



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE STANDARDS COMMITTEE**

**FRIDAY, 26TH SEPTEMBER 2008 AT 10.00 A.M.**

**CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE**

**MEMBERS:** Independent Members: Mrs. N. E. Trigg (Chairman), Mr. N. A. Burke (Vice-Chairman) and Mr. S. E. Allard  
Councillors: Miss. D. H. Campbell JP, S. P. Shannon and E. C. Tibby  
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts  
Observer: Mr. S. Malek (Deputy Parish Councils' Representative)

### **AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. Final Determination of Allegation of Failure to Follow the Code of Conduct (Pages 5 - 94)

[Note: the public will be formally excluded from the meeting at the point at which the Committee makes its deliberations on the above matter and the following resolution will be passed:

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the Committee's deliberations on the grounds that they will involve the likely disclosure of exempt information as defined in Paragraph 7C of Part 1 of Schedule 12A to the Act, as amended, and that it is in the public interest to do so."]

4. To consider any other business, details of which have been notified to the Head of Legal, Equalities 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

15th September 2008



## Standards Committee

### Final Determination – Hearing Procedure

#### Representation

1. The Subject Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the meeting by a solicitor, counsel or another person; the permission of the Standards Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative.

#### Legal Advice

2. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be announced to the meeting.

#### Introduction

3. The Chairman will introduce the members of the Committee, the Investigating Officer and the officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses to be called.
4. The Chairman will outline the procedure to be followed.

#### Preliminary Issues

5. The Committee will then consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Committee may formally exclude the public from its deliberations and move to another room to consider those issues. On its return, the Chairman will announce the Committee’s decision.

#### Facts in Dispute

7. The Committee will then identify whether there are any significant disagreements about the facts contained in the Investigating Officer’s report.
8. If there are no disagreements about the facts, the Committee will move to the next stage of the hearing – **Did the Subject Member fail to follow the Code** at paragraph 16 below.
9. If there is a disagreement, the Investigating Officer, if present, will be invited to make representations to support the relevant findings of fact in the report. The Investigating Officer may call witnesses to give evidence. The Committee will give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer.

10. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
11. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Subject Member.
12. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
13. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Committee will consider whether or not it would be in the public interest to continue in the Investigating Officer's absence. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Committee may then:
  - a) continue with the hearing, relying on the information in the Investigating Officer's report;
  - b) allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
  - c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
14. The Committee will usually formally exclude the public from its deliberations and move to another room to consider the representations and evidence in private.
15. On its return, the Chairman will announce the Committee's findings of fact.

**Did the Subject Member fail to follow the Code?**

16. The Committee will then consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.
17. The Subject Member will be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.

18. The Committee will then consider any oral or written representations from the Investigating Officer.
19. The Committee may, at any time, question anyone involved on any point they raise in their representations.
20. The Subject Member will be invited to make any final relevant points.
21. The Committee will formally exclude the public from its deliberations and move to another room to consider the representations.
22. On its return, the Chairman will announce the Committee's decision as to whether or not the Subject Member has failed to follow the Code of Conduct.

**If the Subject Member has not failed to follow the Code of Conduct**

23. If the Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee will consider whether it should make any recommendations to the relevant authority.

**If the Subject Member has failed to follow the Code**

24. If the Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any oral or written representations from the Subject Member as to whether or not the Committee should set a penalty and what form any penalty should take.
25. The Committee may question the Subject Member, and take legal advice to ensure it has the information it needs in order to make a decision.
26. The Committee will then move to another room to consider whether or not to impose a penalty on the Subject Member and, if so, what the penalty should be.
27. On its return, the Chairman will announce the Committee's decision.

**Recommendations to the authority**

28. After considering any oral or written representations from the Investigating Officer the Committee will consider whether or not it should make any recommendations to the relevant authority, with a view to promoting high standards of conduct among Members.

**The written decision**

29. The Committee will announce its decision on the day and provide a short written decision on that day. A full written decision will be issued shortly after the hearing.

**Making the Findings Public**

30. The Committee must arrange for a summary of the decision and reasons for that decision to be published in one or more newspapers.

If the Committee finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In these cases, the Subject Member is entitled to ask that no summary of the decision should be passed to local newspapers.

31. If the Committee finds that the Subject Member failed to follow the Code of Conduct but that no action is needed, the public summary must say that the Subject Member failed to follow the Code, outline what happened and give reasons for the Committee's decision not to take any action.
32. If the Committee finds that the Subject Member failed to follow the Code and it sets a penalty the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened, explain what penalty has been set and give reasons for the decision made by the Committee.

**Appeal**

33. The Subject Member may appeal against the decision within 21 days from the date of the full written decision.

## BROMSGROVE DISTRICT COUNCIL

### STANDARDS COMMITTEE

26 SEPTEMBER 2008

#### FINAL DETERMINATION OF ALLEGATION OF FAILURE TO FOLLOW THE CODE OF CONDUCT (SBE Ref: 21159.08)

Responsible Portfolio Holder	Councillor Roger Smith
Responsible Head of Service	Claire Felton, Monitoring Officer

#### 1. SUMMARY

- 1.1 An allegation that a Member of Bromsgrove District Council has breached the Code of Conduct in two respects was referred by the Standards Board for England ("SBE") to this Council for local determination (SBE Ref: 20059.08).

#### 2. RECOMMENDATION

The Committee is requested to determine the matter and decide whether or not there has been a failure to follow the Code of Conduct, and if so, what penalty should be imposed.

#### 3. BACKGROUND

- 3.1 The SBE has referred to the Council for local determination an allegation that a Member of Bromsgrove District Council ("the Subject Member") has failed to follow the Code of Conduct. The Monitoring Officer has appointed an Investigating Officer who has investigated the allegation. The Investigating Officer's report is at Appendix 1.
- 3.2 The Investigating Officer has made a finding that the Subject Member has failed to follow the Code.
- 3.3 Therefore, in accordance with the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as amended the allegation has been referred to the Standards Committee for final determination.

#### **Pre-Hearing Process**

- 3.4 In accordance with the SBE guidance a pre-hearing procedure has been followed which has identified that the Subject Member:
- a) does not dispute findings of fact in the Investigating Officer's Report;

- b) does not wish to be represented at the hearing by a solicitor, barrister or other person;
- c) wishes to give evidence to the Committee in person;
- d) does not wish to call witnesses to give evidence;
- e) does not wish any part of the hearing to be held in private – the final determination will therefore be a public hearing;
- f) does not wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public;
- g) can attend the hearing.

### **Procedure for the Hearing**

3.5 The procedure for the hearing is set out in the agenda papers.

### **Penalties**

3.6 If the Committee finds that the Subject Member has failed to follow the Code of Conduct and should be penalised, it may do any one or a combination of the following:

- censure the Subject Member;
- restrict the Subject Member's access to the resources of the relevant authority for up to three months, which could include limiting his or her access to the premises of the relevant authority;
- suspend or partly suspend the Subject Member for up to three months; or
- suspend or partly suspend the Subject Member for up to three months on the condition that the suspension or partial suspension will end if the Subject Member apologises in writing, receives any training, or takes part in any conciliation that the Committee orders; conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Committee.

3.7 Suspension or partial suspension will normally start immediately after the Committee has made its decision. However, if the Standards Committee chooses, the penalty may start at any time up to six months following its decision. This may be appropriate if the penalty would otherwise have little effect on the member, for example, in the case of a suspension or partial suspension, if there are no authority or Committee meetings which the Subject member would normally attend in the period following the conclusion of the hearing.

### **Deciding a penalty**

3.8 When deciding a penalty, the Standards Committee should make sure that it is reasonable and in proportion to the Subject Member's behaviour. Before deciding what penalty to set, the SBE advises that the Standards Committee should consider the following questions, along with any other relevant circumstances:

- What was the Subject Member's intention? Did he or she know that he or she was failing to follow the Code of Conduct?
- Did the Subject Member get advice from officers before the incident? Was that advice acted on in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
- What was the result of failing to follow the Code of Conduct?
- How serious was the incident?
- Does the Subject Member accept he was at fault?
- Did the Subject Member apologise to the relevant people?
- Has the Subject Member previously been warned or reprimanded for similar misconduct?
- Has the Subject Member failed to follow the Code of Conduct before?
- Is the Subject member likely to do the same thing again?

3.9 Standards Board Guidance suggests that suspension may be appropriate for more serious cases, such as those involving:

- bullying officers;
- trying to gain an advantage or disadvantage for themselves or others; or
- dishonesty or breaches of trust.

Penalties involving restricting access to an authority's premises or equipment should not unnecessarily restrict a member's ability to carry out his or his responsibilities as an elected representative or co-opted member.

**4. FINANCIAL IMPLICATIONS**

4.1 None

**5. LEGAL IMPLICATIONS**

5.1 The Local Government Act 2000 ss60-67 provide the statutory framework for the investigation of complaints against Members. The Local Procedure (Code of Conduct) Regulations 2002, Local Authority (Code of Conduct) (Local Determination) Regulations 2003 and the Local Authority (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 govern the conduct of these proceedings.

5.2 Members should note that as this complaint was made prior to the introduction of the new 2008 Regulations, the 2003 Regulations will apply to the determination of this matter.

**6. COUNCIL OBJECTIVES**

6.1 Improvement – it is vital for the reputation and credibility of the Council that complaints against elected Members are seen to be robustly investigated.

**7. RISK MANAGEMENT**

The main risk associated with the details included in this report is loss of reputation. This risk is being managed as follows:

Risk Register: Legal, Equalities and Democratic Services  
Key Objective Ref No: 3  
Key Objective: Effective ethical governance

**8. CUSTOMER IMPLICATIONS**

8.1 None.

**9. EQUALITIES AND DIVERSITY IMPLICATIONS**

None.

**10. VALUE FOR MONEY IMPLICATIONS**

None

**11. OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None



Governance/Performance Management	Adherence to the Code of Conduct is a key element of sound governance
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

**12. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	No
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

**13. WARDS AFFECTED**

All Wards

**14. APPENDICES**

Appendix 1 Investigating Officer's Report

**15. BACKGROUND PAPERS**

Standards Board for England guidance on:

- Standards Committee Determinations
- Local Investigations

**CONTACT OFFICER**

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## **INVESTIGATION SBE 21159.08**

### **FINAL REPORT**

**14<sup>th</sup> July 2008**

This report has been prepared in relation to an investigation conducted under Section 66 of the Local Government Act 2000 by Vanessa Brown, Litigation Solicitor, into an allegation concerning Councillor Peter Whittaker, Member of Bromsgrove District Council.

#### **CONTENTS:**

1. Summary of the allegation.
2. Relevant sections of the Code of Conduct.
3. The Investigation.
4. Findings of Fact.
5. The Issues.
6. Reasoning as to whether there has been a Breach of the Code.
7. Findings as to whether there has been a failure to comply with the Code of Conduct.

#### **APPENDICES:**

- A. Copy of the Code of Conduct implemented by Bromsgrove District Council on 18<sup>th</sup> July 2007.
- B. Copy of The Code of Conduct Guide for Members (May 2007).
- C. Copy of an attendance note prepared by Vanessa Brown, following a meeting on the 6<sup>th</sup> June 2008 with Mrs. Deborah Warren – Senior Solicitor and Deputy Monitoring Officer.
- D. Copy of an attendance note prepared by Vanessa Brown, following a meeting on the 18<sup>th</sup> June 2008 with Councillor Peter Whittaker.
- E. Copy of the Register of Interest Form signed 19<sup>th</sup> February 2008 and received by the Monitoring Officer on 3<sup>rd</sup> April 2008.

- F. Copy of the Register of Interest Form signed 19<sup>th</sup> February 2002 and received by the Monitoring Officer on 21st February 2002.
- G. Letter dated the 11<sup>th</sup> July 2007.
- H. Letter dated the 21<sup>st</sup> December 2007.
- I. Copy of the Members Bulletin dated 19<sup>th</sup> March 2008
- J. Chronology.

## 1. SUMMARY OF THE ALLEGATION

It is alleged by Councillor MacDonald that following the implementation of the Council's Code of Conduct on the 18<sup>th</sup> July 2007 that Councillor Whittaker failed to complete and return his Register of Interests Form in accordance with the statutory requirement to do so within 28 days. It is therefore alleged that Councillor Whittaker failed to comply with the Council's Code of Conduct.

The Council's Code of Conduct relevant to this investigation is provided at (**Appendix A**) and is the new Code of Conduct implemented by the authority on 18<sup>th</sup> July 2007.

The allegation was reported to the Standards Board for England in the early part of 2008 and was referred to the Monitoring Officer for local investigation and determination on 28<sup>th</sup> March 2008, pursuant to Section 60(2)(b) of The Local Government Act 2000 and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as amended.

There is one distinct part to Councillor MacDonald's allegation:

- (i) At the Council Meeting on the 18<sup>th</sup> July 2007 the Council adopted the new Code of Conduct (**Appendix A**). All Councillors were made aware of the statutory requirement that a Register of Interest Form needed to be completed and return to the Monitoring Officer within 28 days of the Code being adopted by the authority.

It is alleged that Councillor Whittaker was aware of this requirement yet failed to provide a completed Register of Interests Form within the requisite time period.

## 2. RELEVANT SECTIONS OF THE CODE OF CONDUCT

On 18<sup>th</sup> July 2007 the Council adopted the Model Code of Conduct set out in the "Code". A copy of the Code of Conduct is provided at **Appendix A**

The allegation made against Councillor Whittaker is covered by the section of the Code of Conduct detailed below:-

Part 3 of the Code – Register of Member's Interests

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

- (a) this Code being adopted by or applied to the authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of member's 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 the 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 the 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 the 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 the any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information notify the authority's Monitoring Officer asking that the information be included in the 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 an person who lives with you may be subjected to violence or intimidation.

### **3. THE INVESTIGATION**

- 3.1 The Code of Conduct and the Code of Conduct Guide for Members booklet has been considered. **(Appendix A and Appendix B).**
- 3.2 A meeting was held with Mrs. Deborah Warren who is a Senior Solicitor and also the Deputy Monitoring Officer. The attendance note is found at **Appendix C.**
- 3.3 The letter dated the 11<sup>th</sup> July 2007 sent to all Councillors' prior to the meeting on the 18<sup>th</sup> July 2007 has been obtained. **(Appendix G).**
- 3.4 The letter dated the 21<sup>st</sup> December 2007 which was sent to the Councillors who had failed to return their Register of Interests form has been obtained. **(Appendix H).**
- 3.5 The most recent Register of Interest form signed by Councillor Whittaker on the 19<sup>th</sup> February 2008 and received by the Monitoring Officer on the 3<sup>rd</sup> April 2008 has been considered. **(Appendix E).**
- 3.6 The previous Register of Interest form signed by Councillor Whittaker on the 19<sup>th</sup> February 2002 and received by the Monitoring Officer on the 21<sup>st</sup> February 2002 has been considered. **(Appendix F).**
- 3.7 The Members Bulletin dated the 19<sup>th</sup> March 2008 has been considered and it was noted that it specifically makes members aware of their statutory obligation to ensure their Register of Interest forms are up to date. **(Appendix I).**
- 3.8 A meeting was held with Councillor Whittaker on the 18<sup>th</sup> June 2008 and a copy of the notes recording the discussions is provided at **Appendix D.**
- 3.9 A chronology of events is at **Appendix J.**

### **4. FINDINGS OF FACT**

- 4.1 The allegation faced by Councillor Whittaker, centres on the implementation of the new Council's Code of Conduct which was adopted by the Council on the 18<sup>th</sup> July 2007.
- 4.2 With the implementation of the Code of Conduct came the statutory requirement that all members return a completed Register of Interests form to the Monitoring Officer within 28 calendar days of the Council adopting the Code of Conduct. The 28 days expired on the 15<sup>th</sup> August 2007.

- 4.3 Prior to the meeting on the 18<sup>th</sup> July 2008 all Councillors were provided with a letter dated the 11<sup>th</sup> July 2007, inviting them to familiarise themselves with the new Code. Details of the training sessions available were also provided along with a copy of the Register of Interests form for completion. **(Appendix G)**.
- 4.4 Councillor Whittaker believes he was at the Council meeting when the Code was adopted although due to the passage of time he cannot recall with clarity the details of that meeting. Councillor Whittaker has seen the letter of the 11<sup>th</sup> July 2007 and anticipates that he would have received the same but again he has no clear recollection of it.
- 4.5 Committee records state that Councillor Whittaker was present at the meeting.
- 4.6 In discussion with Mrs. Warren it has been established that training sessions were made available for all members. Councillor Whittaker confirmed that he had attended a training session and he accepted that training records indicated this was 4<sup>th</sup> June 2007. **(Appendix C and Appendix G)**.
- 4.7 At the training sessions each Councillor would have been provided with a copy of the Code of Conduct Guide for Members booklets. Whilst Councillor Whittaker can not recall being provided with one of the booklets at the training session, he was able to confirm that he had several copies of the booklet and had read it through. **(Appendix B)**.
- 4.8 On the 21<sup>st</sup> December 2007 a letter was sent to all of the Councillors who had failed to provide a completed Register of Interests Form requesting them to return the form as soon as possible. A further copy of the form was enclosed with the letter. **(Appendix H)**.
- 4.9 A Members' Bulletin dated the 19<sup>th</sup> March 2008 included a statement to remind members' to provide their up to date Register of Interest form as the information was soon to be accessible on the internet. **(Appendix I)**.
- 4.10 Councillor Whittaker is an established and long serving member of the Council having been the Councillor for Tardebigge since 1999. It is also clear that he is an active member of the Council and attends Planning Committee, Licensing Committee, Licensing Sub Committee, and the Local Development Framework Working Party. **(Appendix D)**.
- 4.11 During discussions with Councillor Whittaker he accepted that he was fully aware of the relevant section of the Code of Conduct and the statutory requirement to provide his Register of Interest form within the 28 days of the Code being implemented. **(Appendix D)**.

- 4.12 The date by which the form should have been returned was the 15<sup>th</sup> August 2007. The Register of Interest form completed by Councillor Whittaker has been obtained and clearly shows the date the form was signed as the 19<sup>th</sup> February 2008 and received by the Monitoring Officer on the 3<sup>rd</sup> April 2008. **(Appendix E).**
- 4.13 The previous Register of Interest form provided by Councillor Whittaker was signed on the 19<sup>th</sup> February 2002 and was received by the Monitoring Officer on the 21<sup>st</sup> February 2002. **(Appendix F).**
- 4.14 The details and information relevant to each Councillor is to be found on the intranet and the internet. Specifically the public have access to the Register of Interest forms.
- 4.15 At the meeting with Councillor Whittaker on the 18<sup>th</sup> June 2008 he accepted that he had breached the Code of Conduct in failing to provide his Register of Interest form within the correct time period. **(Appendix D).**
- 4.16 A chronology of events is at **Appendix J.**

## **5. THE ISSUES.**

There is one distinct issue to be considered:

- (i) Whether Councillor Whittaker failed to provide his completed Register of Interests form within 28 calendar days of the Council adopting the Code of Conduct.

## **6. REASONINGS AS TO WHETHER THERE HAS BEEN A BREACH OF THE CODE**

- 6.1 The relevant Code of Conduct was adopted by Bromsgrove District Council at a Council meeting on the 18<sup>th</sup> July 2007 and committee records show that Councillor Whittaker was present at that meeting.
- 6.2 The Code of Conduct includes under Part 3, Register of Interest paragraph 13 (1) a requirement that members must, within 28 days of the Code being adopted provide written notification of their personal interests. The Register of Interests form should have been completed and provided to the Monitoring Officer within the time period specified.



- 6.3 In advance of the meeting on the 18<sup>th</sup> July 2007, all Councillors were provided with a letter dated the 11<sup>th</sup> July 2007 (**Appendix G**) and whilst Councillor Whittaker does not recall receiving the same, I am satisfied that is more likely than not that he did receive it.
- 6.4 The letter of the 11<sup>th</sup> July 2007 (**Appendix G**) includes, inter alia, a paragraph specifically dealing with the statutory requirement to complete a new Register of Interests form and the need to do so within 28 days of the Code being adopted. It is of significance that the new form differed from the previous form as it combined both "Interests and Gifts and Hospitality". A copy of the Register of Interests form was enclosed with the letter.
- 6.5 Training sessions to include the new Code of Conduct were available for all members and training records show that Councillor Whittaker attended on the 4<sup>th</sup> June 2007. Councillor Whittaker was unable to recall the details of the training or whether at that stage he was provided with the Standard Board for England guidance booklet. However, he did recall attending the training session.
- 6.6 I am entirely satisfied that in light of Councillor Whittaker's presence at the Council meeting on the 18<sup>th</sup> July 2007, the training session and the letter of the 11<sup>th</sup> July 2007 (**Appendix G**) that at the time the Code was adopted Councillor Whittaker was fully aware of his statutory duty to complete and return the new Register of Interest form.
- 6.7 I consider Councillor Whittaker to be a long serving member of the Council and his attendance at Planning Committee, Licensing Committee, Sub Licensing Committee and the Local Development Framework Working Party indicates that he is an active member of the Council. It is therefore of concern that Councillor Whittaker failed to complete and return the Register of Interests form within the specified period as to hold such a position within the Council without having regard to this statutory requirement must, in my opinion, be negligent.
- 6.8 Attendance at the committees such as indicated above should have acted as a reminder to Councillor Whittaker of the need to submit the Register of Interest form as each and every meeting requires all Councillors to address in their own mind the need to declare any relevant interests.
- 6.9 Councillor Whittaker was sent a letter dated 21<sup>st</sup> December 2007 again requiring the completion of the Register of Interests form. A further copy of the form was enclosed. Councillor Whittaker accepts that he received this letter with enclosures but as it arrived close to Christmas he failed to deal with the request at that time. Whilst it may be understandable that the matter was not dealt with immediately upon receipt of the letter, it is of concern that Councillor Whittaker did not view the matter of such importance to address the contents of the letter after the Christmas festivities. (**Appendix H**).

- 6.10 The Register of Interests form was eventually signed on the 19<sup>th</sup> February 2008. However, it was not received by the Monitoring Officer until the 3<sup>rd</sup> April 2008. Regrettably this is another indication of the lack of priority given to this matter by Councillor Whittaker. **(Appendix E)**.
- 6.11 I have looked at the Member's Bulletin dated the 19<sup>th</sup> March 2008 as an example of the way in which members are reminded of their responsibility to complete and return the Register of Interests form. **(Appendix I)**. Councillor Whittaker did not return his form until after this date, namely the 3<sup>rd</sup> April 2008.
- 6.12 It is important to note that the public have access to the Register of Interest forms via the Bromsgrove District Council web site and I therefore see the necessity for the information to be up to date as of paramount importance.
- 6.13 The Register of Interest form that accompanied the new Code of Conduct differs in substance to the old form. The differences were clearly stated in the letter dated the 11<sup>th</sup> July 2008. **(Appendix G)**. As already indicated the changes to the form relate specifically to gifts and hospitality. Thus such information was previously omitted from the form and it therefore seems to me that the need to have the completed forms within the 28 day time period is essential to ensure the public are not placed at a disadvantage by not having access to information to which they are entitled.
- 6.14 In discussions with Councillor Whittaker he stated that the only information that would have changed between the Register of Interests form from February 2002 and the one submitted in April 2008 is the fact that he no longer works in partnership with his brother. **(Appendix E & F)**.
- 6.15 I have examined the two Register of Interest forms and whilst I would agree that the new form refers to Councillor Whittaker as a "self – employed farmer" as apposed to "The partnership in which I am an equal partner carries out the business of farming....." I have also found additional information on the new form that did not appear on the old form.
- 6.16 The information now disclosed on the Register of Interest form received 3<sup>rd</sup> April 2008 is as follows;
- That Councillor Whittaker is a member of the West Midlands Regional Assembly (Housing commission).
  - That Councillor Whittaker is a member of the Bromsgrove Farmers Club
  - That on occasion Councillor Whittaker has work for Harris Coaches of Catshill.

- 6.17 This information, along with all other information disclosed on the Register of Interests form should have been made available to the Monitoring Officer by no later than the 15<sup>th</sup> August 2007. Regrettably Councillor Whittaker did not return his Register of Interests form until the 3<sup>rd</sup> April 2008 some seven and a half months later.
- 6.18 It must therefore follow that the public were deprived of the “new” information until some significant time after the details should have been available.
- 6.19 I anticipate that only a relatively small percentage of the public ever come into direct contact with their Councillor. Unless there is a personal issue that directly affects them ie a planning application that is being heard by the Planning Committee, most will never need to examine the Code of Conduct or look at the Register of Interest. It is therefore absolutely essential that those who do examine the Register of Interest have complete confidence in its accuracy.
- 6.20 The Code of Conduct is agreed by all Councillors and as such, in my opinion, should be viewed as carrying the same weight as legislation. I see the Code of Conduct as the only true way in which the public can measure the trust it places in the Council as it represents the standard against which the public will judge the conduct of the Councillors. Its purpose is to ensure transparency in all work carried out in the name of the Council.
- 6.21 In my discussions with Councillor Whittaker it soon became apparent that he had not appreciated the full impact of his failure to provide the Register of Interest form until he had had an opportunity to consider the allegation made against him. I formed the view that Councillor Whittaker takes his participation in Council business very seriously and has now appreciated the full implications of his failure to comply with his statutory requirement to provide his Register of Interests form within the correct time period. **(Appendix D)**.
- 6.22 Councillor Whittaker expressed genuine remorse for allowing the situation to escalate and I accept entirely that his action were as a result of an oversight and not a deliberate attempt to withhold information. I do not find that Councillor Whittaker had a blatant disregard for the Code of Conduct simply that he had not addressed his mind to the importance of providing the Register of Interest form within the requisite time as he had believed that the information he had previously provided was adequate.
- 6.23 It is my opinion that Councillor Whittaker had simply not addressed his mind to the consequences of failing to provide his Register of Interests form. By which I mean the public perception not the Investigation to which he has been subject.
- 6.24 Councillor Whittaker was clearly most sincere in his regret at the situation that has arisen and he was anxious to make me aware that he was immediately bringing to the Monitoring Officers attention the fact that he had recently been

treated to a day at the races by a couple who owned a computer company. This demonstrates that Councillor Whittaker now has the need to disclose information upper most in his mind!

7. FINDINGS AS TO WHETHER THERE HAS BEEN A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

- 7.1 With regard to the allegation that Councillor Whittaker failed to comply with the Code of Conduct in that he did not return a completed and signed Register of Interest form within 28 days of the new Code of Conduct being adopted I find as follows:

The new Code of Conduct was adopted by Bromsgrove District Council on the 18<sup>th</sup> July 2007. There is a statutory requirement that all Councillors complete a Register of Interest form and return it to the Monitoring Officer within 28 days of the Code being adopted.

For the reasons set out at paragraph 6 I find that Councillor Whittaker failed to comply with Part 3 paragraph 13 (1) of the Code of Conduct as he did not provide the Monitoring Officer with the Register of Interests form within 28 days of the Code of Conduct being adopted by the authority and I therefore find that Councillor Whittaker has breached the Code of Conduct.

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The evidence collated in the course of this investigation has been carefully considered and assessed and my findings are based on the balance of probability burden of proof.

**This the final report prepared by Vanessa Brown which represents the findings and conclusions of the investigation into an allegation made against Councillor Whittaker. This final report will be presented to the Standards Committee.**

Signed: Vanessa Brown

Dated: 22.07.08

## PART 16

## BROMSGROVE DISTRICT COUNCIL

## CODE OF CONDUCT

Part 1General provisions**Introduction and interpretation**

1. (1) This Code applies to **you** as a member of the authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (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 (Cabinet) of the authority;
  - (c) any of the authority's or its executive's (Cabinet's) committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - (d) any other meeting at which you are conducting the business of the authority or are acting, claiming to act, or giving the impression that you are acting as a representative of the authority."member" includes a co-opted member and an appointed member.

**Scope**

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of the 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 the authority,

## PART 16

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 the 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 the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

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);
  - (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,

## PART 16

in relation to an allegation that a member (including yourself) has failed to comply with the authority's Code of Conduct;

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

(3) No member shall provide, or offer to provide, a reference for any candidate for employment or promotion within the authority.

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, or under the control of, the authority:



## PART 16

- (i) act in accordance with the 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.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the authority's officers and in particular by:
- (a) the authority's section 151 Officer where that officer is acting pursuant to his or her statutory duties;
  - (b) the authority's Monitoring Officer where that officer is acting pursuant to his or her statutory duties; or
  - (c) the chief legal officer.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

### Part 2

#### Interests

#### **Personal interests**

8. (1) You have a personal interest in any business of the 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:



## PART 16

- (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 the authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is the 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

## PART 16

financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

- (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 the authority and you attend a meeting of the 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 the 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 the authority's

## PART 16

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 the 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.

### Prejudicial interest generally

- 10.(1) Subject to sub-paragraph (2), where you have a personal interest in any business of the 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 judgment 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 the 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;



## PART 16

- (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 the 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 the authority's executive (Cabinet) or another of the 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 (Cabinet), 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 the 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 the 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 the authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of the 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 the 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 the 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 the 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 the authority's Monitoring Officer agrees, you need not include that information when

## PART 16

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 the authority's Monitoring Officer asking that the information be included in the 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.



# THE CODE OF CONDUCT

**Guide for members**  
**May 2007**



the  
**Standards Board**  
for England







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# 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](http://www.standardsboard.gov.uk) or to purchase a printed copy, contact The Stationery Office by visiting [www.tsoshop.co.uk](http://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

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# 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.



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# 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.

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# 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 time<sup>1</sup>, 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.

<sup>1</sup> 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.

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## 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
- 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.

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.



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](http://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.<sup>2</sup>

<sup>2</sup> 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 upset<sup>1</sup>

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.

<sup>1</sup> 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

[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

For enquiries about the Code of Conduct, please contact:

Enquiries line: 0845 078 8181  
[enquiries@standardsboard.gov.uk](mailto:enquiries@standardsboard.gov.uk)

For further copies of this publication, please contact:  
[publications@standardsboard.gov.uk](mailto:publications@standardsboard.gov.uk)







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[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)



## Appendix C

### Meeting Notes

Reference: Local Investigation SBE 21159.08

Date of meeting: 6<sup>th</sup> June 2008

Attendees: Mrs Deborah Warren (Senior Solicitor and Deputy Monitoring Officer) and Vanessa Brown (Investigating Officer)

Purpose: to establish the process by which a Councillor should register their interest.

### Meeting notes recorded by Vanessa Brown

The following matters were discussed:-

1. Mrs. Warren confirmed that at its Council Meeting on the 18<sup>th</sup> July 2007, the Council adopted the new Code of Conduct. Under cover of a letter dated 11<sup>th</sup> July 2007 all Councillors were given prior notice of the proposal and invited to familiarise themselves with the new Code as there were some important new changes. In addition a copy of the new Code was included along with details of training available. The letter very clearly stated that it was a statutory requirement that each Councillor complete and return the form within 28 days of the new Code being adopted and a copy of the Register of Interests Form was enclosed with that letter.
2. Mrs. Warren confirmed that two training sessions on the new Code were provided for all Councillors during June and July and at the training session each Councillor was provided with a copy of the Standards Board guidance booklet.
3. On the 21<sup>st</sup> December 2007 a letter was sent to each of the Councillors who had failed to complete and return a Register of Interests form following the implementation of the new Code of Conduct on the 18<sup>th</sup> July 2007 requesting them to do so.
4. Mrs Warren also confirmed that all Council agendas since the 18<sup>th</sup> July 2007 have included a statement under the "Declaration of Interests" item to remind members of the need to keep their Register of Interests up to date.
5. In February 2008 Mrs. Warren was contacted by June Griffiths (Acting Leader at the time) who requested details of Conservative members who had failed to return their Register of Interests form. The details were provided and most of the outstanding forms were swiftly returned. The

## Appendix C

Monitoring Officer was also advised that some of the forms had still not been returned.

6. Mrs Warren arranged to have an entry made in the March 2008 addition of the Members' Bulletin to remind members of the importance of providing up to date Register of Interests forms.
7. Mrs. Warren was able to confirm that the Register of Interests forms are documents to which the public have access and they can be viewed at the Council offices or via the internet on the Bromsgrove District Council web site.
8. Mrs Warren was able to confirm to Vanessa Brown that Councillor Whittaker would have been provided with the documentation referred to above i.e. letter of the 11<sup>th</sup> July 2007 with enclosures and the reminder letter of the 21<sup>st</sup> December 2007.
9. From the records held Mrs. Warren was able to provide the Register of Interests Form provided by Councillor Whittaker signed on the 19<sup>th</sup> February 2008 but not received by the Monitoring Officer until 3<sup>rd</sup> April 2008.

Mrs. Warren provided a copy of the following documents:-

- Copy letter dated the 11<sup>th</sup> July 2007.
- Copy letter dated 21<sup>st</sup> December 2007.
- Copy of the Member's Bulletin for 19<sup>th</sup> March 2008.
- Copy of Councillor Whittaker's Register of Interest form dated 19<sup>th</sup> February 2002 received on the 21<sup>st</sup> February 2002.
- Copy of Councillor Whittaker's Register of Interest form dated 19<sup>th</sup> February 2008 received 3<sup>rd</sup> April 2008.

I, Deborah Warren, Senior Solicitor and Deputy Monitoring Officer confirm that I have read the above and agree it is an accurate note of the discussions that took place on the 6<sup>th</sup> June 2008.

D Warren  
Deborah Warren (Senior Solicitor and Deputy Monitoring Officer)

Dated...25.06.08

### **Meeting Notes**

Reference: Local Investigation SBE 21159.08

Date of meeting: 18<sup>th</sup> June 2008

Attendees: Councillor Peter Whittaker and Vanessa Brown (Investigating Officer)

Purpose: to establish whether Councillor Whittaker had breached the Code of Conduct in failing to provide his Register of Interests form within 28 days of the Council adopting the new Code of Conduct.

### **Meeting notes recorded by Vanessa Brown**

The following matters were discussed:-

#### 1. **Background Information**

Councillor Peter Whittaker has been a Councillor for Tardebigge since May 1999. He confirmed that in addition to being a member of Cabinet, and he is also a regular member of the Planning Committee, Licensing Committee, Licensing Sub Committee and the Local Development Framework Working Party.

#### 2. **Breach of the Code of Conduct**

Councillor Whittaker and Vanessa Brown discussed the basis of the allegation made. The details of the breach of the Code were considered and Councillor Whittaker was referred to Part 3 "Registration of Member's Interests" paragraph 13 (1) of the Code of Conduct.

The new Code of Conduct was implemented at the Council Meeting on the 18<sup>th</sup> July 2007 and there is a statutory requirement that all Councillors provide a completed and signed Register of Interests form to the Monitoring Officer within 28 days of the Code being adopted.

Councillor Whittaker was aware of the breach and understood the allegation made against him.

### 3. Requirement to provide Registration of Interest form

Councillor Whittaker confirmed that he was aware that the new Code of Conduct had been implemented. Councillor Whittaker believes he may have been present at the meeting when the Code was adopted but he was unable to recall the specific details.

Councillor Whittaker was shown the letter dated 11<sup>th</sup> July 2007 which was sent to all Councillors in advance of the Council meeting on the 18<sup>th</sup> July 2007. Councillor Whittaker could not recall receiving the letter but accepts that he may have done but due to the time lapse he could not be certain.

Vanessa Brown was able to confirm that training records indicate that Councillor Whittaker attended a Code of Conduct training session on the 4<sup>th</sup> June 2007. It is suggested that this may have been the occasion upon which all Councillors were provided with the Standard Board for England guidance booklet. Councillor Whittaker recalls attending the training session and the general issues discussed although cannot say for certain that he was provided with the guidance booklet. However, Councillor Whittaker was familiar with the booklet and confirms he has several copies and that he has read it through on more than one occasion.

Councillor Whittaker was shown a copy letter dated 21<sup>st</sup> December 2007 which was sent to all Councillors who had failed to return the Register of Interest form. Councillor Whittaker did recall receiving this letter as it arrived so close to Christmas.

Councillor Whittaker full accepted that there was a requirement to provide the Register of Interest form to the Monitoring Officer within 28 days of the Council adopting the new Code of Conduct and further accepted that he was aware of the obligation to do so when the new Code was adopted.

### 4. Failure to return the Register of Interests form

Councillor Whittaker acknowledged that he had failed to return his Register of Interests form within the required 28 day period.

The completed Register of Interests form was signed by Councillor Whittaker on the 19<sup>th</sup> February 2008 and it was received by the Monitoring Officer on the 3<sup>rd</sup> April 2008.

Councillor Whittaker fully accepted that in failing to return the Register of Interest form within the requisite time period, that he had breached the Code of Conduct.

## Appendix D

Councillor Whittaker explained that he had put to the back of his mind the requirement to complete the form and that this had been an oversight on his part for which he sincerely apologised.

Councillor Whittaker explained that the previous Register of Interest form completed in February 2002, save for a very minor amendment, contained the same information as detailed in the recent form received to the Monitoring Officer on the 3<sup>rd</sup> April 2008.

Councillor Whittaker was aware that the new Register of Interest form required information not previously requested in the form. Vanessa Brown suggested that the public had been placed at a disadvantage because the absence of the form meant the information was not up to date.

Councillor Whittaker stated that he believed that the only information that was different on the new form was the fact that he was no longer working with his brother and was now working on his own. Councillor Whittaker did not feel that this would have any detrimental effect upon anyone examining the Register of Interest form.

Councillor Whittaker made it clear that he took his responsibilities very seriously and especially so when declaring interests. Specifically, he confirmed that he had made the Monitoring Officer aware of a “gift” he had received recently from a couple who owned a computer company. Over the weekend of the 7<sup>th</sup> / 8<sup>th</sup> June 2008 Councillor Whittaker was invited to attend the Derby horse race. Councillor Whittaker advised the Monitoring Officer on Monday 16<sup>th</sup> June 2008 and formally recorded his interest with Mrs Warren on the 18<sup>th</sup> June 2008.

In conclusion, Councillor Whittaker accepted that the Code of Conduct had been breached by his failure to provide a completed and signed Register of Interest form.

Councillor Whittaker stated on more than one occasion that he regretted this oversight and was sorry for any inconvenience caused.

I, Councillor Whittaker, confirm that I have read the above and agree it is an accurate note of the discussions that took place on the 18<sup>th</sup> June 2008.

Councillor Peter Whittaker



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**BROMSGROVE DISTRICT COUNCIL**

**REGISTER OF MEMBERS' INTERESTS**

LOCAL GOVERNMENT ACT 2000 section 81(1)  
The Local Authorities (Model Code of Conduct) Order 2007

Note: "Member" includes a co-opted member of an authority. Numbering follows numbering in Code of Conduct

I, (full name) (capitals) PETER JOHN WHITTAKER

a Member of the Council/~~co-opted Member of the Council~~ [delete as appropriate]

GIVE NOTICE, as I am required to do under paragraph 13 of the Code of Conduct, that I have the following interests:

(please state "None" where appropriate)

- (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
- NOTE: This will include, for example, outside body appointments by the Council
- |   |
|---|
| <u>TUNAL &amp; COBLEY PARISH COUNCIL</u>                    |
| <u>THE RURAL COMMISSION</u>                                 |
| <u>WEST MIDLANDS REGIONAL ASSEMBLY (HOUSING COMMISSION)</u> |
|   |
|   |
|   |

- (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;

NOTE:

- (bb) Freemasonry – the Standards Board for England advice is:-  
Freemasons who are members of the Grand Charity must register membership of the Grand Charity in their Register of Members' Interest. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.
- (cc) This will include membership of a political party as well as membership of any pressure group or other organisation which includes lobbying as one of its principal purposes.

MEMBER OF THE CONSERVATIVE PARTY.
" " THE NATIONAL FARMERS UNION
" " THE COUNTRY LANDOWNERS & RURAL BUSINESS ASSOCIATION
" " BLOMSGROVE FARMERS CLUB.
SCHOOL GOVERNOR @ TARBEBIBBE FIRST SCHOOL.

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

NOTE:

Give a short description of every employment, office, trade, profession or vocation that you have to declare for income tax purposes, for example "Plasterer" or "Nurse"

SELF EMPLOYED FARMER
& PART TIME HGV DRIVER & PART TIME PEV
DRIVER.

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

NOTE:

If you are an employee, you should give the name of your employer. If employed by a company, give the name of the company paying your wages or salary, not that of the ultimate holding company. Where you hold an office, give the name of the person or body which appointed you. IN the case of a public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school's governing body

OCCASSIONAL WORK FOR HARRIS COACHES OF CATSHILL
FROM TIME TO TIME OCCASSIONAL AGENCY WORK, NONE AT
PRESENT BUT WILL COMPLETE AMENDMENT IF CIRCUMSTANCES
CHANGE

(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;

**NOTE:**

You should declare the name of any person(s) who has/have made any payments to you towards your expenses as a councillor or towards your election expenses. You do not need to declare the amounts of any payments: only the name of the person or body making them.

You do not need to include payment of Members' allowances by Bromsgrove District Council

NONE .

(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);

**NOTE:**

"Person or body" includes firms, partnerships, companies and other organisations.

1. Name the person or body.
2. You do not need to show the actual amount of your beneficial interest. Please note that the nominal value is the value on the face of the security and not its value at the time acquired nor its current market value.
3. If there are several classes of shares or securities, the fraction of 1/100<sup>th</sup> applies to any of those classes. These limits also apply to deposits with industrial and provident societies, and co-operative societies.
4. The requirement also covers shares and securities held in the name of other people in which you have a beneficial interest

NONE



(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);

**NOTE:**

*You need not say what the financial arrangements are, but should state briefly the Contractor, what the Contract is and for how long.*

NONE .

(viii) The interest of any person from whom you have received a gift or hospitality with an estimated value of at least £25.

**NOTE:**

*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. (An accumulation of small gifts received over a short period that add up to £25 or over should also be registered).*

*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 at the meeting the existence and nature of the gift or hospitality, the person who gave it to you and how the business under consideration relates to that person.*

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

NONE .

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

**NOTE:**

1. *You should include any land in the Council's area in which you have a beneficial interest (that is, in which you have some proprietary interest for your own benefit). You should give the address or a brief description to identify it. If you live in the Council's area you should include your home under this heading as owner, lessee or tenant.*
2. *You should also include any property from which you receive rent, or of which*



you are the mortgagee.

3. "Land" includes any buildings or parts of buildings (and eg. allotments).

4. When the information to be recorded relates to a house or flat, this does not present any difficulty in providing an address. However, the registration of other land interests such as farm land, or other land with no address, is not as easy. In these circumstances you should include enough information with this form so that landholdings can be identified (eg. a map should be attached to the form)

LAND & BUILDINGS AT STONEY LANE FARM TARDENBIEGE
& HOUSE & GARDEN AT LONGLANDS STONEY LANE TARDENBIEGE.
BELMSGROVE WORCS. B60 1LZ.

(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:

NOTE:  
"Land" includes any buildings or parts of buildings (attach a map if appropriate)

NONE

(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;

NOTE:

- You should include land in the Council's area which you have a right to occupy or use, but neither own nor have a tenancy of. You should give the address or a brief description to identify it.
- "Land" includes any buildings or parts of buildings (attach a map if appropriate)

LAND AT MOAT FARM, GRANGE LANE, ALVECHURCH.

**FURTHER INTERESTS**

Note: Numbering does not relate to the Code of Conduct

I further **VOLUNTARILY GIVE NOTICE** (acknowledging that I am not required to do so under the Code) of the following other interests (please state "None" where appropriate):

(a) I am a member or hold a position of general control or management of the following private clubs or organisations


(b) I have the following other interest that I desire to bring to the public's attention through the Register


**OTHER**

<p>Sensitive Interests under paragraph 14 of the Code of Conduct – seek the advice of the Monitoring Officer</p>
--

**MEMBER'S SIGNATURE**

Date	19/2/08.
Member's Name (Capitals – in full)	PETER JOHN WHITTAKER.
Member's signature	

[ORIGINAL DOCUMENT SIGNED BY COUNCILLOR WHITTAKER]

NOTIFICATION OF CHANGE OF CIRCUMSTANCES

A Member must, within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Monitoring Officer of that change at the Council House, Burcot Lane, Bromsgrove B61 1AA

---

RECEIPT BY MONITORING OFFICER

Date received by the Council	3 <sup>rd</sup> April 2008
Signature of the Monitoring Officer	

[ORIGINAL DOCUMENT SIGNED BY CLAIRE FELTON,  
MONITORING OFFICER]





**BROMSGROVE DISTRICT COUNCIL**

**REGISTER OF MEMBERS' INTERESTS**

This document is the notification to the Monitoring Officer of your financial and other interests, which is required under the Council's Code of Conduct.

<b>1. YOUR NAME</b>
PETER JOHN WHITTAKER.

<b>2. DETAILS OF YOUR EMPLOYMENT, OR ANY BUSINESS CARRIED ON BY YOU</b>
FARMER, LORRY DRIVER & AGRICULTURAL CONTRACTOR

<b>3. THE NAME OF ANY PERSON WHO EMPLOYS OR HAS APPOINTED YOU</b>
I AM EMPLOYED BY VARIOUS AGENCIES WITH REGARD TO LORRY DRIVING: THESE ARE: ①. BRS TASKFORCE - WEST BROMWICH. ②. PERTemps - RENDITCH ③ BEAVER BUREAU - DROITWICH.

<b>4. THE NAME OF ANY FIRM IN WHICH YOU ARE A PARTNER, AND THE NAME OF ANY COMPANY FOR WHICH YOU ARE A REMUNERATED DIRECTOR</b>
I AM A PARTNER IN J L WHITTAKER & SONS

<b>5. THE NAME OF ANY PERSON OR BODY, OTHER THAN THE DISTRICT COUNCIL, WHICH HAS MADE A PAYMENT TO YOU IN RESPECT OF YOUR ELECTION EXPENSES OR ANY EXPENSES INCURRED BY YOU IN CARRYING OUT YOUR DUTIES</b>
ELECTION EXPENSES WERE INCURRED ON MY BEHALF BY THE CONSERVATIVE PARTY.

6. THE NAME OF ANY CORPORATE BODY WHICH HAS A PLACE OF BUSINESS OR LAND IN THE DISTRICT COUNCIL'S AREA, AND IN WHICH YOU HAVE A BENEFICIAL INTEREST IN A CLASS OF SECURITIES OF THAT BODY THAT EXCEEDS THE NOMINAL VALUE OF £25,000 OR 1/100<sup>TH</sup> OF THE TOTAL ISSUED SHARE CAPITAL OF THAT BODY

N/A.

7. A DESCRIPTION OF ANY CONTRACT FOR GOODS, SERVICES OR WORKS MADE BETWEEN THE DISTRICT COUNCIL AND YOU, OR A FIRM IN WHICH YOU ARE A PARTNER, OR A COMPANY OF WHICH YOU ARE A REMUNERATED DIRECTOR, OR A BODY MEETING THE DESCRIPTION SET OUT IN SECTION 6 ABOVE

N/A.

8. THE ADDRESS OR OTHER DESCRIPTION (WHICH SHOULD BE SUFFICIENT TO IDENTIFY THE LOCATION) OF ANY LAND IN WHICH YOU HAVE A BENEFICIAL INTEREST, WHICH IS IN THE DISTRICT COUNCIL'S AREA

THE PARTNERSHIP IN WHICH I AM AN EQUAL PARTNER CARRIES OUT THE BUSINESS OF FARMING AT STONEY LANE FARM, TARDERBIGGE BRONSGRANE. ~~AND ALSO AT MOAT FARM, GLENGE LANE, ALVECHURCH.~~ I LIVE AT LONGLANDS, STONEY LANE, TARDERBIGGE. WHICH IS OWNED BY THE PARTNERSHIP.

9. THE ADDRESS OR OTHER DESCRIPTION (WHICH SHOULD BE SUFFICIENT TO IDENTIFY THE LOCATION) OF ANY LAND WHERE THE LANDLORD IS THE DISTRICT COUNCIL AND THE TENANT IS A FIRM IN WHICH YOU ARE A PARTNER, A COMPANY OF WHICH YOU ARE A REMUNERATED DIRECTOR, OR A BODY MEETING THE DESCRIPTION SET OUT IN SECTION 6 ABOVE

N/A.

10. THE ADDRESS OR OTHER DESCRIPTION (WHICH SHOULD BE SUFFICIENT TO IDENTIFY THE LOCATION) OF ANY LAND IN THE DISTRICT COUNCIL'S AREA IN WHICH YOU HAVE A LICENCE (ALONE OR JOINTLY WITH OTHERS) TO OCCUPY FOR 28 DAYS OR LONGER

MOAT FARM, BRANGELANE, ALVECHURCH.

11. DETAILS OF YOUR MEMBERSHIP OF, OR POSITION OF GENERAL CONTROL OR MANAGEMENT IN, ANY BODY TO WHICH YOU HAVE BEEN APPOINTED OR NOMINATED BY THE DISTRICT COUNCIL AS ITS REPRESENTATIVE

THE RURAL COMMISSION.

12. DETAILS OF YOUR MEMBERSHIP OF, OR POSITION OF GENERAL CONTROL OR MANAGEMENT IN, ANY PUBLIC AUTHORITY OR BODY EXERCISING FUNCTIONS OF A PUBLIC NATURE

I AM A COUNCILLOR ON TUNNALL & CORLEY PARISH COUNCIL AND I AM THE PARISH COUNCILS REPRESENTATIVE ON THE GOVERNING BODY OF TARDERIGLE FIRST SCHOOL.  
I AM ALSO ON THE COMMITTEE OF THE COMMUNITY HALL FOR TARDEBIGOE.

13. DETAILS OF YOUR MEMBERSHIP OF, OR POSITION OF GENERAL CONTROL OR MANAGEMENT IN, ANY COMPANY, INDUSTRIAL AND PROVIDENT SOCIETY, CHARITY, OR BODY DIRECTED TO CHARITABLE PURPOSES

I AM A MEMBER OF THE COUNTRY LANDOWNERS ASSOCIATION.



**14. DETAILS OF YOUR MEMBERSHIP OF, OR POSITION OF  
GENERAL CONTROL OR MANAGEMENT IN, ANY BODY WHOSE  
PRINCIPAL PURPOSES INCLUDE THE INFLUENCE OF PUBLIC  
OPINION OR POLICY**

I AM A MEMBER OF THE CONSERVATIVE PARTY.

**15. DETAILS OF YOUR MEMBERSHIP OF, OR POSITION OF  
GENERAL CONTROL OR MANAGEMENT IN, ANY TRADE UNION OR  
PROFESSIONAL ASSOCIATION**

MEMBER OF THE NATIONAL FARMERS UNION.

**YOUR SIGNATURE**

Date: 19<sup>TH</sup> FEBRUARY 2002.

When completed, this form should be sent to the Monitoring Officer, Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove B60 1AA - it should be received no later than 28 days after the Council adopts its Code of Conduct - i.e. Wednesday 20<sup>th</sup> February 2002.

**PLEASE REMEMBER, IF ANY CHANGE TO THE INTERESTS  
SPECIFIED ABOVE TAKES PLACE, YOU SHOULD TELL THE  
MONITORING OFFICER IN WRITING WITHIN 28 DAYS OF THE  
CHANGE TAKING PLACE.**

Also, if you receive any gifts or hospitality over the value of £25, you should tell the Monitoring Officer about it in writing, within 28 days.

[ORIGINAL DOCUMENT SIGNED BY COUNCILLOR WHITTAKER]



Received 3/2/04

BROMSGROVE DISTRICT COUNCIL

REGISTER OF MEMBERS' INTERESTS

SUPPLEMENTARY/REVISION NOTICE

This document is an amendment of your previous notification to the Monitoring Officer of your financial and other interests. It should be completed and read in conjunction with that previous notification.

YOUR NAME	DATE
Cllr P. J. Whittaker	31/1/04

SECTION OF THE REGISTER TO WHICH THIS AMENDMENT APPLIES	14
---	----

DETAILS OF THE AMENDMENT
I am a member of the Conservative Councillors' Association.

YOUR SIGNATURE

[ORIGINAL DOCUMENT SIGNED BY COUNCILLOR WHITTAKER]



Your Ref:

Our Ref: DW

If telephoning please ask for  
Claire Felton (01527) 881429  
Email: [c.felton@bromsgrove.gov.uk](mailto:c.felton@bromsgrove.gov.uk)

To all Councillors

11 July 2007

Dear Councillor,

**Re: The New Code of Conduct**

The adoption of the new Code of Conduct for Councillors will be considered by Council on Wednesday 18 July. I enclose a further copy of the Code to give you the opportunity to consider it before the meeting. Possible amendments to the Code which the Standards Committee is recommending for inclusion in the Code adopted by the Council are included in the Council agenda papers.

The new Code does make some important changes so I do urge you to ensure that you are familiar with it. Further training on the new Code is being provided on Monday 24 July at 6.00pm and you will already have received training on this.

Once the new Code has been adopted, every member will have to complete a new Register of Interests form. This is different from that which applied under the old Code as it combines both Interests and Gifts and Hospitality and I enclose a copy for you to complete and return to me as soon as possible; you need to do this within 28 days of the Code being adopted. I appreciate that you have only recently completed the old form, but it is a statutory requirement that you have to complete the new one.

Please let me know if you require any guidance in completing the form.

Yours sincerely,

Claire Felton  
Monitoring Officer

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Your Ref:

Our Ref: DW

If telephoning please ask for  
Debbie Warren (01527) 881609  
Email: [d.warren@bromsgrove.gov.uk](mailto:d.warren@bromsgrove.gov.uk)

21 December 2007

Dear Councillor,

**Register of Interests Form**

It would appear that you have not completed and returned a Register of Interests form since the adoption of the new Code of Conduct. I enclose one copy of the form and would be grateful if you could complete it and return it to me as soon as possible.

Many thanks,

Yours sincerely,

Deborah Warren  
Deputy Monitoring Officer

To: Cllrs Bagg Dent Lewis Murray Newnes Scurrall  
Smith Spence Taylor Tibby Tidmarsh Webb  
Whittaker

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# Members' Bulletin

**Bromsgrove**  
District Council  
www.bromsgrove.gov.uk

To feedback on this bulletin contact Communications Officer Mary Pryce on 881287. [m.pryce@bromsgrove.gov.uk](mailto:m.pryce@bromsgrove.gov.uk)

## Message from Kevin

Issue 26 – March 19, 2008.

I don't think it would be right for me to ignore the two issues which have dominated the headlines both internally and externally over the last few days. These are Job evaluation and the proposal for a joint Chief Executive for Bromsgrove and Redditch. With regards job evaluation, it is true that Unison nationally have raised concerns about the process and want to investigate it before we proceed. Throughout the process we have worked locally and regionally with Unison and in this spirit we are now working with Unison at a national level to sort out any concerns they have. This has put the process timetable on hold somewhat and I will keep you up to date with the outcomes of our work with Unison. To keep staff up to speed we have held three drop-in sessions which Jo Pitman, Tony Beirne and myself have headed up to deal with any concerns or queries. At these sessions we also allowed some time for questions about the Chief Executive's position. As you know, at the next Council meeting you will be asked to consider a feasibility study being carried out which would see one Chief Executive post for both Councils. We have been working together with Redditch over the last couple of years and we have both faced the same tough budget rounds. So considering the option of working together seems timely and could see greater value for money and joint working opportunities. I want to stress that this is not indicative of any plans to merge the two authorities and I would be grateful for your help to dispel any such rumours in your own wards. I am on leave for the next two weeks, but Hugh, Tony or Phil are available if you have any questions about either of these issues and I will be happy to talk to you more when I get back.

## Register of Interests

Please remember it is very important to ensure that your Register of Interests forms are up to date. They are now accessible on the intranet by following the link below

<http://svlan007:8071/mgMemberIndex.asp?bcr=1> and then clicking on to a councillor's details. They will shortly be available on the internet too and we will keep you informed when this becomes live.

**More details: Debbie Warren, Senior Solicitor, Legal, Equalities and Democratic Services. Tel 01527 881609 or [d.warren@bromsgrove.gov.uk](mailto:d.warren@bromsgrove.gov.uk)**

## Neighbourhood Committees

The Council has recently received an external evaluation report (funded by Government grant) of the two neighbourhood area committees (NACs).

The report identifies that all the stakeholders feel there is value in the NACs, in particular, they support the role of the ward councillor and are consistent with Government thinking on community engagement. A report will be presented to 30 April Cabinet recommending that the Council set up a third pilot in Hagley, increase the funding for each NAC, formalise the governance arrangements and run a stakeholder event in the summer.

We will be consulting our partners on the report and will feed this information into the Cabinet decision.

**More details: Hugh Bennett, Assistant Chief Executive Tel. 01527 881430 e-mail: [h.bennett@bromsgrove.gov.uk](mailto:h.bennett@bromsgrove.gov.uk)**

## Flooding Matters

The Council has published Flooding Matters, a leaflet giving guidance and advice to support residents during the event and risk of flooding.

**More details: Phil Street, Executive Director, Partnership and Projects. 01527 881202 [p.street@bromsgrove.gov.uk](mailto:p.street@bromsgrove.gov.uk)**

## Green Waste Charging

Proposed charges to the green waste collection are due to come into force for April 2009. The service for 2008 will remain as per last year; collections will start in April and run to the end of November. Green waste collections are not a statutory function, however, as residents have told us this is a much valued service, we have listened and identified that by introducing a small charge, it will be able to continue. One benefit of a chargeable service is that this would not be paid for directly from the Council Tax but only by those actually wanting it. An Officer Project Management Team has been set up to work on the issues surrounding its introduction. Timescales for delivery are tight and the obstacles to overcome are challenging. However the essential groundwork that needs addressing for a successful implementation is already underway. **More details: Anna Wardell, Waste Policy and Promotions Manager. Tel 01527 881715 or [a.wardell@bromsgrove.gov.uk](mailto:a.wardell@bromsgrove.gov.uk)**

## Political Balance

As a result of the election of Councillor Miss Diane Campbell at the recent Slideslow By-election, the political balance of the Council is now Conservative 27, Labour 6, Independent 4 and Wythall Residents' Association 2. In line with the rules governing political proportionality, we have reviewed the allocation of seats on committees. We can inform you that the small percentage changes arising from the increase in the size of the Conservative Group by one Member do not affect the proportional allocation of committee places to political groups. The current political composition of committees will therefore remain unchanged until they are reviewed at the Annual Meeting of the Council in May. **More details: Karen Firth, Committee Group Leader. Tel 01527 881625 or [k.firth@bromsgrove.gov.uk](mailto:k.firth@bromsgrove.gov.uk)**

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Local Investigation Reference: SBE 20059.08

CHRONOLOGY

<u>Date</u>	<u>Description</u>
11 <sup>th</sup> July 2007	All Councillors were provided with a letter relating to the proposed implementation of the Code of Conduct.
18 <sup>th</sup> July 2007	At a Council meeting held on the 18 <sup>th</sup> July 2007 the new Code of Conduct was adopted.
15 <sup>th</sup> August 2007	The 15 <sup>th</sup> August 2007 was the date by which all Councillors should have returned their completed and signed Register of Interests form to the Monitoring Officer.
21st December 2007	A further letter was sent to Councillors who had still not returned their Register of Interests form.
Jan/Feb. 2008	Councillor MacDonald reported the alleged failure of Councillor Whittaker to return his Register of Interests form to the Standards Board for England.
28th March 2008	The matter was referred to the Monitoring Officer for local investigation and determination.
3rd April 2008	The Monitoring Officer received Councillor Whittaker's completed Register of Interest form on the 3 <sup>rd</sup> April 2008.

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