



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 14TH JUNE, 2007, AT 6.00 PM

COUNCIL CHAMBER, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Mrs. N. E. Trigg (Chairman), Councillor C. R. Scurrall, Councillor S. P. Shannon, Councillor E. C. Tibby, Mr. S. E. Allard, Mr. N. A. Burke and Mr. B. J. Somner (Parish Council Representative)

AGENDA

1. Election of Chairman and Vice-Chairman
2. Apologies
3. Declarations of Interest
4. Minutes (Pages 1 - 2)
5. Ombudsman Complaint Statistics (Pages 3 - 12)
6. New Code of Conduct for Members (Pages 13 - 62)
7. West Mercia Independent Members' Forum - Minutes (Pages 63 - 72)
8. To consider any other business, details of which have been notified to the Head of Legal and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

5th June 2007

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 5TH APRIL, 2007

PRESENT: Mrs. N. E. Trigg (Chairman), Councillor E. C. Tibby (Vice-Chairman),
Councillor Mrs. J. D. Luck, Councillor C. R. Scurrall, Councillor S. P.
Shannon and Councillor Mrs. C. J. Spencer

Observer: Councillor N. Psirides J.P.

Officers: Mrs. C. Felton and Mr. A. Jessop.

34/06 **MINUTES**

The Minutes of the Special Meeting of the Committee held on the 21st March 2007, were submitted.

RESOLVED:

- (a) that, as a matter of record, the words “the Council could still disenfranchise that candidate” in Resolution (ii) to Minute No. 32/06 (Minutes of Last Meeting) be amended to read “the Council should not still be able to disenfranchise that candidate”;
- (b) that, with regard to Minute No. 33/06 (Local Investigation of a Complaint to the Standards Board), the words “it was the majority decision of the Committee” should be added to the text in (i) the second paragraph of the preamble after the words “after retiring to consider their decision”, and (ii) at the beginning of the resolution thereon; and
- (c) that, in all other respects, the Minutes be approved and confirmed as a correct record.

35/06 **MONITORING OFFICER UPDATE**

The Report of the Monitoring Officer, outlining brief updates on the following matters, was considered:-

- (i) Independent Member vacancy;
- (ii) Code of Conduct Training;
- (iii) Standards Board Road Show; and
- (iv) Review of the Constitution.

RESOLVED:

(a) that the Deputy Monitoring Officer be requested to enquire whether there would be any more places available than the three already booked at the Road Show Event, to be held at the Alexandra Theatre, Birmingham, on Thursday, 14th June 2007; and

(b) that, in all other respects, the Report be noted and approved.

36/06 **PROPOSED CHANGES TO THE ROLE AND COMPOSITION OF THE STANDARDS COMMITTEE**

Following the recent Ethical Governance Health Check undertaken by the IDeA, together with the current review of the Constitution, a Report from the Monitoring Officer on proposed changes to the role and composition of the Standards Committee was submitted.

RECOMMENDED:

(a) that, subject to the proviso set out in (b) below, no substitutes be allowed to serve on the Standards Committee;

(b) that, on the question of Parish Council representation, this should remain at one, but that a Deputy Parish representative be appointed (with full necessary training), who would be allowed to substitute; and

(c) that, as it was a statutory requirement that at least 25% of the Committee should be made up of Independent Members, their number should remain at three.

RESOLVED:

(a) that, notwithstanding that it was the majority decision of the Committee to retain the number of District Councillors at five, as there were no "operational" suggestions proffered that would actually work (other than by political balance), this matter be deferred for further consideration at the first available meeting in the new municipal year once the political make-up of the Council was known; and

(b) that those matters set out in the Report which were proposed should be referred to the Standards Committee be noted.

The meeting closed at 7.10 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

STANDARDS BOARD

14th June 2007

OMBUDSMAN COMPLAINT STATISTICS

Responsible Portfolio Holder	Councillor Anthony Blagg
Responsible Head of Service	Claire Felton – Legal and Democratic Services

1. SUMMARY

- 1.1 The purpose of this report is to provide members with information from the annual statistics compiled by the Local Government Ombudsman's office as to complaints recorded against this Council during the 12 month period ending 31st March 2007.
- 1.2 Members are asked to note that at the time of writing this report the statistical information on which it is based is classed by the Local Government Ombudsman's office as provisional. The statistics will be formally confirmed in the Annual Letter from the Ombudsman to the Council which will be issued in early June.

2. RECOMMENDATION

- 2.1 Report for information purposes only. Therefore recommendation that the contents of this report be noted by the Committee.

3. BACKGROUND

The function of the Local Government Ombudsman's office (also known as the Commission for Local Administration in England) is to investigate complaints of injustice arising from maladministration by local authorities and certain other bodies. There are three Local Government Ombudsmen in England and they each deal with complaints from different parts of the country. They investigate complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. The Ombudsmen can investigate complaints about how a council has done something, but they cannot question what a council has done simply because someone does not agree with it.

A complainant must first give the council concerned an opportunity to deal with a complaint against it before the Ombudsmen can investigate. If a complaint is

received by the Ombudsman before this has happened it will be rejected as a premature complaint.

Please find attached marked appendix 1 a summary of the provisional figures recorded for Bromsgrove District Council for the 12 months to 31st March 2007.

The total number of complaints recorded was 33 although this does include 3 premature complaints which would reduce the number per actual issues to 30. The official total of 33 is an increase on the figures for 2005/2006 when a total of 23 complaints were recorded.

In terms of subject matter by far the greatest number of complaints were in relation to Planning and Building Control – 18 out of 33. There were 4 complaints recorded in relation to Council Tax, 3 for Housing Benefit, 3 for Environmental Health and the remaining miscellaneous complaints included one in the category of Leisure and Culture and one under homelessness.

With reference to decisions made in the 12 months in question, the total number was 32. Of these 9 were not pursued as they were premature complaints, and 4 were found to be outside the jurisdiction of the Ombudsman. In 11 cases no evidence of any maladministration was found; in other words the complaint was not upheld.

In 7 cases a local settlement was reached which is defined as the complaint being discontinued because action has been agreed to resolve the matter by the complainant and accepted by the Ombudsman as a satisfactory outcome. The statistics do not actually record these outcomes as being based on maladministration as such, but generally the reason for the settlement reflects that there has been maladministration or in other instances very poor communication with the complainant.

Finally one complaint was discontinued at the discretion of the Ombudsman.

In terms of response time, the standard time allowed for response to the first enquiry letter by councils is 28 days. In the period in question 18 first enquiry letters were sent out and the average response time for this council was 34.3 days. This is an increase on the figure for 2005/2006 which was 26.4 days. In comparison with other district councils, roughly 50% achieve response times of bellow 28 days. This council falls in the next category of 23% of Councils which respond within between 29 and 35 days, and the lowest category is 27% of councils which take more than 36 days to respond.

In terms of identifying trends, there are three notable issues, namely:-

- Increase in number of complaints overall.
- Increase in response times.
- High number of complaints for Planning and Building Control

There is no apparent explanation for the increase in numbers overall. Having said which, the increase need not necessarily be interpreted in a negative way. It may show that we are doing more as a council to direct customers to the method by which they can complain. There are posters in the reception area at the Council House and a poster and leaflets at the Customer Service Centre.

In terms of increase in response time, this may simply be a reflection of the amount of detailed information the Ombudsman will ask for in the first enquiry letter. The information requested can be considerable and on some matters (particularly planning) require significant officer time for responses to be compiled. There are occasions when it is necessary to agree an extension of the 28 day time limit to enable officers sufficient time to respond due to other work commitments.

With reference to the higher numbers for Planning and Building Control, this does reflect a tendency for complaints to be made by individuals who are aggrieved that a particular planning decision has not corresponded with their own personal interest in the matter. The motivation for these complaints is often more based on disappointment with the outcome rather than any real evidence of shortcomings on behalf of the Council.

Generally, cases where the local settlement consists of a compensation payment remain quite infrequent; there have been 6 in the last year. The minimum amount paid has been £100 and the maximum £400. In one instance the settlement to be implemented is not a cash payment but for the Council to replant/ re-landscape the area affected.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications directly related to this report.

5. LEGAL IMPLICATIONS

5.1 None other than to advise that as a Council we are under a legal duty to comply with the Ombudsman scheme.

6. CORPORATE OBJECTIVES

6.1 As referred to above the Council is under a duty to comply with the Ombudsman scheme. Generally the issue of complaint handling would impact on the priorities of Customer Service, Reputation and Performance, falling under the general heading of Council Objective Two i.e. Improvement.

7. RISK MANAGEMENT

7.1 Although there is no risk directly associated with this report, it could be said that inefficient complaint handling internally could lead to a rise in the

number of matters then referred on the Ombudsman. This is an issue which has already been identified and work is being carried out to introduce a formal complaint scheme for the Council.

8. CUSTOMER IMPLICATIONS

8.1 There are no customer implications directly relating to this report.

9. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None
Equalities and Diversity	None

10. OTHERS CONSULTED ON THE REPORT

Please include the following table and indicate 'Yes' or 'No' as appropriate. Delete the words in italics.

Portfolio Holder	No
Chief Executive	Yes
Corporate Director (Services)	Yes
Assistant Chief Executive	Yes
Head of Service <i>(i.e. your own HoS)</i>	Yes
Head of Financial Services	No
Head of Legal & Democratic Services	Yes – referred to above

Head of Organisational Development & HR	No
Corporate Procurement Team	No

11. APPENDICES

Appendix 1 - Local Authority Report on Ombudsman statistics for Bromsgrove DC plus notes to assist interpretation

12. BACKGROUND PAPERS

N/a

CONTACT OFFICER

Name: Sarah Sellers
E Mail: s.sellers@bromsgrove.gov.uk
Tel: (01527) 881397

This page is intentionally left blank

Complaints received by subject area	Benefits	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2006 - 31/03/2007	3	1	6	18	4	1	33
2005 / 2006	1	0	4	15	1	2	23
2004 / 2005	1	4	6	1	3	0	15

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NIM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2006 - 31/03/2007	0	7	0	0	11	1	4	9	23	32
2005 / 2006	0	2	0	0	6	1	3	6	12	18
2004 / 2005	1	4	0	0	8	0	0	6	13	19

See attached notes for an explanation of the headings in this table.

Average local authority response times 01/04/2006 to 31/03/2007

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2006 - 31/03/2007	18	34.3
2005 / 2006	7	26.4
2004 / 2005	6	19.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	49.4	23.4	27.2
Unitary Authorities	28.2	37.0	34.8
Metropolitan Authorities	36.1	47.2	16.7
County Councils	44.1	32.4	23.5
London Boroughs	36.4	33.3	30.3
National Park Authorities	66.7	33.3	0.0

Notes to assist interpretation of the Commission's provisional local authority statistics

1. Local authority report

This information will form an integral part of the Annual Letter to your council, which the Ombudsman will send to you in June 2007. Again this year, the Annual Letter will be published on our website, at www.lgo.org.uk

The detailed information in the printouts is confidential.

2. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we refer back to the council for consideration. The figures may include some complaints that we have received but where we have not yet contacted the council.

3. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Premature complaints: decisions that the complaint is premature. The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO

will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter.

Total excl premature: all decisions excluding those where we referred the complaint back to the council as 'premature'.

4. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

5. Average local authority response times 2006/07

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

6. Categories of complaint

From 1 April 2007 we have amended our complaint category system, and you may notice some changes in the descriptions used in our decision letters and on the printouts attached.

The major change is that we now split social services cases between 'adult care services' and 'children and family services', in order that complaints relating to children and young people can be easily identified.

7. Complaints about personnel matters (employment and pensions)

We receive some complaints from members of council staff about personnel matters. These are usually outside our jurisdiction, and our practice is now to advise you that we have received the complaint without informing you of who made it.

For that reason, any such complaints on the attached printouts will show a blank space for the complainant's name.

This page is intentionally left blank

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

14th June 2007

CODE OF CONDUCT FOR MEMBERS

Responsible Portfolio Holder	Cllr. Anthony Blagg
Responsible Head of Service	Claire Felton – Legal and Democratic Services

1. SUMMARY

- 1.1 This report deals with the new Code of Conduct for Councillors and co-opted members of Bromsgrove District Council. A copy of the Code and the accompanying guidance is attached to this report for information.

2. RECOMMENDATION

- 2.1 That Members note the new Code of Conduct and guidance, and make recommendations to the Council in respect of training.
- 2.2 That it be further recommended to the Council that the Model Code of Conduct be adopted.

BACKGROUND

- 3.1 Under the Local Government Act 2000 it is the duty of every authority to pass a resolution adopting a Code of Conduct. On the 6th November 2001 a Model Code of Conduct was issued by the Secretary of State and it contained mandatory provisions which Councils were required to adopt. Bromsgrove District Council adopted its current Code of Conduct in accordance with these provisions setting out the rules governing the behaviour of its members. All elected, co opted and independent members of local authorities including parish councils are governed by the code.
- 3.2 In early 2000 the Department for Communities and Local Government consulted on a revised code of conduct and the Council responded with comments and recommendations.

- 3.3 The Standards Committee considered the draft Code and made comments in respect of various provisions as part of the consultation process to the Standards Board of England.
- 3.4 The new model Code of Conduct for members was subsequently issued by the Government on 4th April 2007.
- 3.5 Each code must include the provisions of the model code of conduct approved by parliament. Authorities can choose to add their own local rules if they wish.
- 3.6 Authorities have until 1st October 2007 to adopt the new code. After the 1st October members of authorities who have not adopted the Code of Conduct 2007 will automatically be covered by it. The Code of Conduct 2001 will continue to apply until the Local Authority adopts the Code of Conduct 2007 or until the 1st October 2007, whichever is the sooner.
- 3.7 The Code of Conduct covers areas of individual behaviour such as members not abusing their position or not misusing their authority's resources. There are rules governing the disclosure of interest and the withdrawal from meetings where members have relevant interests.
- 3.8 The Council will be asked to adopt the new Model Code of Conduct at the meeting of the Full Council in July 2007.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications directly related to this report.

5. LEGAL IMPLICATIONS

- 5.1 None other than to advise that as a Council we are under a legal duty to Adopt and follow the new Code of Conduct by 1st October 2007.

6. CORPORATE OBJECTIVES

- 6.1 Generally the Code of Conduct would impact on the priorities of Customer Service, Reputation and Performance, falling under the general heading of Council Objective Two i.e. Improvement.

7. RISK MANAGEMENT

- 7.1 Although there is no risk directly associated with this report, it could be said that adoption of the Code ahead of the October deadline, would enable the Council to educate members with regard to the changes, early in this municipal year.

8. CUSTOMER IMPLICATIONS

- 8.1 There are no customer implications directly relating to this report.

9. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None
Equalities and Diversity	None

10. OTHERS CONSULTED ON THE REPORT

Please include the following table and indicate 'Yes' or 'No' as appropriate. Delete the words in italics.

Portfolio Holder	Yes
Chief Executive	Yes
Corporate Director (Services)	Yes
Assistant Chief Executive	Yes
Head of Service <i>(i.e. your own HoS)</i>	Yes
Head of Financial Services	No
Head of Legal & Democratic Services	Yes – referred to above
Head of Organisational Development & HR	No
Corporate Procurement Team	No

11. **APPENDICES**

Model Code of Conduct and Guidelines

12. **BACKGROUND PAPERS**

N/a

CONTACT OFFICER

Name: Debbie Warren

E Mail: d.warren@bromsgrove.gov.uk

Tel: (01527) 881397

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.

This page is intentionally left blank

THE CODE OF CONDUCT

Guide for members
May 2007



**the
Standards Board
for England**



Preface

This guide from the Standards Board for England provides an overview of the revised Model Code of Conduct. The Code of Conduct applies to all members and co-opted members of local authorities, and all members are required to sign up to it as part of their declarations of acceptance of office. The Code of Conduct does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

The following pages aim to provide you with a general understanding of the Code of Conduct and its requirements. Chapter 1 provides an introduction, whilst Chapter 2 outlines your obligations under the Code of Conduct, referencing specific paragraphs of the Code of Conduct for further information. Chapters 3 and 4 deal with general issues surrounding interests, and aim to clarify a number of provisions which you will find in Parts 2 and 3 of the Code of Conduct. You can obtain a copy of the Code of Conduct by downloading it from www.standardsboard.gov.uk or to purchase a printed copy, contact The Stationery Office by visiting www.tsoshop.co.uk or calling 0870 242 2345.

Ultimately, however, it is your responsibility to take specific advice from your monitoring officer where appropriate and to make a decision as to the most suitable course of action.

This guide is issued by the Standards Board for England under the *Local Government Act 2000* for elected, co-opted and appointed members of:

- district, unitary, metropolitan, county and London borough councils
- parish and town councils
- English and Welsh police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Contents

Chapter 1

Page 4

Introduction

Adopting the Model Code of Conduct and the Ten General Principles of Public Life

Deciding when the Code of Conduct applies to you

Chapter 2

Page 8

General obligations under the Code of Conduct

Treating others with respect

Complying with equality laws

Bullying and intimidation

Compromising the impartiality of officers of the authority

Disclosing confidential information

Preventing access to information

Disrepute

Using your position improperly

The authority's resources

Using resources for proper purposes only

Considering advice provided to you and giving reasons

Chapter 3

Page 16

Personal and prejudicial interests

Personal interests

– Interests you must register

– Interests that are not on your register

Prejudicial interests

– What is a prejudicial interest?

– What to do when you have a prejudicial interest

– Dispensations

Chapter 4

Page 29

Special categories of interests

Gifts and hospitality

Overview and scrutiny committee meetings

Executive or cabinet roles

Sensitive information

1.

Introduction

Adopting the Model Code of Conduct

Your local authority will have until 1 October 2007 to adopt the Code of Conduct. After this time, members of authorities that have not adopted it will be automatically covered by it. To avoid confusion with the previous Code, the Standards Board for England ('the Standards Board') encourages your local authority to adopt the Code of Conduct at its first opportunity.

It is also important that the Code of Conduct is adopted in its model form, without amendment. This will give certainty to members and the public as to what standards are expected. It will ensure consistency throughout local authorities, avoiding confusion for members on more than one authority and for the public. It will also minimise the legal risk of your authority adopting additional provisions which are unenforceable.

However, there is one important exception. The right to make representations, answer questions and give evidence like a member of the public when a member has a prejudicial interest is not a mandatory provision for:

- parish and town councils
- English and Welsh police authorities
- fire and rescue authorities (including fire and civil defence authorities)

- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority

Therefore, this right will only apply to the above authorities if paragraph 12(2) of the Code of Conduct is adopted by them. Simply adopting the mandatory provisions will not incorporate this important change.

The Ten General Principles of Public Life

The Standards Board recommends that your local authority includes a preamble to the Code that it adopts, which outlines the ten general principles governing the conduct of members of local authorities. These ten general principles are set out in the *Relevant Authorities (General Principles) Order 2001*. They are based on the Seven Principles of Public Life set out by the Committee on Standards in Public Life, and appear in full in **Table 1**.

These principles define the standards that members should uphold, and serve as a reminder of the purpose of the Code of Conduct.

As these principles do not create a statutory obligation for members, the Standards Board cannot accept allegations that they have been breached.

However, you should be aware that a failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be “conduct which could reasonably be regarded as bringing a member’s office or authority into disrepute” as stated in paragraph 5 of the Code of Conduct.

Deciding when the Code of Conduct applies to you

The Code of Conduct applies to you:

1. Whenever you act in your official capacity, including whenever you conduct the business of your authority or act, claim to act, or give the impression you are acting, in your official capacity or as a representative of your authority.
2. At any time¹, where your behaviour has led to a criminal conviction. However, only paragraphs 3(2)(c), 5 and 6(a) have effect in these circumstances when you are acting in your private capacity. Otherwise, the Code of Conduct does not apply to your private life.

Where you act as a representative of your authority on another relevant authority, you must, when acting for that other authority, comply with their Code of Conduct.

You may also act as a representative of your authority on another body, for example as a school governor. When acting for that other body, you must comply with your authority's Code of Conduct, unless it conflicts with lawful obligations of the other body.

¹ Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

Table 1 The Ten General Principles of Public Life

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

2.

General obligations under the Code of Conduct

Treating others with respect

See Paragraph 3(1)

You must treat others with respect.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Complying with equality laws

See Paragraph 3(2)(a)

You must not do anything which may cause your authority to breach any equality laws.

Equality laws prohibit discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age.

The provisions of these laws are complex. In summary, there are four main forms of discrimination:

- Direct discrimination: treating people differently because of their sex, race, disability, religion or belief, sexual orientation or age.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their sex, race, disability, religion or belief, sexual orientation or age, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of sex, race, disability, religion or belief, sexual orientation or age, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on certain authorities.

Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

Bullying and intimidation

See Paragraphs 3(2)(b) and 3(2)(c)

You must not bully any person including other councillors, council officers or members of the public.

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

Compromising the impartiality of officers of the authority

See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Disclosing confidential information

See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.

- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
 - The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
 1. the disclosure must be reasonable
 2. the disclosure must be in the public interest
 3. the disclosure must be made in good faith
 4. the disclosure must be made in compliance with any reasonable requirements of your authority
- In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.
1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
 - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
 - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
 - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
 - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
 - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
 - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to re-occur.
 - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
 - (a) A criminal offence is committed.
 - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
 - (c) A miscarriage of justice occurs.
 - (d) The health or safety of any individual is in danger.
 - (e) The environment is likely to be damaged.
 - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

Preventing access to information

See Paragraph 4(b)

You must not prevent anyone getting information that they are entitled to by law.

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act 2000* or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting www.ico.gov.uk or by calling 0845 630 6060.

Disrepute

See Paragraph 5

You must not bring your office or authority into disrepute while acting in your official capacity, or at any time through criminal activity that leads to a criminal conviction.²

² Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

Using your position improperly

See Paragraph 6(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

In addition to paragraph 6(a), paragraph 12 is also relevant to the proper use of your position. Paragraph 12 supports your role as a community advocate, representing and speaking for the concerns of your community, even where you have a prejudicial interest. This right applies to you at meetings where you have a statutory right

to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If your authority does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, paragraph 12 will not apply to you unless you have a statutory right to speak on the matter.

You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 12 of the Code of Conduct, you may be found to have improperly influenced the decision.

The authority's resources

See Paragraph 6(b)(i)

You must only use or authorise the use of the resources of the authority in accordance with its requirements.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use

these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code of Conduct.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

Using resources for proper purposes only

See Paragraphs 6(b)(ii) and 6(c)

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act 1986*.

You should never use council resources for

purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.

Considering advice provided to you and giving reasons

See Paragraph 7

Please note: paragraph 7 is not mandatory for parish councils. However, your parish may choose to include an obligation to take account of your clerk's advice in the Code your authority adopts.

You must have regard to advice from your monitoring officer or chief finance officer where they give it under their statutory duties.

If you seek advice, or advice is offered to

you, for example, on whether or not you should register a personal interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.

You must give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision.

3.

Personal and prejudicial interests

Personal interests

Key points:

Two types of personal interest

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest that you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral division affected by the decision (in the case of authorities with electoral divisions or wards)
 - inhabitants of the Assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a **prejudicial interest**.

What constitutes a prejudicial interest is outlined in the next section on page 22.

Effect of having a personal interest in a matter

You must declare that you have a personal interest, and the nature of that interest, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies. When an exemption may be applied is explained opposite.

Exemption to the rule on declaring a personal interest to the meeting

An exemption applies where your interest arises solely from your membership of, or position of control or management on:

1. any other body to which you were appointed or nominated by the authority
2. any other body exercising functions of a public nature (for example another local authority)

In these exceptional cases, provided that you do not have a prejudicial interest, you only need to declare your interest if and when you speak on the matter.

Example: if you are attending a council debate on education policy and are also a local education authority appointed governor, you would only need to declare an interest if and when you decided to speak during the debate. If you do not want to speak to the meeting on the decision, you may vote on the matter without making a declaration.

If you have sensitive employment, which you would like to withhold from the register of interests, please see page 31 for more information.

a) Interests you must register

Key points:

All members have to provide a record of their interests in a public register of interests.

You must tell your monitoring officer in writing (in the case of a parish councillor, perhaps through your clerk) within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct, outlined below.

You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public

know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

As previously mentioned, you must tell your monitoring officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct. These categories include:

- Your membership or position of control or management in:
 - any other bodies to which you were appointed or nominated by the authority
 - any bodies **exercising functions of a public nature** (described below), or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party or trade union
- Your job(s) or business(es).
- The name of your employer or people who have appointed you to work for them.
- The name of any person who has made a payment to you in respect of your election, or expenses you have incurred in carrying out your duties.
- The name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company.
- Any contracts between the authority and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register.
- Any gift or hospitality over the value of £25 that you receive as a member and the person you believe to be the source of the gift or hospitality.
- Any land and property in the authority's area in which you have a beneficial interest (or a licence to occupy for more than 28 days) including, but not limited to, the land and house you live in and any allotments you own or use.

If you have sensitive employment, which you would like to withhold from the register of interests, please see page 31 for more information.

What is “a body exercising functions of a public nature”?

The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer ‘yes’ to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: regional and local development agencies, other government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice on this matter, please contact your monitoring officer.

b) Interests that are not on your register

Key points:

You have a personal interest in a matter if that matter affects the **well-being or financial position** of you, members of your **family**, or people with whom you have a **close association**, more than it would affect the majority of people in the **ward or electoral division** affected by the decision, or in the authority’s area or constituency.

You must also look at how any matter would affect your interests or those of members of your family or close associates. This includes:

- your and their jobs and businesses
- your and their employers, firms you or they are a partner of, and companies you or they are a director of
- any person or body who has appointed you, members of your family or close associates, to any position
- corporate bodies in which you or they have a shareholding of more than £25,000 (nominal value)

What does “affecting well-being or financial position” mean?

The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

Who is a member of your family or close associate?

A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

What if I belong to an authority without wards?

If you are a member of an authority that does not have wards, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you, your family, or

people with whom you have a close association, more than it would affect other people in your authority's area.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest.

Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

Prejudicial interests

1. What is a prejudicial interest?

Key points:

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions.
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of the public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

An explanation of each of these points follows.

a) Exempt categories of decisions

Paragraph 10(2)(c) of the Code of Conduct states that a member will not have a prejudicial interest if the matter relates to any of the following functions of their authority:

- Housing: if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease.
- School meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends.
- Statutory sick pay: if you are receiving this, or are entitled to this.
- An allowance, payment or indemnity for members.
- Any ceremonial honour given to members.
- Setting council tax or a precept.

b) Financial interests and licensing or regulatory matters

You can only have a prejudicial interest in a matter if it falls into one of the following two categories:

- a) The matter affects your financial position or the financial position of any person or body through whom you have a personal interest.

Examples: an application for grant-funding to a body on your register of interests; a contract for services between the authority and that body; or leasing a property to or from a close associate or member of your family. Your financial position can be affected directly or indirectly, favourably or unfavourably, substantially or marginally.

- b) The matter relates to an approval, consent, licence, permission or registration that affects you or any person or body with which you have a personal interest.

Examples: considering a planning or licensing application made by you or a body on your register of interests; Licensing Act licences; pet shop and dog breeding licensing; petroleum licences; street trading licences; taxi

licensing; consent, approval or permission pursuant to a contractual document such as a lease or commercial contract; street collection permit; or lottery registration.

c) What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest.

You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of family or close associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

Example: you would have a prejudicial interest in a planning application proposal if a member of your family lives next to the proposed site. This is because your family member would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward affected by the decision (or authority, if your authority does not have wards) and this gives you a personal interest in the issue. The existence of the close family tie means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

2. What to do when you have a prejudicial interest

Even where you have a prejudicial interest, the Code of Conduct supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

However, this right is not mandatory for certain types of authorities (including parish councils and police authorities). For such authorities it will only apply if paragraph 12(2) of the code is expressly adopted by your authority and the public are allowed to speak to meetings of your authority. Simply adopting the mandatory provisions will not incorporate this important change. See page 4 for a full list of authorities in this category.

Key points:

If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent to you.

You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose.

However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

In addition, you must not seek to **improperly influence** a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage.

Do I have a statutory right to speak to the meeting?

The Code of Conduct does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code of Conduct recognises. If so, you will be allowed to exercise that right to speak. Your monitoring officer should be able to confirm whether this is relevant to your case.

If I don't have a statutory right, will I be allowed to speak to the meeting?

The Code of Conduct aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial

interest in the item. You may not take part in the discussion or observe the vote.

When must I leave the room where the meeting is held?

You must leave immediately after you have made your representations, given evidence or answered questions, and before any debate starts.

If the meeting decides that you should finish speaking, despite your intention to say more, you must comply with the meeting's decision. Although members of the public may be allowed to observe the discussion and vote on the matter, you are not allowed to do so and must leave the room immediately. Failure to do so may be viewed as an attempt to **improperly influence** the meeting.

What does improperly influencing a decision mean?

You must not use your position or attempt to use your position improperly to further your own interests in a way that is not open to ordinary members of the public. Clear examples of improper influence would be using coercion, harassment, inducement or pressure to influence a matter.

It may also be improper if you refuse to leave the meeting, or continue to speak to a

meeting, on a matter in which you have a prejudicial interest, after the meeting has decided that you must stop speaking and leave.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so if you have a prejudicial interest. You must leave the room where the debate is being held and not seek to influence the debate in any way.

This may be the case, for example, where your authority is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your authority. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

If I have a prejudicial interest, how else can I influence the decision?

You can still present your views to the meeting through other means and influence the decision in a way that is not improper. For example, you can:

- Make written representations in your private capacity. The Standards Board recommends that the existence and nature of the interest should be disclosed in such representations. You should not seek preferential consideration for your representations. Such written representations should be addressed to officers rather than other members of the authority.
- Use a professional representative to make, for example, a planning application on your behalf.
- Arrange for another member of your authority to represent the views of your constituents on matters in which you have a prejudicial interest.

3. Dispensations

If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?

Key points:

You can apply in writing to your local standards committee for a dispensation on one of the following grounds:

- over 50 per cent of the authority or committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- the political balance at the meeting would be upset¹

You must apply for a dispensation individually and not as a group or authority. If the standards committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

Only the standards committee can grant the dispensation and will do so at its discretion. The standards committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. If failure to grant a dispensation will result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

The Standards Board cannot grant dispensations or advise on whether or not they should be granted. For further advice on dispensations, you should contact your monitoring officer.

¹ Please note there is currently a problem with the drafting of the Dispensation Regulations. The political balance criterion is linked to an authority being unable to comply with its duty under section 15(4) of the *Local Government and Housing Act 1989*. This duty requires the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings either of the authority or its committees. For this reason it is difficult to envisage circumstances in which the criterion would be met. Until such time as the appropriate amendments are made to the Regulations it is not likely that dispensations would be granted on the basis of the political balance criterion.

4.

Special categories of interests

1. Gifts and hospitality

Key points:

You must register any gifts or hospitality **worth £25 or over** that you receive **in connection with your official duties as a member**, and the source of the gift or hospitality.

You must register the gift or hospitality and its source within 28 days of receiving it.

Like other interests in your register of interests, you automatically have a **personal interest** in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a **prejudicial interest**.

Once three years have passed since you registered the gift or hospitality in your register of interests, your obligation to disclose that interest to any relevant meeting ceases.

Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, would I have been given this if I was not on the council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to your monitoring officer or your parish clerk where appropriate.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

What if I do not know the value of a gift or hospitality?

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to £25 or over should be registered.

2. Overview and scrutiny committee meetings

Please note: this section will not apply to parish and town councils, English and Welsh police authorities, fire and rescue authorities (including fire and civil defence authorities), the London Fire and Emergency Planning Authority, passenger transport authorities, the Broads Authority, national park authorities and the Greater London Authority.

You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- 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.
- You were a member of that decision-making body at that time and you were present at the time the decision was made or action taken.

If the overview and scrutiny committee is checking a decision which you were involved in making you may be called to attend the meeting to give evidence or answer questions on the matter. However, you will not be able to attend the meeting in this manner unless your authority's

constitution or standing orders allow members of the public to attend the overview and scrutiny committee for the same purpose.

You will, however, be able to attend the meeting to give evidence or answer questions if you are a leader or cabinet member of an authority operating executive arrangements, provided you follow the normal rules for executive members who have personal and prejudicial interests.

3. Executive or cabinet roles

Please note: this section will not apply to parish and town councils, English and Welsh police authorities, fire and rescue authorities (including fire and civil defence authorities), the London Fire and Emergency Planning Authority, passenger transport authorities, the Broads Authority, national park authorities, the Greater London Authority or any other authorities that do not have executive arrangements.

If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests.

If your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions as long as you declare your interest. You can also exercise

delegated powers in the matter as long as you record the existence and nature of your personal interest.

If you are an executive member who can take individual decisions, and you have a prejudicial interest in a decision, your authority may make other arrangements as set out in sections 14-16 of the *Local Government Act 2000*. This means that the decision can be taken by an officer, another cabinet member, the full executive, or a committee of the executive.

Although you have a prejudicial interest in a matter, you may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but you are barred from decision-making about that matter individually or in cabinet. You also should not participate in any early consideration of it, or exercise any delegated powers in relation to it. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence.

4. Sensitive information

Key points:

You may be exempt from having to include sensitive information on your register of interests. If your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest but you will not have to give any details about the nature of that interest.

Sensitive information may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create a serious risk of violence or intimidation against you or someone who lives with you.

You should provide this information to your monitoring officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your monitoring officer agrees. Ultimately, you must decide what information to include on your publicly available register of interests.

How to contact us:

The Standards Board for England
Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB

Enquiries line: 0845 078 8181

enquiries@standardsboard.gov.uk
www.standardsboard.gov.uk



**The Standards Board for England
Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB**

Enquiries line: 0845 078 8181

**enquiries@standardsboard.gov.uk
www.standardsboard.gov.uk**

**Minutes of the Meeting of
West Mercia Independent Members' Forum
held at Shropshire Education and Conference Centre, Shrewsbury
on Friday, 26 January 2007 at 2.00 pm**

PRESENT:

Independent Members

Terry Bayliss	Shropshire County Council
David Blakey	Worcestershire County Council
Paul Brereton	Shropshire County Council
John Cox	Wyre Forest District Council
Colin Emeny	Hereford and Worcester Fire and Rescue Authority
Sheila Garner	Worcester City Council
Richard Gething	Hereford and Worcester Fire and Rescue Authority
Bob Kimber	Oswestry Borough Council
Paul Leopold	Malvern Hills District Council
Stuart McLaren	South Shropshire District Council
Wilfred Maddocks	North Shropshire District Council
Chris Noons	Wyre Forest District Council
Michael Oliver	Shropshire County Council
Robert Rogers	Herefordshire County Council and Hereford and Worcester Fire and Rescue Authority
Peter Rowland	South Shropshire District Council
Malcolm Smith	South Shropshire District Council
David Stevens	Herefordshire County Council and Hereford and Worcester Fire and Rescue Authority
Patrick Talbott	Bridgnorth District Council
John Till	Shrewsbury and Atcham Borough Council
David Turner	Shropshire County Council

Guests and Officers

Patricia Hughes	Vice-Chair, Standards Board for England
Stephen Callender	Policy Advisor, Standards Board for England
Sue Kembrey	Clerk and Monitoring Officer, Borough of Telford & Wrekin
Matthew Cumberbatch	Group Solicitor, Borough of Telford & Wrekin
Sharon Lloyd	Corporate Services Manager, Shropshire and Wrekin Fire Authority
Lynn Ince	Management Support Officer, Shropshire and Wrekin Fire Authority

Apologies

Barry Bayley	Telford & Wrekin Borough Council
Francis Beasland	Telford & Wrekin Borough Council
Mr C Brighton	Wyre Forest District Council
Angela Brinton	Worcestershire County Council



Joan Casewell	Bridgnorth District Council
Christine Davenport	Worcester City Council
Miss J Hoskins	South Shropshire District Council
Alan Jones	South Shropshire District Council
Frank Leath	Shrewsbury and Atcham Borough Council
Tony Lyons	Malvern Hills District Council
Ann McDowell	Wyre Forest District Council
Alan McLaughlin	Head of Legal and Democratic Services, Herefordshire County Council
Dr Murray Mylechreest	Worcestershire County Council and Hereford and Worcester Fire and Rescue Authority
Fred Noble	Wychavon District Council
Michael Tebbutt	Shropshire and Wrekin Fire Authority
Nicola Trigg	Bromsgrove District Council
Ian Webb	Shropshire and Wrekin Fire Authority

1 Welcome and Introductions

Peter Rowland welcomed everyone to the meeting and thanked members for attending. He introduced Patricia Hughes, Vice-Chair, Standards Board for England and Stephen Callender, Policy Advisor, Standards Board for England to the meeting. Each member then introduced themselves.

Peter Rowland thanked Shropshire and Wrekin Fire Authority for hosting the meeting and invited Sue Kembrey, Clerk and Monitoring Officer, Borough of Telford & Wrekin, to give a welcome to the meeting.

Sue Kembrey gave a short welcome in which she thanked everyone for attending and apologised on behalf of Councillor Dave Morgan, Vice-Chair of the Fire Authority, who was unfortunately unable to give the welcome because of illness.

2 Talk by Patricia Hughes, Vice-Chair, Standards Board for England (SBE)

Patricia Hughes began her talk by referring to the current consultation exercise on the Revised Code of Conduct. The Bill relating to this went to Parliament this week.

Patricia Hughes distributed a paper to the meeting, which outlined the major amendments to the Code of Conduct. She then outlined recent developments with regard to the Code.

There is currently an ongoing six week consultation period, which will end in March 2007. It is proposed that the amended Code will come into effect during the first week of May 2007, meaning that any newly elected members will be able to sign up to the amended Code. It will be mandatory that all local authorities adopt the revised Code by November 2007.



The SBE is proposing a series of roadshows to be held around the country to highlight the changes to the Code. The revised Code will be discussed at the Local Government Association Conference in July and will also be looked at in depth at the Annual Assembly of Standards Committees. Formal guidance on the revised Code will be issued by the SBE when the final Code is agreed by Parliament.

Patricia Hughes then talked through the document and outlined the major amendments to the Code.

It is envisaged that the Bill will be taken through the House of Commons in April / May and will be brought before the House of Lords in June. Royal Assent for the Bill will be sought in July, or October, if it is not given in July.

The local filter will come into force in April 2008. This will mean that complaints will be made directly to local Standards Committees instead of to the SBE. The Standards Committees will then decide whether the complaint should be investigated and if the investigation will be done by the Monitoring Officer or if the complaint should be forwarded to the SBE for investigation. Provisions have been made in the Bill for the SBE to revoke the local filter in certain circumstances, however this is only likely to happen in a very few cases.

The SBE will be issuing guidance on dealing with complaints at a local level but authorities will need to consider the following:

- The appropriate turnaround times for responding to complaints
- Referral criteria to judge whether complaints should be determined locally or referred to the SBE
- The need to be well resourced
- Appeal procedures – will complainants be allowed to appeal against a decision not to investigate?
- Threshold for number of cases to be dealt with – judgements will have to be made about cases, which may be difficult due to the subjective nature of complaints
- Consistency
- Returns to the SBE will be required to monitor the position

The SBE believes that standards are rising. The Code of Conduct and the regime surrounding it appears to have raised awareness of standards and there have been no cases referred to the Adjudication Panel for England (APE) during the last four months.

The SBE has 11 members. It was previously heavily biased towards independence from local government but the membership of the new Board currently includes one councillor from each of the major parties plus one independent councillor. The Chief Executive also has a strong background in local government.



The Board meets every six weeks and their main focus is planning to deal with cases in a timely manner. There are currently 218 open cases, none of which are more than 12 months old. 90% of cases are dealt with in six months and 50% are dealt with in four months. The Board also receives statistics and manages information. They aim to give good guidance and helpful advice and strive not to be an 'ivory tower' organisation.

Local Standards Committees will need to consider how they handle public relations and also how they will raise the profile of the Standards Committee. This may be easier at a local level where Committees will be able to develop a better rapport with the local press.

The SBE will publish a guidance pack for dealing with local referrals in the autumn. They will also issue formal guidance when the legislation is passed but local committees need to start early planning.

The following questions were then put to Patricia Hughes by members of the Forum. Her responses are given in italics:

Peter Rowland had expected the 7 Principles of Public Life to be included in the revised Code but it is not. Why is this?

If the 7 Principles of Public Life were included in the revised Code, positive resolutions would have to be obtained which would slow the passing of the legislation. Therefore the Principles will be included in the guidance but will not be included as a formal part of the Code.

Richard Gething raised the issue that for local determination to be effective, Committees need to be given appropriate policing powers.

Provision has been made in the Bill to extend the powers of local Committees to suspend members for nine months. Ethical Standards Officers (ESOs) also have the power to ask for mediation, although this is not included in the Bill. Local Standards Committees can also refer cases to the APE, if they consider that they do not have sufficient powers to impose penalties.

Colin Emeny asked Patricia Hughes to give her views on the issue of consistency.

The Government wants as much local autonomy as possible. It is also hoped that consistency will come into SBE guidance and will be achieved in appeal referrals to the APE.

Robert Rogers reported that the Bill may go through Parliament more quickly than anticipated. It will go to a Public Bill Committee on 30 January and will be subject to the new evidence taking procedure. It should then go through the House of Commons in March and the House of Lords in six weeks. The Bill and its associated documents viewed at www.parliament.uk and a webcast of the discussions in Parliament can be viewed at www.parliamentlive.tv.

Robert Rogers then asked if the Public Interest Disclosure Act had been taken into account in the revised Code.



Stephen Callender confirmed that it had been considered but it had been decided that it was not appropriate.

Robert Rogers also raised the issue of resource and cost implications of local Committees undertaking more investigations.

The seriousness of the case is the determining factor as to whether the case is referred to the SBE for an ESO to deal with. Local Committees need to assume that they will receive one serious case every two years and plan for it accordingly. Peter Rowland reminded members about the difference between seriousness and difficulty.

Richard Gething asked about 'direct' and 'indirect' interests as DEFRA still uses these terms.

Partnership working is a key feature of the White Paper and governance will be an issue as, whilst elected members are subject to the Code of Conduct, other members of outside bodies may not be. The revised Code will be fairer but it may not necessarily be clearer with regard to this.

Malcolm Smith asked Patricia Hughes about the position of Parish Clerks who had been appointed as Independent Members at District Council level.

Patricia Hughes replied that she would look into the legality of the situation. She felt that it was not good practice to have such a person as Chair.

3 Recruitment of Independent Members

Short Training Exercise

Peter Rowland distributed a document to the meeting entitled 'Which Member?'. This was an exercise, which the meeting was asked to work through in pairs. The aim of the exercise was to shortlist potential members for a Standards Committee from the details given in the document. Members needed to particularly consider what were the key points both for and against each candidate and which aspects of each candidate were irrelevant to their suitability. Once the exercise had been completed, Members gave feedback to the meeting.

Sharing of Experiences of the Recruitment Process

Peter Rowland feels that there seems to be either very low or very high numbers of applicants to join Standards Committees with no happy medium. He invited members to share their experience of recruitment.

Some members reported a very positive and encouraging recruitment process, particularly those from Bridgnorth and Herefordshire. Examples of positive recruitment tactics included using parish noticeboards to advertise for members and inviting a local journalist to write an article about the work of the Standards Committee.



The issue of pay and allowances and whether these attract or put people off was discussed and the general feeling of the meeting was that the lack of allowances does affect recruitment.

Patricia Hughes felt that some examples of good practice had been brought up and also suggested using local authority newsletters and targeting adverts, for example at doctors' surgeries, however it does depend on the amount of work that the local authority is prepared to do in order to recruit members.

Terry Bayliss asked how the move to unitary status would affect Standards Committees. The SBE's view is that any areas with over 40 parishes will be in difficulty, if they do not plan carefully. Richard Gething gave the example of Herefordshire, where there is one Standards Committee for the unitary area. This has been positive as it helps to promote consistency. Patricia Hughes reported that provision has been made in the legislation for flexibility for parishes to deal with more matters.

David Blakey asked about the turnover of independent members of Standards Committees. The SBE guidance is that independent members should be re-appointed every four years and should serve a maximum of two terms.

Wilfred Maddocks asked if the Standards Committee should be involved in the appointment of the Monitoring Officer. Patricia Hughes felt that the Standards Committee should be able to look at the person specification and have input into it. They could also be involved in an exercise on standards issues as part of the interview process.

4 Other Matters of Note

Adjudication Panel for England Annual Report 2006

Peter Rowland distributed a copy of David Laverick's Introduction by the President to the Adjudication Panel Annual Report 2006.

He drew members' attention to the second paragraph in the second column, which suggests that there could be a requirement for hearings by Standards Committees to be chaired by a lawyer, who is familiar with the Competency Framework for Chairmen and Members of Tribunals. The general consensus of the meeting was that this would be too much of a constraint and too prescriptive for Committees.

Patricia Hughes reported that she had seen many examples of lay chairs doing excellent jobs, although it is imperative that the Chair is well advised and supported by senior officers.

The meeting agreed that David Laverick should be invited to the next meeting of the Forum to discuss this matter. Peter Rowland also asked that the issue is taken back to local Standards Committees for them to consider.



Any Other Business

Peter Rowland distributed membership forms for the Association of Independent Members of Standards Committees in England (AIMSce). AIMSce was launched at the Annual Assembly and currently has 200 members. There is an initial joining fee of £15 and membership is £10 per year, which some independent members have asked their local authorities to pay. The Association is fulfilling a useful function and Peter encouraged independent members to join.

David Stevens asked if there were still some districts that were not represented at the Forum. Peter Rowland confirmed that he is aware of some districts that are not. The meeting agreed that Peter Rowland should write to these districts again and ask for the letter to be discussed at their Standards Committee meeting. It was also felt that districts should be asked as to why they are not represented.

5 Future Meetings

The date of the next meeting, which will be hosted by Worcestershire County Council, was discussed. On a vote with 11 people voting for Monday, 2 July and 4 people voting for Wednesday, 11 July, it was agreed that the next meeting would be held on Monday, 2 July 2007 from 4.00 until 6.00 pm at County Hall, Worcester.

Peter Rowland asked for offers of hospitality to host a meeting of the Forum in January / February 2008.

Peter Rowland closed the meeting by thanking everyone for attending. He thanked Patricia Hughes and Stephen Callender for addressing the meeting and Shropshire and Wrekin Fire Authority for acting as hosts.

He also suggested that the minutes of the Forum should be included on the agendas of the Standards Committees that members of the Forum sit on.

As they left the meeting, Forum Members were requested to collect papers from the SBE on 'Local Government and Public Involvement in Health Bill – Part 9: Ethical Standards – Summary', 'Consultation on Amendments to the Code of Conduct' and 'The Implications of the Decision of Collins J in the Livingstone Case'.

The meeting closed at 4.00 pm.



6 February 2007

Peter Rowland
The Vicarage
Ditton Priors
Bridgnorth
WV1V 6SQ

Barnett House
53 Fountain Street
Manchester
M2 2AN

Enquiries: 0845 078 8181
Fax: 0161 233 7609
enquiries@standardsboard.co.uk
www.standardsboard.co.uk

Dear Peter

Re: Membership of standards committees

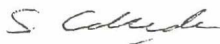
Further to the question raised at the Forum meeting on 26th January, I am writing to clarify the Standards Board's advice regarding the statutory provisions concerning the membership of standards committees.

Section 53 (4) (b) of the Local Government Act 2000 states that a standards committee must contain at least one person who is not a member, or an officer, of that or any other 'relevant authority'. The definition of relevant authority contained in the Act includes parish councils and it follows, therefore, that a parish clerk is prevented from being an independent member of a standards committee.

Whilst the member from South Shropshire District Council believed that his monitoring officer was still waiting for a response to this question, I can confirm that an answer was supplied earlier this month by our legal department.

I hope that you will be able to draw the Forum's attention to the advice that has been provided and also assure them that we monitor the time taken to respond to enquiries – both written and telephone - and endeavour to respond to all enquiries promptly.

Yours sincerely



Steve Callender
Policy Adviser

WEST MERCIA INDEPENDENT MEMBERS OF STANDARDS COMMITTEES FORUM

The Vicarage
Ditton Priors
Bridgnorth
WV16 6SQ

01746 712636
peter@rowland4.demon.co.uk

February 2007

To all Independent Members and to all Monitoring Officers
in the area.

Dear Colleague

West Mercia Forum

Attached please find the minutes of the meeting held last month in Shrewsbury. We were very grateful to Shropshire & Wrekin Fire Authority for hosting and clerking the meeting for us; and to Patricia Hughes, vice-chair of the SBE for her contributions. Your Standards Committee may wish to debate the meeting. Please note that I am always happy to come to talk to your Committee about Forum matters on request.

At our next meeting, which Worcestershire County Council will host, Mr David Laverick, President of the Adjudication Panel for England, will address us. Forum members will recollect that there was some criticism of Mr Laverick's comments concerning the charring of Standards Committees and allied matters made in his introduction to the 2006 APE Annual Report.

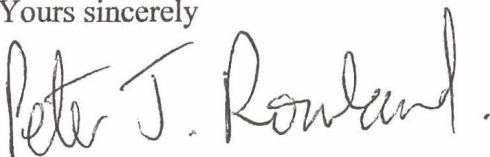
Unfortunately Mr Laverick cannot come on Monday 2 July, the date chosen by the Forum, but he can for the alternative date, Wednesday 11 July. So our next meeting will be at **County Hall, Worcester at 4:00 pm on Wednesday 11 July**. Further details will be sent out closer to that date.

I would be happy to receive suggestions for other matters to be debated at this meeting.

Can I please have an offer from an Authority to host the following meeting of the Forum, to be held in January or February 2008 ?

I do hope that as many Independent Members as possible will be able to attend the meeting in Worcester.

Yours sincerely



Peter J Rowland
Convenor, West Mercia Forum.

This page is intentionally left blank