

REPORT OF THE STANDARDS COMMITTEE

13 JUNE 2007

Members:

Independent Members

*Rev Bernd Koschland (Chairman)

*Marguerite Argles

*Susan Riddle

*Stephen Ross

Councillors:

* Monroe Palmer
(substituting for Councillor
Jack Cohen)

* Joan Scannell

*Agnes Slocombe

*denotes Member present

1. REVISED LOCAL GOVERNMENT CODE OF CONDUCT FOR MEMBERS (St. Cttee. Dec.7/2/07 - 5) (Report of the Director of Corporate Governance – item 5):

The Committee considered the attached report of the Director of Corporate Governance.

The Committee considered that the local addition made to the previous Code by the Council relating to membership of private clubs and similar organisations, on 16 April, 2002, should be incorporated into the revised Code. The Committee also were advised that the revised Code would be included in the Council's Constitution.

The Committee, having noted the changes made to the draft Code of Conduct for Members following consultation by the Department of Communities and Local Government, and the revised Code of Conduct, as recorded in the Decisions of the Committee

RECOMMEND - That the London Borough of Barnet adopt the Model Code set out in the Local Authorities (Model Code of Conduct) Order 2007, with a local addition to similar effect to the local addition Barnet Council made to the existing Code of Conduct in respect of declaring membership of private clubs and similar organisations in the Register of Members' Interests.

AGENDA ITEM: 5

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Meeting	Standards Committee
Date	13 June 2007
Subject	Revised Local Government Code of Conduct for Members
Report of	Director of Corporate Governance
Summary	To invite the Committee to recommend to Council the adoption of the new Model Code of Conduct for Local Authority Members.

Officer Contributors	Director of Corporate Governance (Monitoring Officer), Governance Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A – Results of Consultation on Revised Code of Conduct for Local Government Members Appendix B – The Local Authorities Model Code of Conduct Order 2007 Appendix C – Barnet’s Local Code of Conduct
For decision by	Full Council
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/A
Contact for further information:	Donna Knight-Olds, Governance Manager Tel: 020 8359 7156.

1. RECOMMENDATIONS

- 1.1 That the committee note the changes made to the draft Code of Conduct for Members following consultation by the Department of Communities and Local Government (DCLG).
- 1.2 That the committee note the revised Code of Conduct for Members presented at Appendix B and, in particular, the specific changes summarised in paragraph 9.8 of this report.
- 1.3 That the Committee recommends to the Council that the London Borough of Barnet adopts the Model Code set out in the Local Authorities (Model Code of Conduct) Order 2007.

Either:

- a) unamended;
- b) with a local addition to similar effect to the local addition Barnet Council made to the existing Code of Conduct in respect of declaring membership of private clubs and similar organisations in the Register of Members Interests; and/or
- c) with any other local additions, which do not contradict the content of the Model Code, that the Committee wishes to propose.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Consultation on general principles of conduct and model code of conduct for Members – 5 March 2001.
- 2.2 9 April 2002 – Standards Committee recommendations to the Council in respect of the adoption of the Local Code of Conduct for Members.
- 2.3 16 April 2002 – Council adopted the Local Code of Conduct for Members on the basis of the recommendations of the Standards Committee.
- 2.4 7 February 2007 – Standards Committee response to consultation on proposed amendments to the Model Code of Conduct for Local Authority Members.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Under the Council's Corporate Plan for 2007/07 to 2010/11, one of the corporate priorities is 'More Choice, Better Value'. Key objectives within this priority include 'enhancing and further developing corporate governance' and 'stimulating high quality democratic engagement'. The adoption of the model code in this report supports these objectives.

4. RISK MANAGEMENT ISSUES

- 4.1 The Council is required by law to adopt a Code of Conduct incorporating the mandatory provisions of the Model Code of Conduct. If the Council does not adopt a version of the new Code by 1 October 2007 the Model Code will automatically apply to all Barnet Members and co-optees. However, in the absence of the Council being pro-active in this matter, Members and co-optees may not be aware of the standards of conduct required of them and there is a potential risk that the reputation of the Council may be subsequently damaged. The automatic application of the new Code would also mean that the local addition made by Barnet to the Code in 2002 would no longer apply which may create further uncertainty.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Members of the Council are a diverse range of individuals from within the Borough and the code of conduct applies to all equally.
- 5.2 The existing Code of Conduct includes a general requirement for every Member to promote equality by not discriminating unlawfully against any person and to treat others with respect. The new code replaces this with a provision to proscribe Members from doing anything which may cause his or her authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006[14]).

6. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 6.1 None.

7. LEGAL ISSUES

- 7.1 Substantive legal issues are contained in the body of this report. The key legal issue is that there is a statutory requirement to have a Code of Conduct and a requirement for Members to abide by it.

8. CONSTITUTIONAL POWERS

- 8.1 This Committee is empowered by Article 9 of the Constitution with promoting and maintaining high standards of conduct by Members and co-opted Members, assisting Members to observe the Code of Conduct, advising the Council on the Code and monitoring its operation.

9. BACKGROUND INFORMATION

- 9.1 The Local Authorities (Model Code of Conduct) Order 2007 (Statutory Instrument no. 1159) was laid before Parliament on 4 April 2007. The Order came into effect on 3 May 2007 and is attached as Appendix B. It introduces a new Model Code of Conduct for Local Authority Members which is required to be adopted by all local authorities by 1 October 2007. The existing code will remain in force until adoption.

- 9.2 The Standards Committee, at its meeting on 7 February 2007, considered the proposed Code in its draft form, together with the commentary and questions put forward by the DCLG for the consultation exercise. The consultation was launched on 22 January 2007 with a closing date of 9 March 2007.
- 9.3 The committee was content with the majority of the proposed amendments and in response to most of the questions in the DCLG consultation they agreed the appropriateness of the proposed text. The Committee sought greater clarity as to the remit of the Code with regard to criminal convictions in terms of behaviour in a private capacity and this section has been re-worded to provide this. The DCLG's summary of responses from all of the bodies that responded to the consultation and amendments made in response to those findings is attached as Appendix A to this report.
- 9.4 The committee's comments at its 7 February 2007 meeting about the proposed changes mainly centred on requests for further guidance. The Standards Board has issued guidance on its Website and all members of the Standards Committee are recommended to view this. In addition, Officers will be providing briefings in due course. The Standards Board has announced that it also intends to produce a range of training materials, including a DVD which will be distributed to Monitoring Officers in July 2007. All guidance associated with the new code of conduct will be passed on to all Members of the Council, Co-opted Members and Independent Members to accompany the adoption of the new code and will be used in future training sessions.
- 9.5 Authorities can either adopt the Model Code or they can make local additions to it, provided that the additions do not contradict the provisions of the Model Code. This Council can not refuse to adopt any part of the Code. Paragraph 12.2 of the Model Code is not mandatory for some local authorities (such as parish and town councils) but it is mandatory for a London Borough Council.
- 9.6 When adopting the previous Code of Conduct in 2002, the Council made one local addition to the effect that membership of private clubs and similar organisations also had to be declared in the Register of Members' Interests. A similar addition could be made to the list of interests set out in Paragraph 8 (1)(a) of the new Model Code, to which Part 3 dealing with Registration of Members Interests refers.
- 9.7 Officers have spotted a typographical error in the explanatory notes to the code as published (not part of the order itself). In the note referring to paragraph 3, 'intimidate' should be substituted for 'intimate'.

Summary of Changes

- 9.8 Below is a summary of the main areas of change between the existing Code of Conduct and the new Model Code.

Personal Interests – The definition of these has been relaxed. Thus, interests that are shared with the majority of people in the ward affected by the decision will not have to be declared.

Outside Bodies – Members who have been appointed by the authority to represent the Council on outside bodies will not now be required to always declare an interest where a matter that affects that other body is being discussed at a meeting of the authority. They do not have to declare a personal interest in the matter before they vote unless they wish to speak on the matter, or, unless the personal interest is also a prejudicial interest.

Prejudicial Interests – These now only arise if a matter affects a Member, his or her family, or the Member's close associates in one of two ways. They are that it relates to the person's finances or it concerns a regulatory function such as licensing or planning which affects the person. The test as to whether a personal interest is a prejudicial interest remains that if a reasonable member of the public with knowledge of the facts would believe the Member's ability to judge the public interest would be impaired it is a prejudicial interest. However, an important change is that where a Member has a prejudicial interest, the new Code better supports the Member's role as a community advocate and enables him or her, in certain circumstances, to represent the community and to speak on issues. Paragraph 12(2) of the new code gives Members with a prejudicial interest the same rights as a member of the public to speak to a meeting on the matter. However, once the Member has spoken, he, or she, must leave the meeting room (including the public gallery of the Council Chamber) immediately and not be present while the committee discusses or votes on the matter.

Gifts or Hospitality - Any gift or hospitality over the value of £25 must now be included on the Register of Member's Interests and thus a personal interest must be declared at any meeting where a matter relating to the donor of the gift or hospitality is discussed.

Equality laws – The previous provision against unlawful discrimination has been replaced by a duty to do nothing that might cause the authority to breach its duties under equality and anti-discrimination laws. This change means that any discriminatory behaviour by a Member can now be dealt with through the Code.

Bullying – this is now specifically prohibited by the Code.

Intimidation – Another new provision forbids members from intimidating or attempting to intimidate anyone involved in an investigation such as a complainant, a witness or an officer conducting an investigation.

Private behaviour – The Code will not apply to most conduct which solely concerns a member's private life. The exception being that the Code will apply to matters resulting in a criminal conviction for the Member. However, if enacted, the Local Government and Public Involvement in Health Bill will bring about further changes in this area.

Disclosure of Confidential Information - The ban on this has been relaxed to allow disclosure in either of two situations. The first is where the disclosure is made to a third party for the purpose of obtaining professional advice and the person advising agrees not to disclose it any further. The second circumstance in which disclosure of confidential information might be permissible is where the disclosure is in the public interest, reasonable and disclosed in good faith while not breaching the requirements of the authority. This was an area on which the Committee particularly sought further guidance. The guidance issued by the Standards Board goes into detail on the requirements for applying the public interest test and this will be highlighted in the planned training sessions for all Members.

- 9.9 The Ten Principles of Public Life are not incorporated in the Code. However, the Standards Board advises that the Code should be read in conjunction with the principles and that a failure to follow the principles was likely to indicate behaviour that could potentially breach the Code.

10. LIST OF BACKGROUND PAPERS

- 10.1 Consultation paper on the revised Code of Conduct.
- 10.2 Standards Board bulletin 33
- 10.3 Any persons wishing to inspect the background papers listed above should contact Donna Knight-Olds, Governance Manager, Tel: 020 8359 7156

Results of consultation on revised code of conduct for local government members

Introduction

The Government consulted on a revised code of conduct for local authority members on 22 January 2007. The consultation ended on 9 March. The aim was to consult on the detailed amendments needed to the code of conduct for local councillors, so as to put into effect the commitment given in the Local Government White Paper to introduce:

- a clearer, simpler and more proportionate code, and
- amended rules on personal and prejudicial interest to remove the current barriers to councillors speaking up for their constituents, for example on planning and licensing issues, and for public bodies on which they have been appointed to serve.

The consultation attracted 906 responses. A summary of the comments received and the amendments which have been made to the code to reflect the issues raised are provided below.

The Department is grateful to all who responded to the consultation and helped to shape the changes to the code, and in particular to the many local authorities and their representative bodies, including the LGA, NALC, ACSeS, SOLACE and ALACE, who commented. We are also grateful to the Standards Board for the key role it has played in the consultation process. In the coming months, the Board will be publishing revised guidance on the new code as well as undertaking a series of national roadshows to share advice and experience on its implementation.

Following the consultation, the Local Authorities (Model Code of Conduct) Order 2007 (SI No 1159) was issued on 4 April, prescribing a revised model code. The order will come into effect on 3 May 2007, and is available online at www.opsi.gov.uk/si/si-2007-index.htm.

Summary of main conclusions from consultation

Number of responses received: 906

Comprising:

- Principal authorities – 390;
- Parish councils and individual councillors – 442;
- Local authority representative and other stakeholder bodies (including the Standards Board, LGA, NALC, ACSeS and the Commission for Racial Equality) – 42; and
- Individuals (including councillors and MPs) – 32

Main comments

- General welcome for the proposed revisions to the code.
- Welcome for the gender-neutral approach taken in the revised draft. Some respondents suggested extra accessibility and user-friendliness would be provided by replacing references to ‘him or her’ with reference to ‘you’.
- Welcome to proposal to amend the rules on personal and prejudicial interest to allow members to speak more often at council meetings. Suggestion that more relaxed regime proposed for members with a ‘public service interest’ should be extended to all members, so that a member would not have a prejudicial interest in any matter unless it includes a financial benefit to the member or the member’s family and those with a close association with him or her, or it relates to the determining of any approval, consent or licence in respect of the member, his or her family or those with a close association with the member. The separate definition of ‘public service interests’ should therefore be deleted.
- Members with a prejudicial interest should be granted the same right to speak to make representations and give evidence as the general public. There should be an absolute right to speak at meetings where a member of the public is allowed to speak.
- Support for proposal that the code should proscribe only private behaviour for which the member has received a criminal conviction. Add express wording to clarify the intention to limit the remit of the code in respect of private behaviour to conduct which has resulted in a criminal conviction.

- Support for an amendment to proposal for gifts and hospitality received in the last 5 years to be disclosed at meetings as personal interests. Suggestions made that the proposed 5 year period be reduced to periods of between 2 to 4 years.
- Support for amendment to references to people with a ‘close personal association’ with a member (and whose interest might therefore be affected by decisions made by the member), to ensure that business associates as well as personal friends are included within the meaning of the phrase.
- Support for publicity code as a useful source of advice for authorities on sensitive issues on the use of resources.

Main amendments to the model code proposed in response to consultation findings

- Improve accessibility by replacing ‘the member’ and ‘him or her’ with ‘you’ throughout.
- Deletion of references to ‘public service interests’ and extension of more relaxed provisions on prejudicial interest to all members, ie so no member has a prejudicial interest unless a financial benefit to the member, his or her family or those with a close association with him or her is involved, or if the matter relates to the determining of any approval, consent or licence in relation to the member, his or her family or those with a close association with the member.
- Allow members with a prejudicial interest the same right to attend meetings so as to make representations, give evidence or answer questions, as the general public. They will be allowed to attend and speak at meetings provided the public are also allowed to attend for the same purpose.
- Provide clearer drafting to ensure that the remit of the code in respect of conduct in a private capacity is restricted to behaviour for which a criminal conviction has been received.
- Amendment to the rules on gifts and hospitality, to respond to concerns on proportionality, so that only gifts and hospitality received in the previous 3 years (rather than the 5 years originally proposed) would have to be disclosed at meetings as personal interests.
- References to people with a ‘close personal association’ with the member amended to read ‘close association’ to allow the inclusion of business acquaintances as well as personal friends of the member.

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

<i>Made</i>	<i>2nd April 2007</i>
<i>Laid before Parliament</i>	<i>4th April 2007</i>
<i>Coming into force</i>	<i>3rd May 2007</i>

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 20001 (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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LOCAL CODE OF CONDUCT FOR MEMBERS

(THE MODEL CODE OF CONDUCT AUTHORITIES OPERATING EXECUTIVE ARRANGEMENTS)

PART 1

GENERAL PROVISIONS

Scope

1. (1) A member must observe the authority's code of conduct whenever he –
 - (a) conducts the business of the authority;
 - (b) conducts the business of the office to which he has been elected or appointed: or
 - (c) acts as a representative of the authority.

and references to a member's official capacity shall be construed accordingly.
- (2) An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, 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 must, when acting for that other authority, comply with the other authority's code of conduct; or
 - (b) on any other body, he 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.
- (4) In this code, "member" includes a co-opted member of an authority.

General Obligations

2. A member must –
 - (a) promote equality by not discriminating unlawfully against any person;
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
3. A member must not –
 - (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.

4. A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.
5. A member –
 - (a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself 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: and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
6. (1) A member must when reaching decisions –
 - (a) have regard to any relevant advice provided to him by –
 - (i) the authority’s chief finance officer acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the authority’s monitoring officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the authority’s and any statutory requirements in relation to the taking of an executive decision.

(2) In sub-paragraph (1)(b) above and in paragraph 9(2) below. “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.
7. A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority’s code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

PART 2

INTERESTS

Personal Interests

8. (1) A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting 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 or -
 - (a) any employment or business carried on by such persons;
 - (b) 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;
 - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

- (d) Any body listed in sub-paragraphs (a) to (f) of paragraph 15 below in which such persons hold a position of general control or management.
- (2) In this paragraph –
- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - (b) “partner” in sub-paragraph (2)(a) above means a member of a couple who live together.

PART 2

INTERESTS

Disclosure of Personal Interests

9. (1) 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) Subject to paragraph 12(1)(b) below, 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.

Prejudicial Interests

10. (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if 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 may regard himself as not having a prejudicial interest in a matter if that matter relates to –
- (a) another relevant authority of which he is a member;
 - (b) another public authority in which he holds a position of general control or management;
 - (c) a body to which he has been appointed or nominated by the authority as its representative;
 - (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member’s tenancy or lease;
 - (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school where the child attends;

- (f) the functions of the authority in respect of 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; and
- (g) the functions of the authority in respect of 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.

Overview and Scrutiny Committees

- 11 (1) For the purposes of this Part, a member must if he 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, regard himself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's –
- (a) committees or sub-committees; or
 - (b) joint committees or joint sub-committees,
- of which he may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to Disclosed Interests

- 12 (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any 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 has obtained a dispensation from the authority's standard's 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 may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, 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.
13. For the purposes of this Part, "meeting" means any meeting of –
- (a) the authority;
 - (b) the executive of the authority; or
 - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

PART 3

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

14. Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of –
- (a) any employment or business carried on by him;
 - (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
 - (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
 - (d) the name of 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 of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
 - (f) the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.
15. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any –
- (a) body to which he has been appointed or nominated by the authority as its representative;
 - (b) public authority or body exercising functions of a public nature;
 - (c) company, industrial and provident society charity, or body directed to charitable purposes;
 - (d) body whose principal purposes include the influence of public opinion or policy; and
 - (e) trade union or professional association.
 - (f) private club, society, order, lodge, fellowship, fraternity, institution or other association (for the avoidance of doubt this category includes freemasons)
16. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's monitoring officer of that change.

17. A member must within 28 days of receiving any gift or hospitality over the value of £25 provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.