

Scientific Advisory Committee on Nutrition

Paper for discussion: **Code of Practice - Revisited**
Agenda Item 1

Please see attached paper for consideration. The following annex is also attached:

Annex 1 The Seven Principles of Public Life
 Different Types of Interest
 Definitions

Please also see:

1. Home Office. Open Government, Code of Practice on Access to Government Information. Second Edition 1997. Please see website address: www.homeoffice.gov.uk/foi/ogcode981.htm for information.
2. The Constitution Unit, UCL. A Practical Guide to the Freedom of Information Act 2000. March 2001. (Available on request from the Secretariat).
3. BSE Inquiry Report. Vol.1, 1290. (Available on request from the Secretariat).

Scientific Advisory Committee on Nutrition

Code of Practice

1. Introduction

1.1 The function of a scientific advisory committee is to help Government collect scientific information and make judgements about it. Therefore scientific advisory committees may be required to provide either scientific advice, advice on scientific issues, or indeed both. Increasingly they have to take account of social and ethical issues and public and stakeholder concerns. A scientific adviser, whether a committee or a person, is generally responsible for providing scientific input to assist policy making or analysis. The task of policy making, which is essentially one for Government, can be thought of as working up practical options for responses to the problem on which scientific advice has been sought, analysing those options and making decisions on them. This paper sets out the code of practice for SACN.

1.2 This document is a working document, subject to review, and without prejudice to the outcome of the consultation process on new Office for Science and Technology (OST) guidelines which are likely to be published later in the year.

2. Terms of Reference for SACN

2.1 SACN is a committee of independent experts which advises Government via the Chief Medical Officers (CMOs) and the Food Standards Agency on matters relating to nutrition, diet and health. The Committee will advise the FSA and Health Departments both individually and jointly and is supported by a joint secretariat from the Department of Health and the FSA.

2.2 The Terms of Reference for SACN are:

To advise the CMOs and/or FSA, and thus, through the CMOs or FSA, the Government on scientific aspects of nutrition and health with specific reference to:

- *Nutrient content of individual foods and advice on diet as a whole, including the definition of a balanced diet, and the nutritional status of people;*

- *Monitoring and surveillance of the above;*
- *Wider public health policy issues including conditions where nutritional status is one of a number of risk factors (eg. cardio-vascular disease, cancer, osteoporosis and/or obesity);*
- *Vulnerable groups (eg. Infants and older people) and inequality issues;*
- *Research requirements for the above.*

3. Public Service Values

3.1 SACN is an advisory non-departmental public body. The members of SACN must at all times:

- observe the highest standards of impartiality, integrity and objectivity in relation to the advice they provide;
- be accountable through Ministers to Parliament and the public more generally for its activities and for the standard of advice it provides;
- in accordance with Government policy on openness, comply with the Code of Practice on Access to Government Information. The committee should maintain high levels of transparency during routine business except when confidentiality needs to be maintained. The proceedings should be as open as is compatible with the requirements of confidentiality and the committee should be prepared to explain publicly why information or papers are being withheld. (See paragraphs 11.5 - 11.9)

3.2 Standards in Public Life

All members must:

- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (Annex 1);
- comply with this Code, and ensure they understand their duties, rights and responsibilities, and that they are familiar with the function and role of this body and any relevant statements of Government policy. New members should consider attending relevant training or induction courses;

- not misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations; and
- not hold any paid or high-profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting the work of this body. When engaging in other political activities, members should be conscious of their public role and exercise proper discretion. These restrictions do not apply to MPs (in those cases where MPs are eligible to be appointed), to local councillors, or to Peers in relation to their conduct in the House of Lords.

3.2.1 Individual members can in particular be removed from office by the Minister if they fail to perform the duties required of them in line with the standards expected in public office, and if they fail to carry out the duties of office or are unfit to carry out those duties.

4. Role of Members

- members have collective responsibility for the operation of this body. They must engage fully in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the sponsor departments or the responsible Ministers;
- members must ensure that the Code of Practice on Access to Government Information (including prompt responses to public requests for information) is adhered to; agree an annual Report; and, where practicable and appropriate, hold at least one meeting a year in public;
- members must respond appropriately to complaints, if necessary with reference to the sponsor departments (see 2.1);
- all members should share the responsibility to consider the wider context in which their expertise is employed. There may, however, be a particular role in this regard for members who are in a lay or 'scientific generalist' capacity. Members with a particular expertise have a responsibility to make the committee aware of the full range of opinion within the discipline. Lay members should be clear about the capacity in which they have been appointed, i.e. as independent members.

- members are appointed as individuals to fulfil the role of the committee, not as representatives of their particular profession, employer or interest group, and have a duty to act in the public interest. Where members declare an organisation's views rather than a personal view, they should make that clear at the time of declaring that view.
- if members believe the committee's method of working is not rigorous enough they have the right to ask that any remaining concerns they have be put on the record.
- all members and the secretariat should regard it as part of their role to:
 - ◆ examine and challenge if necessary the assumptions on which scientific advice is formulated and ask for explanations of any scientific terms and concepts which are not clear;
 - ◆ ensure that SACN has the opportunity to consider contrary scientific views and the concerns and values of stakeholders before a decision is taken;
 - ◆ ensure that SACN's advice is comprehensible from the point of view of a lay person.

4.1 Communications between SACN and the Ministers/Chair of the FSA will generally be through its chair except where it has been agreed that an individual member should act on its behalf. Nevertheless, any member has the right of access to ministers on any matter, which he or she believes raises important issues relating to his or her duties as a member. In such cases the agreement of the rest of SACN should normally be sought.

5. The role of the Chair

The Chair has particular responsibility for providing effective leadership on the issues above. In addition, the chair is responsible for

- the operation and output of the committee;
- ensuring that every member of the panel is heard and that no view is ignored or overlooked, using, where appropriate, a structured process which ensures that all views are captured and explored;
- ensuring unorthodox and contrary scientific views are taken into account;

- ensuring that the proceedings of the committee are properly documented so that there is a clear audit trail showing how the committee reached its decisions;
- ensuring that any significant diversity of opinion among the members of the panel is accurately reflected in the report and in any other communications with sponsoring departments and should:
 - ◆ represent the committee to the public or the media (unless other specific arrangements have been made);
 - ◆ be responsible for ensuring that the committee acts in accordance with this code.

6. Role of the Secretariat

The primary function of the secretariat is to support the committee by assembling and analysing information and recording conclusions. The secretariat should include, or have access to, people with relevant technical/scientific expertise. It should:

- advise committees on the process and procedure;
- draw attention of the members to emerging issues of concern so as to inform the committee's deliberations;
- identify all relevant and appropriate scientific information and ensure that it is made available to the committee. Information should not be withheld from the committee on the grounds of commercial or Government confidentiality unless it can be justified under the Freedom of Information Act 2000;
- ensure that the proceedings of SACN are properly documented so that there is a clear audit trail showing how the committee reached its decisions;
- be an impartial and disinterested reporter. It should at all times respect the committee's independent role. It should guard against introducing bias during the preparation of papers, during meetings, or in the reporting of the committee's deliberations.

7. Role of Other Observers or Officials Present

Departmental representatives and other officials and advisers attending meetings as observers should at all times respect the committee's independence. They should also ensure that their departments are promptly informed of any matters which may require

a response from Government. Secretariats should ensure that the proportion of officials attending to members present is kept within reasonable limits.

8. Handling Conflicts of Interests

8.1 The purpose of these provisions is to avoid any danger of members being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All members should therefore declare any personal or business interest which may, or maybe perceived (by a reasonable member of the public) to, influence their judgement. This should include, as a minimum, personal direct and indirect pecuniary interests. If a member has an interest not specified in these notes but which they believe could be regarded as influencing their advice, they should seek advice from the Secretariat as to whether it should be declared. The register of interests should be kept up-to-date and be open to the public. A declaration of any interest should also be made at any meeting if it relates specifically to a particular issue under consideration, for recording in the minutes (whether or not a member also withdraws from the meeting).

8.2 Members should not participate in the discussion or determination of matters in which they have an interest, if it is direct or pecuniary or if their interest is covered in specific guidance issued by sponsor departments which require them not to participate and/or to withdraw from the meeting. A guide to the different interests which are required to be declared is included in Annex 1. Members should normally withdraw from the meeting or at the discretion of the Chair may remain but refrain from participating in the discussion and drawing of final conclusions.

9 Personal Liability of Committee Members

9.1 The Cabinet Office Model Code of Practice for Board Members of Advisory Non-Departmental Public Bodies states that: *“Legal proceedings by a third party against individual board members of advisory bodies are very exceptional. A board member may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party; or may commit a breach of confidence under common law or a criminal offence under insider dealing legislation, if he or she misuses information gained through their position. However, the*

Government has indicated that individual board members who have acted honestly, reasonably, in good faith and without negligence will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their board functions. Board members who need further advice should consult the sponsor department.”

10. Publication of documents – general

10.1 The committee should establish a policy on what documents are to be published based on principles of openness and transparency. Openness from the outset about risks and concerns can sometimes prevent difficult situations arising later on in a committee’s work.

10.2 ‘Publication’ need not mean traditional paper circulation. In certain circumstances, and in particular where the excessive cost of other methods would justify it, ‘publication’ may be achieved by posting the relevant information to a committee website. However, committees should not overlook the need to draw the attention of key stakeholders to the fact that publication is taking place.¹ When publication takes place to a website, the committee will need to decide when it may be appropriate to supplement this by a circulation of paper copies to relevant stakeholders, or by writing to them to draw their attention to the website.

10.3 When decisions are taken to delay release of information, (for example to allow proper analysis), the committee should immediately agree realistic deadlines for public reporting.

11. Publication of background documentation

11.1 In order to obtain a full appreciation of the committee’s decision, it may be necessary in many cases for third parties to have access to the background documents

¹ In some contexts, decisions on publication may not be for the committee to make, e.g. evidence to select committees.

that the committee relied upon in reaching its decision, in order to enable them better to understand the issues, arguments and basis of decisions taken.

11.2 Where documents are already in the public domain the committee should not be under an obligation to publish them. It will usually be sufficient for the committee to identify the source for the documents concerned (or provide a URL) so as to enable enquirers to obtain their own copies. A committee should not normally feel itself under an obligation to provide layman's versions of material that it did not itself originate.

11.3 Where the committee has relied on previously unpublished background papers, a decision will need to be made as to how to publish the papers. In cases where the costs of traditional paper publication would not be justified, the committee's obligation to provide information could be discharged either by posting the documents on the committee's website, or by allowing enquirers access to the documents concerned.

Working papers

11.4 To ensure openness and transparency committees should seek to keep the public and stakeholders informed as they develop advice. In addition to timely publication of minutes and agendas committees should consider publishing interim working papers where these would be helpful. All substantive and significant papers should be published as soon as possible once a committee has formulated and delivered its advice, unless non-disclosure is justified under the provision of the Freedom of Information Act 2000.

Unpublished research

11.5 Where a committee's disclosure of information would involve bringing into the public domain previously unpublished research, it should be sensitive to whether this could hinder the process of formal publication elsewhere and, if so, endeavour to negotiate arrangements which avoid the problem (such as parallel publication).

Dealing with confidential information

11.6 Committees should abide by the principles contained in the Freedom of Information Act 2000 on access to government information.

11.7 The committee should develop a policy on the handling of confidential information, and communicate it to third parties, so that those submitting it know what to expect. Decisions on confidentiality should be exercised consistently with the guidance to be set out in the Code of Practice to be issued under the Freedom of Information Act 2000.

11.8 Committees should be prepared to explain publicly why information is being withheld.

11.9 Much information which is confidential may be sensitive for a relatively short time (for example, market sensitive information). When making decisions to withhold information, consideration should be given to whether the documents could be released as soon as the sensitivity has passed and, if so, a future publication date should be determined accordingly.

12. Reporting of risk and uncertainty

12.1 Committees should aim at having a transparent and structured framework to examine, debate and display the nature of the risk. It is for committees to decide what form their risk assessments should take, but whatever procedure is used, it should be a systematic one. Whenever their work involves an assessment of risk, committees should consider carefully, taking into account the nature and scale of the problem, what precision of estimates is appropriate or realistic, in terms of costs, resources and time. Where a committee is asked to advise on risk management, it will normally be

helpful for it to follow a formal structure based on recognised principles of risk assessment.²

12.2 Where necessary, advice should be taken from individuals or groups with relevant expertise and/or guidance: e.g. from the Interdepartmental Liaison Group on Risk Assessment.

12.3 Within the context of the remit given to them, committees should use the most appropriate method of reporting outcomes that takes account of the level and type of uncertainty involved. Where practical and verifiable, risk should be reported in terms of the probability and consequences of the event. Sources of data should be quoted and any degree of auditing described. Reasons for choosing a preferred option should be made clear. Committees should identify the sources and extent of uncertainties in the scientific analysis.

12.4 When communicating risks to the public, committees should take note of written guidance and other sources of advice available on the communication of risk and when necessary seek advice from individuals or groups with relevant expertise on risk communication.³

Procedures for arriving at conclusions

12.5 Committees should agree on the mechanisms by which the committee is to reach its view. Members should be clear about whether or not they are expected to reach a consensus on particular issues.

12.6 In cases where decisions are particularly significant committees might take a preliminary view which is then offered for comment either through public consultation or to other members of the relevant scientific community.

² BSE Inquiry Report, Vol 1, 1290

³ Phillips notes that (BSE Inquiry Report, Vol 1, para 1275) “An advisory committee should not water down its formulated assessment of risk out of anxiety not to cause public alarm.”

12.7 Whatever mechanism is used for agreeing the advice a committee should offer, it is essential that the minutes of the meeting should clearly set out what was the result of the discussion.

Dealing with dissenting views

12.8 Committees should not seek unanimity at the risk of failing to recognise different views on a subject. These might be recorded as a range of views, possibly published as an addendum to the main report. However, any significant diversity of opinion among the members of the committee should be accurately reflected in the report

Members are requested to comment upon and agree to the revised Code of Practice.

**SACN Secretariat
September 2001**

THE SEVEN PRINCIPLES OF PUBLIC LIFE**Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

DIFFERENT TYPES OF INTEREST

The following is intended as a guide to the kinds of interests which should be declared. Where members or observers are uncertain as to whether an interest should be declared they should seek guidance from the Secretariat or, where it may concern a particular product which is to be considered at a meeting, from the Chair at that meeting. **If members have interests not specified in these notes but which they believe could be regarded as influencing their advice they should declare them.** However, members, observers and the Secretariat are not under any obligation to search out links of which they might *reasonably* not be aware. For example, either through not being aware of all the interests of family members, or of not being aware of links between one company and another.

Personal Interests

A personal interest involves the member or observer personally. The main examples are:

- **Consultancies:** any consultancy, directorship, position in or work for the industry which attracts regular or occasional payments in cash or kind;
- **Fee-Paid Work:** any work commissioned by industry for which the member or observer is paid in cash or kind;
- **Shareholdings:** any shareholding or other beneficial interest in shares of industry. This does not include shareholdings through unit trusts or similar arrangements where the member or observer has no influence on financial management;
- **Membership or Affiliation** to clubs or organisations with interests relevant to the work of the Committee.

Non-Personal Interests

A non-personal interest involves payment which benefits a department for which a member or observer is responsible, but is not received by the member or observer personally. The main examples are:

- **Fellowships:** the holding of a fellowship endowed by industry;
- **Support by Industry:** any payment, other support or sponsorship by industry which does not convey any pecuniary or material benefit to a member or observer personally, but which does benefit their position or department e.g.:
 - (i) a grant from a company for the running of a unit or department for which a member or observer is responsible;
 - (ii) a grant or fellowship or other payment to sponsor a post or a member of staff in the unit for which a member or observer is responsible (this does not include financial assistance for students);

- (iii) the commissioning of research or other work by, or advice from, staff who work in a unit for which a member or observer is responsible.

Members or observers are under no obligation to seek out knowledge of work done for, or on behalf of, industry by departments for which they are responsible, if they would not normally expect to be informed. Where members or observers are responsible for organisations which receive funds from a very large number of companies involved in that industry, the Secretariat can agree with them a summary of non-personal interests rather than draw up a long list of companies.

- **Trusteeships**: any investment in industry held by a charity for which a member or observer is a trustee.

Where a member or observer is a trustee of a charity with investments in industry, the Secretariat can agree with the member a general declaration to cover this interest rather than draw up a detailed portfolio.

DEFINITIONS

For the purposes of the SACN 'industry' means:

- Companies, partnerships or individuals who are involved with the production, manufacture, packaging, sale, advertising, or supply of food (including food supplements and vitamins and minerals) or food processes, subject to the Food Safety Act 1990 and pharmaceutical products subject to the Medicines Act 1968;
- Trade associations representing companies involved with such products;
- Companies, partnerships or individuals who are directly concerned with research, development or marketing of a food product or pharmaceutical product which is being considered by the Committee.

In this Code 'the Secretariat' means the Secretariat of the SACN

In this Code 'the Committee' means the SACN