



Report to Council

Date: 16 May 2007

Author: S M Sale - Head of Democratic and Community Services

Subject: Revised Model Code of Conduct

Purpose of Report

To advise Members of the revised Model Code of Conduct and to recommend that this be adopted by the Council.

Background

The Department for Communities and Local Government has published a revised Model Code of Conduct for Elected and Co-opted Members of local authorities. The relevant legislation came into force on 3 May 2007.

The Standards Board for England are encouraging local authorities to adopt the new Code as soon as possible.

Introduction

1. The Order introducing the new Model Code of Conduct revokes and replaces the previous provisions.
2. The new Code applies to all members whether elected, appointed or co-opted.
3. The main changes to the Code made by the Order are to:
 - Simplify and clarify the drafting of the Code, including making the language in which it is written gender neutral
 - Amend the rules in the Code relating to prejudicial interests, so that a member only has a prejudicial interest where his interest is greater than that of the majority of the people in the ward affected by the matter, rather than merely greater than the interests of other people in the Council's area

- Provide that the Code of Conduct will apply to Members' Code in their private capacity where such conduct has resulted in a criminal conviction; and
 - Allow members with a prejudicial interest to speak at a Council meeting provided this is solely to allow them to make representations, answer questions or give evidence but not to vote
4. In order to set the background and context to the new Model Code local authorities are encouraged to include the ten general principles governing the conduct of members of local authorities set out in the Relevant Authorities (General Principles) Order 2001 as a preamble to the Code; those are produced as **Appendix 1** to the report.

The purpose of including the ten general principles is to define the standards that members should uphold and serve as a reminder of the background and purpose of the Code of Conduct.

1. **Application of the Code of Conduct**

The revised Code applies whenever a member is acting in an official capacity as a member including where the member has been appointed to represent the authority on other bodies.

Conduct in a private capacity is only relevant to the Code of Conduct where a conviction has been imposed as a result of it. Otherwise the Code of Conduct does not apply in relation to conduct which is solely in a member's private life.

2. **General Obligations Under the Code of Conduct**

The Code contains the following general obligations:

- To treat others with respect
- Not to do anything which may cause the authority to breach any of the equality enactments
- Not to bully any person
- Not to 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 in relation to any allegation that a member has failed to comply with the Code of Conduct
- Not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority
- Not to disclose confidential information unless
 - (i) the person authorised to give it has consented
 - (ii) there is a legal obligation to disclose

- (iii) the disclosure is made to a third party in order to obtain professional advice provided the third party agrees to respect its confidentiality; or
 - (iv) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority
- Not prevent another person from gaining access to information to which that person is entitled by law
 - Not conduct themselves in a manner which could reasonably be regarded as bringing the office or authority into disrepute
 - Not use or attempt to use their position as a member improperly to confer on or secure any advantage or disadvantage for themselves or for any other person
 - Must, when using or authorising the use of by others of the resources of the authority, act in accordance with the authority's reasonable requirements and ensure that such resources are not used improperly for political purposes, including party political purposes
 - Must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
 - Must, when reaching decisions, have regard to any relevant advice from the authority's chief finance officer and monitoring officer where that officer is acting pursuant to his or her statutory duties
 - Must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3. **Declarations of Interests**

As previously the Code defines two types of interest namely personal interests and prejudicial interests.

- (a) A member has a personal interest in any business of the authority where it relates to or is likely to affect:
 - (i) an interest that is registered on the register of Members' Interests; or
 - (ii) an interest that is not on the register but where the well-being or financial position of the member, his or her family or people with whom they have a close association is likely to be affected more than it would affect the majority of the ward or electoral division.

As under the previous Code, where a member has a personal interest they should declare the existence and nature of the interest before the matter is discussed or as soon as it becomes apparent.

However, the new Code introduces an exemption from declaring such an interest where it arises solely from membership of or position of control or management on:

1. Any other body to which the member is appointed or nominated by the authority
2. any other public authority or body exercising functions of a public nature.

In either of the above cases, provided the member does not have a prejudicial interest, they only need to declare the interest if and when they speak on the matter.

(b) Register of Members Interests

As under the previous code, members must complete a register of their interests within 28 days of taking office. They should also notify the monitoring officer in writing of any changes to the register within 28 days of such changes.

Sensitive Employment or Interests

Sensitive information, where there is a serious risk of violence or intimidation against the member or any person who lives with them, need not be included on the Register where the monitoring officer deems it appropriate. The member will need to declare a personal interest at meetings but need not declare the nature of that interest.

(c) Prejudicial Interests

A personal interest will also be prejudicial interest where it does not fall within any of the exempt categories listed in the code and the decision affects the member's financial interests or relates to a licensing or regulatory matter and where a member of the public, who knows the relevant facts, would reasonably think the personal interest is so significant that it is likely to affect the member's judgement of the public interest. This is a much narrower definition than under the previous Code.

Where a member has a prejudicial interest they should declare the interest and the nature of that interest as soon as it becomes apparent.

A member with a prejudicial interest may attend a meeting to make representations, answer questions, or given evidence provided that the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise but must then leave the meeting as soon as those representations have been made and, in any event, before the vote is taken and should not seek to influence the decision. The purpose of this new provision is to recognise and support members roles as community advocates.

In any other case (ie whether the public do not have rights of audience) the member should leave the meeting immediately.

Recommendation

That the new Model Code of Conduct as set out in **Appendix 2** to this report be adopted by the Council with immediate effect with the ten general principles governing the conduct of members of local authorities as attached at **Appendix 1** being included as a preamble to the Code.

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.

Persona 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 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.

(Relevant Authorities (General Principles) Order 2001 (S1 2001/1401))

Members' Code of Conduct

PART 1

General Provisions

Introduction and Interpretation

1. (1) This Code applies to you as a Member of an Authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State in Sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:
 - “meeting” means any meeting of:
 - (a) the Authority;
 - (b) the executive of the Authority;
 - (c) any of the Authority’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
 - “Member” includes a co-opted member and an appointed member.
- (5) In relation to a Parish Council, reference to an Authority’s Monitoring Officer and an Authority’s Standards Committee shall be read, respectively, as reference to the Monitoring Officer and the Standards Committee of the District Council or unitary County Council which has functions in relation to the Parish Council for which it is responsible under Section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
 - (a) conduct the business of your Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your Authority;and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) where you act as a representative of your authority:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other Authority's Code of Conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your Authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General Obligations

- 3. (1) You must treat others with respect.
- (2) You must not:
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her Authority's Code of Conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
4. You must not:
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You:
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority -
 - (i) act in accordance with your Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) your Authority's Chief Finance Officer; or

(b) your Authority's Monitoring Officer,

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

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

PART 2

Interests

Personal Interests

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

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

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

(ii) any body -

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

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

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

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

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

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

(vi) any person or body who has a place of business or land in your Authority's area, and in whom you have a beneficial interest in a

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

- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your Authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the Authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of -
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your Authority's area.

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

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

- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of Personal Interests

9. (1) Subject to sub-paragraph (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial Interest Generally

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority were that business -
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of -
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial Interests Arising in Relation to Overview and Scrutiny Committees

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

- (a) that business relates to a decision made (whether implemented or not) or action taken by your Authority's executive or another of your Authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of Prejudicial Interests on Participation

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held -
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your Authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of Members' Interests

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

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

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

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

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

Sensitive Information

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

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

(3) In the 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.