that this would only be imposed where the allegation was so serious that public confidence in the Council was at risk of being seriously jeopardized, it is hard to see how a councillor could continue to be able to represent his/her constituents effectively during this time. The Council is concerned that in relation both to sanctions and to interim action, the provisions should not result in a situation where a councillor's constituents could be placed at a disadvantage.

## **2. REPEAL OF SECTION 2A**

- 2.1** It is unusual to find a piece of legislation which is quite as specific as this section; what is particularly unusual is the very specific prohibition of certain content within the school curriculum. This Council considers that there would, in general, be wisdom in Government deliberately eschewing such specific requirements in legislation, but rather encouraging education authorities and schools to act responsibly and in the best interests of all pupils.
- 2.2** With regard to the proposal that this section be repealed, the high level of publicity which has resulted from the proposals has led to a number of public concerns having been raised. It is therefore extremely important for public confidence to be maintained - particularly in respect of the school curriculum as it relates to health education and religious and moral education. The role of schools is to educate children in the widest possible sense, and this should not in any circumstances relate to promoting propaganda about any issues, sensitive or otherwise.
- 2.3** This Council wholeheartedly endorses the desire of the Scottish Executive to combat all forms of bullying. However, there is no evidence to suggest that the existence of section 2A on the statute books poses difficulties for teachers who may have to deal with bullying incidents relating to homophobia.
- 2.4** This Council regrets that quite such a public storm has been raised about the proposal to repeal this section. However, on balance and in the circumstances which now prevail,

Angus Council considers that there would be merit in proceeding to repeal the section, on the understanding that guidelines for schools, in this as in all other areas of the curriculum, would continue to be made available in order to provide effective support for teachers and pupils alike.

c:\cac\report\p&ra2.doc

C/cac/reports/p&Ra2

