

STANDARDS COMMITTEE

AGENDA

7.30pm	Wednesday 6 June 2007	Havering Town Hall Main Road, Romford
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Members 8: Quorum 3 (including at least one of the Independent Members)

Councillors:

**Conservative
Group
(3)**

**Residents'
Group
(1)**

**Rainham &
Wennington
Independent
Residents'
Group
(1)**

**Labour Group
(1)**

**Independent
Members:
(2)**
(with voting
rights)

Wendy Brice-
Thompson
(Chairman)
Pam Light
Geoff Starns

Andrew Mann

Jeffery Tucker

Keith Darvill

Tracey Moran
**(Vice-
Chairman)**
Jack Knowles

For information about the meeting please contact:
Ian Buckmaster (01708) 432431
[e-mail ian.buckmaster@haverinq.gov.uk](mailto:ian.buckmaster@haverinq.gov.uk)



NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS (if any) - receive.

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as a correct record the minutes of the meeting of the Committee held on 8 March 2007 and to authorise the Chairman to sign them.

5 REVIEW OF STANDARDS COMMITTEE

Report of Chief Executive to follow

6 NEW CODE OF CONDUCT FOR ELECTED MEMBERS

7 LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

8 URGENT BUSINESS

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

Cheryl Coppell
Chief Executive

Standards Committee, 6 June 2007

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Cheryl Coppell
Chief Executive

Standards Committee, 6 June 2007

**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
Havering Town Hall
8 March 2006 (7.30pm-8.45pm)
(postponed from 8 February 2007)**

Present:

COUNCILLORS:

Independent Members Jennifer Spearman (in the Chair), Debra Collard and Tracey Moran

Conservative Group Dennis Bull, Georgina Galpin, + Lesley Kelly and Pam Light

Residents' Group Andrew Mann

**Rainham & Wennington -
Independent Residents'
Group**

Labour Group Keith Darvill

+ Substitute Member: Councillor Lesley Kelly (for Ted Eden)

Apologies were received for the absence of Councillors Ted Eden and Jeffrey Tucker

The Chairman reminded Members of the action to be taken in the event of an emergency

13 **MINUTES**

The Minutes of the meeting of the Committee held on 10 October 2006 were agreed as a correct record, subject to the inclusion in minutes 9 and 10 of reference to Councillor Pam Light dissenting from the decisions recorded. The minutes were then signed by the Chairman.

Arising from the minutes, a Member sought clarification of the status of the Independent Members, having been given to understand that only two of them had been accorded full voting rights. The Committee was advised that the decision of Council at its Annual Meeting in May 2006 was unequivocal: four Independent Members had then been appointed with full voting rights, following recommendations made by the Governance Committee. Members were, however, reminded that the Committee had established a Hearings Sub-Committee on which two

Independent Members served, both with voting rights. The Sub-Committee would deal with all hearings.

Attention was drawn to a provision in the Council's Constitution that referred to there being two voting Independent Members but Members were assured that the provision in question had, by inadvertence, not been updated to reflect the Council's appointment of four Independent Members, nor had its reference to the number of Members on the Committee. That would be rectified shortly.

14 **CONSULTATION ON NEW DRAFT MEMBERS' CODE OF CONDUCT**

The Department for Communities and Local Government had issued a draft revised Members' Code of Conduct for consultation, which the Committee was now invited to consider.

At the last meeting, the Committee had discussed the need for training of Members. As publication of a new Code was imminent, Members agreed that it would be sensible to await that before holding the training so that all Members could be fully up to date. It seemed likely that the Code would be published during May and training arrangements were being prepared on the basis of three sessions (morning, afternoon and early evening, to give Members a range of opportunities to attend), to be held in June or early July, delivered by an external training provider.

The Committee agreed that the comments set out in the Appendix to these minutes be submitted to the Department as the Council's response.

Appendix**CONSULTATION ON NEW DRAFT MEMBERS' CODE OF CONDUCT –
Havering's response**

This response is based on a series of questions posed in the consultation document.

Q1. *Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?*

It seems as though the circumstances when members can disclose information in the public interest will be severely limited. Disclosure of confidential information is an issue for Havering and the guidance will need to be very closely defined to enable this provision to be actively monitored and appropriate sanctions to be imposed. A more likely scenario is to release first and then find later justification on the basis of health and safety or environmental damage, which are very wide exceptions. It is imperative that Guidance on all these matters is issued at the same time as the new Code. Local Authorities will also need to urgently consider their own local protocols.

Q2. *Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?*

Public perception is that Councillors should be upstanding members of the community. Poor behaviour of elected members in their private capacity towards members of the community does not reflect well on local government. However, although some members of the Standards Committee felt quite strongly that the Code should reflect on their private life, they accepted that the new proposals were endeavouring to get the balance about right and would accept this proposition.

Q3. *Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?*

The code is particularly useful in drawing members' attention to proactive publicity on political issues especially where there are concerns about campaigns and on behaviour during the election period and is frequently referred to in this authority.

There is no point in abolishing it only to have it replaced with other Guidance. It is suggested that the Code is included but updated.

Q4. *Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?*

This is too onerous. The hospitality register should be made publicly available. The amount is too low and including it as a personal interest to be declared to a meeting is overly bureaucratic without a substantially higher threshold. Members have suggested an increase to £50; that the period of years is reduced to three; and that hospitality should not be declared at meetings. Particularly for members who have been either Mayor or Deputy Mayor and currently frequently receive small gifts around the £25 level, the need to disclose over a long period of time would be very onerous given the amount of organisations they meet and the potential for a decision to be made in meetings on these organisations.

Q5. *Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?*

Yes, because currently there are issues that a person is not a friend but there is clearly a business association which may have influenced the decision. However, if this is to be extended, then guidance on 'close' personal association will be critical and should be released at the same time as the Code. Members were very keen to ensure that such disclosure is only made "if known" and this is picked up by paragraph 15. Some concern was expressed about business relationships as many members are local businessmen. We may have the situation where members do not believe that they have a close personal association but that their client does. Although this is currently an issue with the word "friend" it is easier to unpick this than it might be with a close personal association in the business world. For this reason, the Guidance will be critical here. It is, however, considered that "personal acquaintances" would be going too far and would cover just about everyone a person knows. For a Councillor this would be too extreme.

Q6. *Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?*

Yes this is acceptable and in practice has been applied here in respect of Council tax setting and freeman.

Q7. *Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions, or give evidence, appropriate?*

Yes, the current restrictions and case law prevent members in some cases from representing community interests and matters on which they are elected. The restriction on members preventing them from divesting themselves of their elected capacity to represent their own personal interests e.g. on their own planning application is an unfair restriction and puts them at a disadvantage compared to a member of the public. This appears to put in the statutory Code some of the guidance issued on lobby groups and dual-hatted members but are there any proposals to deal with the Richardson issue where a member is in a worse situation than a member of the public in responding to their own applications or is it considered that the prospect of influence is still too great to allow this to happen?

Q8. *Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?*

This seems unimportant in the scheme of things but gender neutrality is reasonable.



MEETING	DATE	ITEM
STANDARDS COMMITTEE	6 June 2007	6

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: NEW CODE OF CONDUCT FOR ELECTED MEMBERS

SUMMARY

The new Code of Conduct for Elected Members was made on 2nd April 2007 and comes into force on 3rd May 2007.

The Code requires adoption by full Council by 1st October 2007 and it is proposed that this Committee should recommend its adoption by full Council at its meeting on 18th July 2007.

RECOMMENDATION

1. To note the new Code of Conduct for Elected Members and recommend it to Council for adoption.
2. To note that training on the new Code will be required for all Members of the Council and that this will be provided prior to 18th July and once the Standards Board Guidance on the new Code is received.

REPORT DETAIL

1. The Committee will recall that the proposed Code of Conduct was subject to a recent period of consultation.

Standards Committee, 6 June 2007

2. Following this consultation, the Local Authorities (Model Code of Conduct) Order 2007 was made on 2nd April 2007 and comes into force on 3rd May 2007. A copy of the code is annexed hereto.
3. The legislation – Section 51 of the Local Government Act 2000 requires the Council, before the end of the period of six months beginning with the day on which the Order is made, to pass a resolution adopting the Code. This requires the Code to be adopted therefore by 1st October 2007 in place of the existing Code.
4. The legislation states that other provisions which are consistent with the Model Code may also be adopted. However this was previously discouraged by Guidance and this Council adopted the previous Code unamended.
5. Once the Code is adopted it needs to be made available to the public and the Council needs to publish in a newspaper circulating in the Area that it has adopted the Code, and specifying where a copy of the Code can be inspected by the public. A copy of the Code as adopted also needs to be sent to the Standards Board of England.
6. Guidance is expected to be issued by the Standards Board in May and once that is received all Members and Independent Members of the Committee will need training on the provisions of the new Code.

Financial Implications and risks:

The cost of training can be met from existing budgets.

Legal Implications and risks:

The legal implications are set out in the body of the report. If Council does not adopt the Code on 18th July then an Extraordinary meeting will be required as the next ordinary meeting of the Council is after the 1st October 2007.

Human Resources Implications and risks:

Training for all Members and the Independent Members of the Standards Committee and relevant officers will be required to ensure they are familiar with the provision of the new Code prior to its adoption by full Council.

Equality Implications and risks:

None relevant

Standards Committee, 6 June 2007

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CHERYL COPPELL
Chief Executive

Background Papers List

Letter to all Councillors

Standards Committee, 6 June 2007

Statutory Instrument 2007 No. 1159

The Local Authorities (Model Code of Conduct) Order 2007

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STATUTORY INSTRUMENTS

2007 No. 1159

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Model Code of Conduct) Order 2007

Made

2nd April 2007

*Laid before Parliament
4th April 2007*

*Coming into force
3rd May 2007*

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000^[1].

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49(1) of that Act^[2].

Citation, commencement and application

1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order 2007 and comes into force on 3rd May 2007.

(2) This Order applies—

(a) in relation to police authorities in England and Wales; and

(b) in relation to the following authorities in England—

(i) a county council;

(ii) a district council;

(iii) a London borough council;

(iv) a parish council;

(v) the Greater London Authority;

(vi) the Metropolitan Police Authority;

(vii) the London Fire and Emergency Planning Authority;

(viii) the Common Council of the City of London;

- (ix) the Council of the Isles of Scilly;
- (x) a fire and rescue authority;
- (xi) a joint authority;
- (xii) the Broads Authority; and
- (xiii) a National Park authority,

and in this Order references to "authority" are construed accordingly.

Model Code of Conduct

2. —(1) The code set out in the Schedule to this Order ("the Code") has effect as the model code issued by the Secretary of State under section 50 of the Local Government Act 2000 as regards the conduct which is expected of members and co-opted members of an authority.

(2) Subject to paragraphs (3) to (6), every provision of the Code in the Schedule to this Order is mandatory for an authority.

(3) Paragraph 6(c) of the Code is not mandatory for police authorities, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, fire and rescue authorities and joint authorities.

(4) Paragraph 7 of the Code is not mandatory for parish councils.

(5) Subject to sub-paragraph (6)(c) and (d) below, paragraphs 10(2)(c)(i) and (ii), 11 and 12(2) of the Code are mandatory only for county councils, district councils and London borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

(6) The following provisions of the Code are mandatory only for an authority which is operating executive arrangements—

(a) in paragraph 1(4), in the definition of "meeting"—

(i) sub-paragraph (b);

(ii) in sub-paragraph (c), the words "or its executive's" and ", or area committees";

(b) paragraphs 9(6), 9(7) and 12(1)(b);

(c) in paragraph 11(a), the words "your authority's executive or"

(d) in paragraph 11(b), the word "executive,"; and

(e) in paragraph 12(2), the words in brackets.

Disapplication of certain statutory provisions

3. The following provisions shall not apply (where they are capable of doing so) to an authority which has adopted a code of conduct or to which such a code applies—

- (a) sections 94 to 98 and 105 to the Local Government Act 1972^[3];
- (b) section 30(3A) of the Local Government Act 1974^[4];
- (c) regulations made or a code issued under section 19 and 31 of the Local Government and Housing Act 1989^[5];
- (d) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995^[6];
and
- (e) any guidance issued under section 66 of the Greater London Authority Act 1999^[7].

Revocation and savings

4. —(1) Subject to paragraphs (2) and (3), the following orders are revoked—

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001^[8];
- (b) the Parish Councils (Model Code of Conduct) Order 2001^[9];
- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001^[10]; and
- (d) the Police Authorities (Model Code of Conduct) Order 2001^[11].

(2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with —

- (a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation relates to conduct which took place before the date when, pursuant to section 51 of that Act—
 - (i) the authority adopts a code of conduct incorporating the mandatory provisions of the Code in the Schedule to this Order in place of their existing code of conduct;
 - (ii) the authority revises their existing code of conduct

to incorporate the mandatory provisions of the Code in the Schedule to this Order; or

(iii) the mandatory provisions of the Code in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;

(b) the adjudication of a matter raised in such an allegation; and

(c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

(3) Any order made under section 83 of the Local Government Act 1972^[12] shall have effect for the purpose of prescribing the form of a declaration of acceptance of office in relation to a county council, district council, London borough council and a parish council.

Signed on behalf of the Secretary of State for Communities and Local Government

Phil Woolas
Minister of State Department for Communities and Local Government

2nd April 2007

SCHEDULE

THE MODEL CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1. —(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State^[13].

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

"meeting" means any meeting of—

(a) the authority;

(b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.—(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006^[14]);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986^[15].

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Personal interests

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital

(whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000^[16].

Prejudicial interest generally

10. —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a

prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13. —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. The Secretary of State has power to issue such a code under section 50 of the Local Government Act 2000. Under section 51 of that Act, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the Code. Under section 51(5), where an authority does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the Code will apply to the members of the authority until it adopts its own code.

Article 1 provides that this Order applies to specified authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

Article 3 disapplies the statutory provisions relating to the National Code of Local Government Conduct and members' interests.

Article 4 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001[[17](#)];

the Parish Councils (Model Code of Conduct) Order 2001[[18](#)];

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001[[19](#)]; and

the Police Authorities (Model Code of Conduct) Order 2001[[20](#)].

These Orders continue to have effect in relation to misconduct committed before the date when the new code is adopted or applied to an authority.

Article 4(3) provides that orders made under section 83 of the Local Government Act 1972 shall have effect for the purpose of prescribing the form of a declaration of acceptance of office.

In the **Schedule to the Order**—

Paragraph 1 of the Code provides that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

Paragraph 2 of the Code provides that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 3 of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons

involved in code of conduct cases.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

Notes:

[1] 2000 c.22.[back](#)

[2] See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).[back](#)

[3] 1972 c.70.[back](#)

[4] 1974 c.7. Section 30(3A) was inserted by section 32(1) of the Local Government and Housing Act 1989 (c. 42), with effect from 1st April 1990.[back](#)

[5] 1989 c.42.[back](#)

[6] 1995 c.25.[back](#)

[7] 1999 c.29.[back](#)

[8] S.I. 2001/3575.[back](#)

[9] S.I. 2001/3576.[back](#)

[10] S.I. 2001/3577.[back](#)

[11] S.I. 2001/3578.[back](#)

[12] Orders made under section 83 of the Local Government Act 1972 were disapplied, by the Orders mentioned in article 4(1)(a) and (b) of this Order, and are here being revived.[back](#)

[13] See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).[back](#)

[14] 2006 c.3.[back](#)

[15] 1986 c.10.[back](#)

[16] See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I 2000/3272).[back](#)

[17] S.I. 2001/3575.[back](#)

[18] S.I. 2001/3576.[back](#)

[19] S.I. 2001/3577.[back](#)

[20] S.I. 2001/3578.[back](#)

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Prepared 4 April 2007



MEETING	DATE	ITEM
STANDARDS COMMITTEE	6 June 2007	7

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

SUMMARY

This report gives an early indication of proposed changes to legislation regarding Standards Committees and ethical governance.

RECOMMENDATION

For noting by the Committee

REPORT DETAIL

1. The Local Government and Public Involvement in Health bill has not yet received Royal Assent but is expected to in the near future.
2. The Bill makes a number of miscellaneous amendments which will affect the Standards Committee and how it operates and which are different from previous processes. A full report will be provided in due course once the legislation has passed through Parliament and Regulations and Guidance have been issued. The following matters are currently worthy of noting:

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- a. Written allegations may be made to the Standards Committee (rather than the Standards Board), that a member may have failed to comply with the Code of Conduct
 - b. The committee must either
 - i. Refer the allegation to the Monitoring Officer
 - ii. Refer the allegation to the Standards Board
 - iii. Decide that no further action should be taken
 - c. If deciding the latter the committee must take reasonable steps to notify the person who made the allegation of the reason for the decision.
 - d. The Standards Board for England may issue Guidance and give Directions to Standards Committees in respect of the exercise of these functions.
 - e. A person may request a review of a decision of no action in respect of an allegation. This must be in writing and made within 30 days of the decision.
 - f. Where an allegation is referred to the Standards Board it must
 - i. Refer the case to one of its Ethical Standards Officers for investigation
 - ii. Decide that no action should be taken
 - iii. Refer the allegation back to the Standards Committee
 - g. The Council must send relevant returns to the Standards Board as directed
 - h. The Chairman of the Standards Committee must be an Independent Member
 - i. There are also extensive but minor amendments relating to disclosure, referrals, Ethical Standards Officer reports and Interim Case Tribunals.
3. It will be necessary to wait for Regulations and Guidance before reporting the changes in detail to this Committee.
 4. The important point to note is that rather than all complaints initially being directed to the Standards Board, it is the Committee which will sift the initial complaints, referring the most complex to the Standards Board and the remainder for investigation to the Monitoring Officer and then return for decision by this Committee.

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Financial Implications and risks:

Any financial issues will be considered once the Legislation, Regulations and Guidance are in place when a further more detailed report will be submitted to this committee.

Legal Implications and risks:

This report is an early indication of proposals currently in the Local Government and Public Involvement in Health Bill. A further report will be prepared in due course and training implications considered.

Human Resources Implications and risks:

No current implications but future training implications for members once the legislation is in place.

Equality Implications and risks:

None relevant

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Background Papers List

None



MEETING	DATE	ITEM
STANDARDS COMMITTEE	8 FEBRUARY 2007	5

REPORT OF THE MONITORING OFFICER

SUBJECT: CONSULTATION ON NEW DRAFT MEMBERS' CODE OF CONDUCT

SUMMARY

The revised Code of Conduct consultation paper was issued by the Department of Communities and Local Government on the 22nd January and the deadline for responses is the 9th March 2007

RECOMMENDATION

For consideration and formulation of a response to the consultation paper on the revised Members' Code of Conduct

REPORT DETAIL

1. The draft revised Members' Code of Conduct has now been issued for consultation purposes and is annexed herewith for consideration by members of this committee.
2. The deadline for responses is the 9th March 2007 and the Monitoring Officer will respond to the consultation with any comments formally made by this committee.
3. The Monitoring Officer has forwarded a copy of the consultation paper to all members of the Council and asked that should any member have any

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particular comments they wish to be considered then they formally respond to the Monitoring Officer or liaise with members of this committee or attend the meeting to make their comments known.

4. At the last meeting, the Committee discussed the need for training of Members. As publication of a new Code is imminent, it would seem sensible to await that before holding the training so that all Members can be fully up to date. It seems likely that the Code will be published around May and so training arrangements are being prepared on the basis of three sessions (morning, afternoon and early evening, to give Members a range of opportunities to attend), to be held in June or early July. These sessions would be delivered by an external training provider.
5. It is also proposed to arrange additional training for Committee Members and designated substitute Members, particularly with regard to the hearings process, which would also be delivered by the selected training provider.

Financial Implications and risks:

Once the Code receives approval, further training will be required of members generally and the Standards Committee members more particularly. This training will be provided by an appropriate external training provider. A procurement exercise for this is in hand. Costs are unknown at present but will be met from within the existing budget provision for Member training; the use of which is prioritised according to identified training needs.

Legal Implications and risks:

The Code of Conduct governs declarations of interest and hospitality and the behaviour of members. The aim of the revised Code is to be clearer and more proportionate and to address some of those issues which have arisen since the original Code was issued, for example the decisions in the Johnson and Livingstone cases.

The Standards Board for England will also respond to the consultation paper and will, once the Code is issued, itself issue revised guidance on the Code. There are a number of specific questions relating to the revised Code which the committee may wish to respond to as well as giving their general view on the draft.

The letter sent by the Monitoring Officer to all members of the Council highlights the significant proposed changes.

Human Resources Implications and risks:

Member training will be required to ensure that all members are familiar with the revised Code of Conduct together with senior officers within the Council.

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Equality Implications and risks:

The revised Members' Code of Conduct will address some of those issues which have led to inequality under the current Code such as behaviour outside of official duties.

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Background Papers List

Letter to all Councillors

DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

Commentary on Detailed Amendments Proposed

(THE BRACKETED REFERENCES TO PARAGRAPH NUMBERS CORRESPOND TO THE RELEVANT PARAGRAPHS OF THE DRAFT MODEL CODE)

Unlawful discrimination

1. To delete reference to unlawful discrimination (paragraph 2(2)(a))

Paragraph 2(a) of the model code currently provides that a member must promote equality by not discriminating unlawfully against any person. However, an Adjudication Panel finding in January 2005 concluded that the Panel has no jurisdiction to make findings of unlawful discrimination. We need therefore to ensure that unlawful discrimination is not an issue on which a Panel may be required to make a determination, so the provisions in current paragraph 2(a) will be deleted.

We propose to replace paragraph 2(a) with a provision proscribing members from doing anything that would seriously prejudice their authority's statutory duties in regard to equality. We are also retaining the provision in the current rules requiring members to treat others with respect. These provisions should allow the code to continue to support the principles of fair treatment and respect for others, including behaviour and actions which could relate to equality issues.

Bullying

2. Add a provision specifically proscribing bullying (paragraph 2(2)(b))

Currently, paragraph 2(b) of the model code states that a member must treat others with respect. Paragraph 4 of the current code provides that a member must not bring his or her office or authority into disrepute. The code makes no specific reference, however, to bullying behaviour.

We propose to add a specific provision to indicate that members must not bully any person, ie that bullying of other members, officers or anyone else is a breach of the code of conduct. We wish to ensure that it is clear that bullying behaviour should play no part in members' conduct.

We have accepted the Standards Board's view that a specific definition of bullying does not need to be included in the code, and that this should be left to guidance by the Board, which will indicate, for example, the view we take that bullying can relate not only to patterns of behaviour, but also to individual incidents.

Disclosure of confidential information

3. To allow members to disclose confidential information where such disclosure is in the public interest (paragraph 3(a)(iii))

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Paragraph 3(a) of the code currently provides that a member should not disclose information given to him or her in confidence or which the member believes to be of a confidential nature. There is no explicit provision allowing members to disclose information if this is in the public interest.

An Adjudication Panel decision in 2005 confirmed, as a matter of law, that paragraph 3(a) of the code of conduct fails properly to take into account Article 10(1) of the European convention on Human Rights. The Panel found that in order to be compatible with Article 10(1), the code should be read so as to allow for the disclosure of information of a confidential nature where it is in the public interest to do so.

We therefore wish to provide that a member may make a disclosure of information given to him or her in confidence or which he or she believes to be of a confidential nature in the public interest provided the disclosure is in good faith and reasonable, and that the member has not breached any reasonable requirements of the authority, eg in the form of relevant local protocols or procedures. We propose that the Standards Board would issue guidance on how they would expect members to interpret this. We expect that such guidance would indicate that members should be able to disclose information in the following circumstances: where they reasonably believe that the disclosure will indicate evidence of a criminal offence, where the authority is failing to comply with its legal obligations, that a miscarriage of justice has occurred or may occur, that the health and safety of anyone has been endangered, or that the environment has been damaged.

We appreciate that it is important that the public interest test does not allow members to use the defence of public interest when merely seeking to make political capital through disclosure of properly confidential information. Our aim is to strike a sensible balance which is workable in practice between the need to treat certain information confidentially and to allow the disclosure of information in appropriate circumstances.

There may be scope for the provision on confidential information to be clarified further, so as to make clear that the rules on the disclosure of information cover information received by a member in his official capacity or which relates to the work of the council. This would ensure that a member would not be able to claim that although he did disclose information, he did not receive the information in his capacity as a member, which the current drafting might potentially allow him to claim.

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Behaviour outside official duties

4. Paragraphs 4 and 5

Paragraph 4 of the current code provides that a member must not in his or her official capacity or any other circumstance conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute. In addition, paragraph 5 currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to secure for himself or herself or any other person an advantage or disadvantage.

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The Standards Board has recommended amending the code so that, in terms of a member's behaviour in private life, conduct which amounts to a criminal offence, as well as behaviour which would be regarded as criminal but for which a conviction has not been secured, could be regarded as bringing the member's office or authority into disrepute under the terms of the code.

Separately the decision by the High Court in the case of the appeal of the Mayor of London, in October 2006, cast some doubt on the ability of the code of conduct to proscribe behaviour of members in their private capacity. The judgement commented on the interpretation of section 52 of the Local Government Act 2000. This section imposes a duty on a council member to give an undertaking to observe the code of conduct 'in performing his functions'. The Court considered that section 52 limits the scope of the code so that conduct in a member's private capacity can only come within the scope of the code where it is established that there is a direct link with the member's office, eg if the member uses his office for personal gain.

The Court judgement gave examples of cases where it did not think that the code was able to apply. These included where a member shoplifts or is guilty of drunken driving. Such action will not now be caught by the code if the offending conduct had nothing specifically to do with the member's position as a councillor.

This is a narrower interpretation than we have previously applied to the code. Up to now we have assumed it was possible to take a wider view of what private conduct could be relevant, ie including actions not necessarily to do with the member's position as a councillor but which may affect the member's reputation and electors' confidence in him or her.

In response to this case, we have decided to amend sections 49 to 52 of the Local Government Act 2000 so that behaviour in a private capacity might be included within the remit of a code of conduct. This amendment is included in the Local Government and Public Involvement in Health Bill currently before Parliament.

If the amendments are enacted, Ministers are currently minded to provide that only private behaviour for which the member has been convicted by a court should be proscribed by the code of conduct, as referred to in paragraph 4(2), and not behaviour falling short of a criminal offence.

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in members' private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Commission of criminal offence before taking office

5. Paragraph 4(2)

We agree with the Standards Board that in the circumstances where a member's behaviour has been found to be unlawful by a court, then the member may be perceived to have brought his or her office or authority into disrepute. We also consider that where a member committed the offence before taking office as a member but where he or she was not convicted until after becoming a member, then this offence should be capable of being taken into account when considering whether the member has brought his or her authority into disrepute. A new paragraph 4(2) implements this amendment.

Using or seeking to use improper influence

6. To amend paragraph 5(a) by adding 'or attempt to use'

Paragraph 5(a) currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to confer on or secure for himself or herself or any other person an advantage or disadvantage. A literal interpretation of this provision might mean that it does not cover unsuccessful attempts by the member to use his or her position in this way. We believe that justice would be better served if provision was made for the code to proscribe members' attempts to use their position even where such attempts were not in the event successful. To this end, we have proposed that the paragraph should provide that the member should not either use or attempt to use his or her position to confer an advantage or disadvantage for himself or herself or anyone else.

7. Paragraph 5(b)(ii)

We have sought to simplify this sub-paragraph without losing any of the intended meaning of the original provision, and specific reference is added to clarify the intention that an authority's resources should not be used improperly for party political purposes.

Publicity code

8. To add reference at paragraph 5 to the need for the member to have regard to the guidance set out in the Government's local authority publicity code

We believe it would be a sensible complement to the code to make it clear that, in addition to providing in paragraph 5 that members should not use resources improperly for political purposes, they should also have regard to the Government's Code of Recommended Practice on Local Authority Publicity.

The Code of Recommended Practice on Local Authority Publicity (a copy of which can be found at <http://www.communities.gov.uk/index.asp?id=1133867>) is issued by the government under the Local Government Act 1986 and was last amended in 2001. The Publicity Code provides instructions about the content, style and distribution of promotional activity and material produced by authorities, supplementing the basic requirement in the 1986 Act that authorities must not use their resources for political purposes.

It has been suggested by some that the Code of Practice on Local Authority Publicity is unnecessary and restrictive. We would be grateful to hear the views of consultees on the Publicity Code and whether or not they feel it is serving a useful purpose. If people feel it should be abolished, do they think it should be replaced by any other guidance, eg issued by local authority representative bodies?

The Publicity Code does not currently apply to the Greater London Authority, fire and rescue authorities and the national parks authorities, although the code of conduct does apply to these bodies. We would also be grateful therefore for views on whether and how it might be appropriate for the Publicity Code to apply in relation to the above bodies.

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government

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representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Reporting breaches of the code and proscribing intimidation

9. To delete the duty in paragraph 7 of the existing code to report breaches of the code by other members, and add a proscription (at paragraph 2(2)(c)) on the intimidation of complainants and witnesses

Paragraph 7 of the current code provides that a member must, if he or she becomes aware of another member's breach of the code, make an allegation to the Standards Board of that breach.

We wish to delete the requirement to report other members' breaches of the code, which has been perceived by some as encouraging councillors to make trivial allegations.

At the same time, to protect members who do report serious misconduct from victimisation, we propose to add a provision at paragraph 2(2)(c) prohibiting a member from intimidating or attempting to intimidate a complainant or witness, people carrying out the investigation, support staff and others involved in the case, whether or not they are members, officers or members of the public. This would demonstrate to members that victimising complainants or witnesses will rebound on them by making the case against them more serious, since such intimidation would itself count as a breach of the code.

In addition, since it is the Government's policy to increase the proportion of cases to be investigated locally, it is important that officers who are required to handle such cases are free from inappropriate pressures from members.

Gifts and hospitality

10. Paragraphs 7(a)(vi) and 8(3)

Paragraph 17 of the code currently provides that in the case of the receipt of any gift or hospitality over the value of £25, members must notify the monitoring officer of the existence and nature of the gift or hospitality. There is no provision for such information to be made public in the register of members' interests.

We wish to reinforce the principles of accountability and openness of the conduct regime by requiring that information about gifts and hospitality should be included in the register of interests. We propose therefore to provide that the receipt of gifts or hospitality of over £25 in value should be an interest that should be registered as a personal interest. However, to ensure this provision is proportionate, we also propose that the requirement to disclose the personal interest to a meeting would cease after five years following the receipt of the gift or hospitality, although that receipt would remain on the register as a personal interest.

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Body influencing public opinion or policy

11. Paragraph 7(b)(iv)

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To clarify the fact that the existing reference to a body whose purposes include the influence of public opinion or policy in which the member may have a personal interest, includes any political party.

Interests of family, friends and those with a close personal association

12. To amend reference in the current code to friends and family by adding reference to any person with whom the member has a close personal association (paragraph 7(c)(i) and elsewhere)

Paragraph 8 of the current code provides that a member must regard himself or herself as having a personal interest in a matter if a decision on it affects to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend. We wish to ensure that the definition of personal interest includes matters affecting a range of personal, business and professional associates, as well as people who would specifically be termed as 'friends'. Reference has therefore been added to any person with whom the member has a close personal association.

13. Definition of family and friends (paragraph 7(c)(i) and elsewhere)

With the inclusion of "close personal association" it is not thought necessary to keep the definitions of 'family' or 'friend' in the code. Guidance by the Standards Board will give assistance to members on these definitions.

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Definition of personal interests

14. To replace reference in paragraph 8 to the inhabitants of an authority's area with provision that members should not be required to register an interest in a matter unless the interest is greater than that of the majority of the inhabitants of the ward affected by the matter. For parish councils the definition would apply in respect of the council's whole area (paragraph 7(c)).

Paragraph 8 of the current code provides that members have a personal interest if they would be affected by a matter to a greater extent than other council tax payers, rate payers or inhabitants of the authority's area.

We wish the code to allow members to be able more frequently to take part in council meetings which their communities expect them to participate in or on issues, in some cases, which they have even been elected specifically to address. We therefore wish to delete the current requirement that a personal interest arises where a decision on it might be regarded as affecting the member to a greater extent than other inhabitants of the authority's area, and replace it with a requirement that the personal interest arises only where the interest might reasonably be regarded as affecting the member to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward which is affected by the particular matter. The purpose is to reduce the number of times a personal interest may arise on matters which are not of genuine concern to the public, as a result of the broad

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current test relating to the whole council's area, which in effect has meant in some cases that members have felt they have to declare interests which are in fact shared with a large number of people.

Narrowing the definition will provide a more locally-based focus, and reduce the number of personal interests which arise by requiring that an interest would arise only where the interest would be higher than most people in the local area affected by the matter. This should mean that an interest would not arise where interests are shared by a substantial number of inhabitants in the authority's area.

Where members, eg elected mayors and co-opted members, do not represent wards, the relevant test would be whether the issue affected the member more than the majority of people in the ward affected by the particular matter.

In the case of parish councils, which do not usually have wards, their areas are so small that we propose to apply the definition in respect of the council's whole area.

Disclosure of personal interests

15. Paragraph 8(4)

Under the current code, a member would technically be in breach of the code's provisions in respect of the personal interests of a relative even if he or she was unaware of any interest held by a relative. It would be sensible and more proportionate to amend the provision so that the rules on the disclosure of interests at a meeting in respect of a family member, friend or a person with a close personal association will only apply if the member is aware or ought reasonably to be aware of the interest held by that person.

Public service interests

16. To create a new category of 'public service interest', which arises where a member is also a member of another public body, and for the public service interest only to be declared at meetings where the member speaks on the relevant issue (paragraph 8(2) and 8(7))

Paragraph 9 of the current code provides that a member with a personal interest must disclose the interest at the commencement of the meeting or when the interest becomes apparent.

We wish to provide a definition of what is meant by 'public service interest', ie an interest which arises where a member is also a member of another public body, to which they have been appointed or nominated by the authority, or of which they are a member in their own right. Members would be required, as now, to enter any such interest they have in the register of interests.

However, instead of, as now, requiring that public service interests are declared at the start of any relevant business, we wish to require that such interests should only be declared at such time as the member speaks on a relevant issue. The aim of this is to avoid the current onerous requirement by which lengthy periods at the start of business on a particular issue can be spent by members in declaring their personal interests in the particular issue, even if many or all of those members have no intention to take part in the debate on that subject.

Prejudicial interests – List of exemptions

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17. To simplify and amend the list of exemptions where members should not regard themselves as having a prejudicial interest (paragraph 9(2)(b))

Three new items have been added to the list of interests which are not to be regarded as prejudicial. This will mean that a member will not have a prejudicial interest where the matter relates to the authority's functions in respect of:

- Indemnities. This addition arises from the Standards Board's experience of cases where, for example, members have felt unable to vote in discussions on the issue by the authority of indemnities which might relate to themselves, as well as a number of other members of the council.
- The setting of council tax. We understand that some members have been concerned that in discussing this issue, prejudicial interests may arise for them because of their connection with an organisation funded from an operational budget which is being set by the council tax settlement. We consider that such an interest is likely to be too remote to be a prejudicial interest.
- Considering whether or not the member should become a freeman of the authority.

We also propose to amend the Local Authorities (Code of Conduct) (Local Determination) Regulations to allow a member to attend a hearing of a standards committee into his or her conduct in order to be able to defend himself or herself.

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Overview and scrutiny committees

18. To provide that members are excluded from overview and scrutiny committees where they are scrutinising decisions, including decisions made by the authority's executive, which they were involved in making (paragraph 10)

Paragraph 11 of the current code does not allow a member to scrutinise a decision of a committee, sub-committee or joint committee 'of which he may also be a member'. It does not cover the position of a member who may not now be a member of the relevant committee but was a member at the time the decision was taken. We therefore wish to make an amendment to ensure that the proscription will apply where the councillor was a member at the time of the decision or action.

A further consequence of the current paragraph 11 provision is that a member is not allowed to scrutinise decisions where he or she is a member of the committee whose decision is being scrutinised, ie the proscription applies where he or she was not involved in making the decision, for example, because he or she was absent from the committee or where he or she became a member after the decision was taken. This can have the effect of debaring members from the scrutiny function in respect of decisions in which they had no involvement. We therefore propose an amendment to provide that members should only be debarred from involvement in the scrutiny function in cases where they are scrutinising decisions they were involved in making.

In addition, the rules do not currently refer to decisions made or action taken by the authority's executive. They therefore do not cover the case where a former member of the

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executive sits on a scrutiny committee to scrutinise decisions of the executive to which he or she contributed. We propose therefore that paragraph 10 is amended to indicate that the restriction will apply to former executive members who were involved in making the relevant decisions.

Participation in relation to prejudicial interests

19. To provide a clearer prejudicial interest test to apply for public service interests and where members attend to make representations (paragraphs 9 and 11)

Actions which a member should take where he or she has a prejudicial interest are set out in current paragraph 12.

We wish to provide for clearer and more proportionate rules to apply in respect of participation in council meetings for those who have public sector interests, ie who are members of another authority or a charity or lobbying body, and for those who are attending meetings to make representations.

We consider that the fact that an issue considered by one body may affect another body with which the member is involved does not necessarily mean that the member's judgement of the public interest will be prejudiced. In such cases, the public service interest should only be considered prejudicial where

- (a) the matter relates to the financial affairs of the body concerned, or
- (b) where the matter relates to the determining of any approval, consent, licence or permission (eg in respect of planning and licensing) in relation to the body.

Where a member has a public service interest and (a) or (b) do not apply, then no prejudicial interest would arise and the member may speak and vote at the meeting.

Any member (including a member with a public service interest to which (a) or (b) also apply), will not have a prejudicial interest where they attend a meeting to make representations, answer questions or give evidence, provided the committee agrees that the member may do so. After members have answered such questions or given such evidence, they must then withdraw from the room where the meeting is being held.

All members with a prejudicial interest, regardless of the category of interest, would still continue to be subject to paragraph 11(1)(c), ie the requirement that members should not seek improperly to influence a decision about the matter.

Q7. Is the proposed text, relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions or give evidence, appropriate?

Sensitive Information

20. To provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the member or those he or she lives with being subject to violence or intimidation (paragraphs 8(5) and 13)

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Paragraph 14 of the current code requires members to register all of their personal interests.

We wish to ensure that sensitive information, for example, where members are employed in areas of sensitive employment, such as certain types of scientific research, need not be made public if to do so would threaten the safety of the member and/or his family. A member who considers that the information which he or she would need to register is sensitive, will apply to the authority's monitoring officer for the interest not to be registered. If the monitoring officer is satisfied that the information is sensitive and the risk of intimidation of the member or those he or she lives with is real, the member may not include the sensitive information on the register of interests.

Consistent with the above, we also wish to amend paragraph 8(5), so that a member with an accepted sensitive interest should not have to disclose publicly the details of that sensitive information at a council meeting, although he or she will still need to disclose that they have a personal interest if this is the case in respect of a particular matter under discussion.

National Park and Boards Authorities – prejudicial interest

21. Delete sub-paragraphs (f) and (g) from paragraph 10(2) of the current National Park and Broads Authorities (Model Code of Conduct)(England) Order 2001

Paragraph 10(2)(f) and (g) of the current model code applying to the National Park and Broads Authorities makes provision in respect of matters for which a member may regard himself as not having a prejudicial interest. At the request of DEFRA, and following earlier consultation by them with the National Parks and Broads Authorities, we wish to delete provisions allowing interest in respect of matters relating to farming, land, certain charges or navigation not to be regarded as prejudicial interests for members in certain cases. This is to address criticism that these clauses have led to preferential treatment for some landowners and navigators, who, if it was not for the operation of the paragraph, would have been regarded as having a prejudicial interest.

Register of members' interests

22. Paragraphs 12 and 13

Opportunity has been taken to rearrange the position of various provisions within the code. Because the list of potential personal interests is now in paragraph 7, the paragraphs on the registration of personal interests have been simplified and shortened.

Gender neutrality of language

23. To amend the code throughout to ensure gender neutrality of language

To signal the fact that the principles of the code refer both to women as well as men, and promote a more inclusive approach, we propose to make the language of the code gender neutral and replace gender-specific language such as 'he', or 'him', with 'he or she', or 'him or her'.

Q8. Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

**SCHEDULE
THE MODEL CODE OF CONDUCT
PART 1
General Provisions**

Interpretation

In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member;

“the authority’s monitoring officer”, in relation to parish councils, is construed as referring to the monitoring officer of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000; and

“the authority’s standards committee”, in relation to parish councils, is construed as referring to the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000.

Scope

1.—(1) A member must observe the authority’s code of conduct whenever he or she—

- (a) conducts the business of the authority;
- (b) conducts the business of the office to which he or she is elected or appointed; or
- (c) acts as a representative of the authority,

and references to a member’s official capacity is construed accordingly.

(2) An authority’s code of conduct does not, apart from paragraphs 2(2)(c), 4 and 5(a), have effect in relation to the activities of a member undertaken other than in an official capacity.

(3) Where a member acts as a representative of the authority—

- (a) on another relevant authority, he or she must, when acting for that other authority, comply with that other authority’s code of conduct; or

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(b) on any other body, he or she must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

2.—(1) A member must treat others with respect.

(2) A member must not—

(a) do anything which may seriously prejudice his or her authority's ability to comply with any of its statutory duties under the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) in his or her official capacity, or any other circumstance, intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) supporting the administration of any investigation or proceedings, in relation to an allegation that a member has failed to comply with his or her authority's code of conduct;

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(a) those who work for, or on behalf of, the authority are deemed to include a police officer.

3. A member must not—

(a) disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where—

(i) he or she has the consent of a person authorised to give it;

(ii) he or she is required by law to do so; or

(iii) the disclosure is—

(aa) reasonable and in the public interest;

(bb) made in good faith and does not breach any reasonable requirements of the authority;

(b) prevent another person from gaining access to information to which that person is entitled by law.

4.—(1) A member must not in his or her official capacity, or any other circumstance, conduct

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himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.

(2) The conduct referred to in paragraph (1) may include a criminal offence including one committed by the member before taking office but for which he or she is not convicted until after that date.

5. A member—

(a) must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of the authority—

- (i) act in accordance with the authority's requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (iii) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

6. A member must when reaching decisions—

(a) have regard to any relevant advice provided to him or her by—

- (i) the authority's chief finance officer; and
- (ii) the authority's monitoring officer; and

(b) give the reasons for those decisions in accordance with the authority's and any statutory requirements.

PART 2 Interests

Personal interests

7. A member has a personal interest in any matter where—

(a) it relates to—

- (i) any employment or business carried on by the member;
- (ii) any person who employs or has appointed the member;
- (iii) any person, other than a relevant authority, who has made a payment to the member in respect of his or her election or any expenses incurred by him or her in carrying out his or her duties;
- (iv) any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities

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of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body (whichever is the lower);

- (v) any contract for goods, services or works made between the authority and the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
- (vi) any gift or hospitality over the value of £25 received by the member;
- (vii) any land in the authority's area in which the member has a beneficial interest;
- (viii) any land where the landlord is the authority and the tenant is the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
- (ix) any land in the authority's area in which the member has a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) it relates to his or her membership of or position of general control or management in any—

- (i) body to which the member is appointed or nominated by the authority;
- (ii) public authority or body exercising functions of a public nature;
- (iii) company, industrial and provident society, charity, or body directed to charitable purposes;
- (iv) body whose principal purposes include the influence of public opinion or policy, including any political party; and
- (v) trade union or professional association; or

(c) a decision on the matter might reasonably be regarded as affecting the well-being or financial position of—

- (i) the member, one of the member's family or a friend, or any person with whom the member has a close personal association; or
- (ii) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (iii) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (iv) any body listed in paragraphs (i) to (v) of sub-paragraph (b) in which such persons hold a position of general control or management, to a greater extent than the majority of—
 - (aa) in the case of authorities with electoral divisions or wards, other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

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(bb) in the case of the Greater London Authority, other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(cc) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of personal interests

8.—(1) Subject to sub-paragraphs (2) to (7), a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) A member with a personal interest in a matter which is a public service interest, need only disclose to that meeting the existence and nature of that interest when he or she addresses the meeting on that matter.

(3) A member with a personal interest of the type mentioned in paragraph 7(a)(vi) need not disclose the nature or existence of that interest to the meeting if the interest was registered more than five years before the date of the meeting.

(4) In relation to a personal interest of a family member, a friend, or any person with whom the member has a close personal association, sub-paragraph (1) only applies where the member is aware or ought reasonably to be aware of the interest.

(5) Where, by virtue of paragraph 13, sensitive information relating to a member is not registered in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000), a member with a personal interest must indicate to the meeting that he or she has a personal interest, but need not disclose the sensitive information to that meeting.

(6) Subject to paragraph 11(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph—

(a) a member has a public service interest in a matter where that matter relates to—

(i) another relevant authority of which he or she is a member;

(ii) another public authority in which he or she holds a position of general control or management; or

(iii) a body to which he or she is appointed or nominated by the authority; and

(b) "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interests

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9.—(1) Subject to sub-paragraphs (2) and (3), a member with a personal interest in a matter also has a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

(2) A member does not have a prejudicial interest in a matter where—

(a) he or she has a public service interest in the matter, unless—

(i) the matter relates to the financial affairs of the body to which that public service interest relates; or

(ii) the matter relates to the determining of any approval, consent, licence, permission or registration in relation to that body;

(b) that matter relates to the functions of the authority in respect of—

(i) housing, where he or she is a tenant of the authority provided that those functions do not relate particularly to the member's tenancy or lease;

(ii) school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;

(iv) an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989;

(v) an indemnity given under an order made under section 101 of the Local Government Act 2000;

(vi) considering the bestowing of the title of freeman on the member; and

(vii) setting council tax under the Local Government Finance Act 1992.

(3) A member does not have a prejudicial interest in a matter where he or she attends a meeting for the purpose of making representations, answering questions or giving evidence relating to the matter, provided the meeting agrees that the member may do so and after making representations, answering questions or giving evidence, the member withdraws from the room where the meeting is being held.

(4) In this paragraph, a member has a public service interest in a matter where that matter relates to—

(a) any of the matters referred to in paragraph 8(7)(a); or

(b) a charity, a lobbying or philanthropic body of which he or she is a member.

Overview and scrutiny committees

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10.—(1) For the purposes of this Part, a member has a prejudicial interest where he or she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee and that consideration relates to a decision made (whether implemented or not), or action taken by—

- (a) the authority's executive;
- (b) another of the authority's—
 - (i) committees or sub-committees; or
 - (ii) joint committees or joint sub-committees,

of which he or she is, or was at the time of the decision or action, a member and he or she was present for the consideration of that matter.

(2) But sub-paragraph (1) does not apply where that member attends the meeting of the overview and scrutiny committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in relation to prejudicial interests

11.—(1) Subject to sub-paragraphs (2) and (3), a member with a prejudicial interest in a matter must—

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the authority's standards committee;
- (b) not exercise executive functions in relation to that matter; and
- (c) not seek improperly to influence a decision about that matter.

(2) A member with a prejudicial interest in a matter may, unless that interest is of a financial nature or of the type described in paragraph 10, participate in a meeting of the authority's—

- (a) overview and scrutiny committees; and
- (b) joint or area committees, to the extent that such committees are not exercising functions of the authority or its executive.

(3) In this paragraph, a member has a public service interest in a matter where that matter relates to—

- (a) any of the matters referred to in paragraph 8(7)(a); or
- (b) a charity, a lobbying or philanthropic body of which he or she is a member.

PART 3 Registration of Members' Interests

Registration of Members' Interests

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12.—(1) A member must, within 28 days of—

(i) the provisions of an authority's code of conduct being adopted or applied to that authority; or

(ii) his or her election or appointment to office (where that is later),

register in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) any personal interest of the type mentioned in paragraph 7(a) or (b), by providing written notification to the authority's monitoring officer.

(2) A member must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in paragraph (1), register that new personal interest or change by providing written notification to the authority's monitoring officer.

(3) Sub-paragraphs (1) and (2) do not apply to sensitive information in relation to which the member has made an application under paragraph 13.

Sensitive information

13.—(1) Where a member considers that the availability for inspection by the public of information relating to any personal interest which, but for this paragraph, must be registered in the authority's register of members' interests creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation (in this Code "sensitive information"), the member may, where the monitoring officer considers it appropriate, not include that sensitive information on the register of members' interests.

(2) A member must, within 28 days of becoming aware of any change of circumstances which leads him or her to believe that information excluded from the authority's register of members' interests is no longer sensitive information, notify the authority's monitoring officer of this fact and register the information concerned in the authority's register of members' interests.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. Under section 51 of the Local Government Act 2000, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the model code. Under section 51(5) of that Act, where an authority does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the model code will apply to the members of the authority until it does.

Article 1 provides that this Order applies to relevant authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

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Article 3 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001(**a**);

the Parish Councils (Model Code of Conduct) Order 2001(**b**);

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(**c**);

the Police Authorities (Model Code of Conduct) Order 2001(**d**).

These Orders continue to have effect in relation to allegations made before the date when the new code is adopted or applied to an authority.

The disapplication of certain enactments made by these Orders continues to have effect.

In the **Schedule to the Order**—

Paragraph 1 of the model code provides that the code applies whenever a member is acting in his or her official capacity, and that it does not apply in other circumstances unless otherwise indicated. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 2 provides that members must treat others with respect and not do anything which compromises the impartiality of those who work for the authority or bully anyone or intimidate persons involved in code of conduct cases.

Paragraph 3 provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 4 provides that in a member's official capacity and in other circumstances, a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 5 provides that a member must not in his or her official capacity or in other circumstances use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's requirements and must not permit those resources to be used for political purposes.

Paragraph 6 provides that in reaching decisions a member must consider advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 7 provides a list of matters which constitute a personal interest in a matter.

Paragraph 8 provides that a member with a personal interest in a matter must disclose that interest at any meeting at which the matter is considered.

(**a**) S.I. 2001/3575.

(**b**) S.I. 2001/3576.

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(c) S.I. 2001/3577.

(d) S.I. 2001/3578.

Paragraph 9 provides that a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his judgement of the public interest. The paragraph provides that in the circumstances specified a member may regard himself as not having a prejudicial interest.

Paragraph 10 provides that a member who was involved in making an executive decision on a matter must not be involved in the overview and scrutiny committee's consideration of that matter, except in order to answer questions from that committee.

Paragraph 11 provides that a member with a prejudicial interest must, unless he has obtained a dispensation, withdraw from any meetings at which the matter is being considered, and must not improperly influence decisions in relation to the matter.

Paragraph 12 provides that a member must notify the monitoring officer of the personal interests and any change to those interests must also be notified.

Paragraph 13 provides that a member may notify the monitoring of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

Annex B

Your views

We would welcome your views on the issues covered by this consultation paper and any other comments and suggestions you may have.

Questions

The specific questions which feature throughout the text of this paper are reproduced for ease of reference:

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

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Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Q7. Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions, or give evidence, appropriate?

Q8. Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

Comments should be sent by e-mail or post by 9 March 2007 to:

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