



Epping Forest District Council

STANDARDS COMMITTEE **Wednesday, 25th April, 2007**

Place: Civic Offices, High Street, Epping
Room: Members Room
Time: 7.30 pm
Committee Secretary: G Lunnun, Research and Democratic Services
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Dr D Hawes (Chairman), Ms M Marshall, G Weltch, Councillors Mrs D Borton and Mrs P Smith

Parish/Town Council Deputy Representative(s):

Councillors J Salter, B Surtees (Deputy)

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 10)

To approve as a correct record the minutes of the meeting held on 27 February 2007 (attached).

3. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

4. REVISED CODE OF CONDUCT FOR MEMBERS (Pages 11 - 26)

Recommendation:

To consider the revised Code of Conduct with a view to recommending its adoption to the Council.

(Monitoring Officer) Copies of the revised Code of Conduct and an explanatory memorandum are attached.

Section 51 of the Local Government Act 2000 states that it is the duty of a relevant authority within the period of six months from the making of a new model code to pass a resolution adopting a new code in place of their existing code.

The new model code was made on 2 April 2007 and the Council should adopt its new code by not later than 1 October 2007.

The Council can adopt the model code as it stands or may include additional provisions which are consistent with the model code.

In order to meet the timescale, the full Council must adopt a new code at one of its meetings scheduled for 28 June 2007 and 24 July 2007. To report to one of those meetings this Committee will need to consider the new code and make recommendations at this meeting or decide to hold a special meeting in June or July.

After adopting a new code the Council must:

- (a) ensure that copies are available for inspection by the public at all reasonable hours;
- (b) publish a notice in one or more local newspapers stating that a new code has been adopted and advising where copies can be inspected;
- (c) send a copy to the Standards Board for England.

5. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION (Pages 27 - 28)

(Monitoring Officer) To consider the attached schedule.

6. INDEPENDENT MEMBER - VACANCY

Recommendation:

To note the decision of the Council in relation to the appointment of a new independent member of this Committee.

(Monitoring Officer) The Council appointed a selection panel of district councillors to secure the recruitment of an independent member as a successor to Dr D Hawes on the Standards Committee.

Publicity regarding the vacancy resulted in the issue of ten recruitment packs to interested parties. Out of those ten requests four applications were received. All four applicants met the selection criteria and they were invited for interview by the Panel. One applicant withdrew and the remaining three applicants attended for interview.

The selection panel included Councillors Mrs D Borton and Mrs P Smith. Dr Hawes attended the interviews and had an input into the assessment process but did not vote on an appointment. The Panel was also assisted by the Monitoring Officer and the Deputy Monitoring Officer although, like Dr Hawes, they took no part in the final decision and voting on an appointment.

A report of the Panel recommending the appointment of Mr M Wright with effect from the date of resignation of Dr D Hawes, namely 17 May 2007 will be considered at the Council meeting on 24 April 2007. The decision of the Council will be reported orally.

7. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2007/08 provides for meetings of the Committee on 17 July 2007, 16 October 2007, 26 February 2008 and 8 April 2008.

Additional meetings can be arranged as and when required by the Committee.

8. EXCLUSION OF PUBLIC AND PRESS

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2) of the Local Government Act 1972:

Agenda Item No	Subject
Nil	Nil

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee **Date:** 27 February 2007
Place: Civic Offices, High Street, Epping **Time:** 7.30 - 8.30 pm
Members Present: Dr D Hawes (Chairman), Ms M Marshall, G Weltch, Councillors Mrs D Borton, Mrs P Smith, J Salter and B Surtees.

Other Councillors:

Apologies:

Officers Present: G Lunnun (Allegations Determination Manager), C O'Boyle (Monitoring Officer) and I Willett (Deputy Monitoring Officer)

29. MINUTES

RESOLVED:

That the minutes of the meeting of the Committee held on 14 November 2006 be taken as read and signed by the Chairman as a correct record.

30. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

31. CODE OF CONDUCT - APPLICATION

The Monitoring Officer reported that following the High Court decision in the Livingstone case, a more restrictive view needed to be taken of when the Code of Conduct could apply to the actions of a member.

The interpretation of the words "in any other circumstances" included in paragraphs 4 and 5 (a) of the Code of Conduct had already been limited by the Adjudication Panel for England in earlier cases. However, a much stricter interpretation had now been imposed arising from the decision of Collins J in the Livingstone case.

Members noted that in light of the judgement, the Government had included proposals in the current Local Government and Public Involvement in the Health Bill to make clear that the Code of Conduct was not limited to actions taken only in an official capacity. However, until that legislation (if enacted) came into force, it was necessary to apply the law as declared by Mr Justice Collins.

The Committee considered advice which had been issued by the Standards Board's Legal Department.

RESOLVED:

That the advice from the Standards Board following the High Court decision in the Livingstone case be noted.

32. CODE OF CONDUCT - CONSULTATION ON REVISED MODEL

The Monitoring Officer drew attention to the copy of a letter from the Department for Communities and Local Government together with a copy of a consultation paper seeking views on a draft of a proposed new model Code of Conduct for Local Authority Members which had been sent to members of the Committee on 6 February 2007.

The Monitoring Officer also drew attention to a briefing note prepared by the Association of Council Secretaries and Solicitors on the draft revised Code which sought to identify the relaxations from the current Code and the additional obligations. Members also received a briefing paper from the Local Government Information Unit which highlighted and commented on issues.

The Committee considered the documents and focussed on the specific questions on which the Government had sought views.

RESOLVED:

(1) That the Monitoring Officer be authorised to submit the following views in response to the consultation paper:

(a) Paragraph 3 - Disclosure of confidential information**Question 1**

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

Response

Agreed but clear guidance is required; safeguards are needed to protect those affected by disclosures.

(b) Paragraph 4 - Behaviour outside official duties**Question 2**

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

Response

Supported on the basis of actual convictions only; not someone's judgement as to what might be regarded as criminal.

(c) Paragraph 8 - Publicity Code**Question 3**

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

Response

There is benefit in having a national Code; the current Code is out of date, it is based on the former Committee system and does not recognise the high profile of Portfolio Holders; reference needs to be made to modern forms of communication, e.g. websites; the period for restricting publicity between the time of publication of a notice of an election and polling day needs to be amended to prevent publicity issued prior to this period being published within that period.

(d) Paragraph 10 - Gifts and Hospitality**Question 4**

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

Response

Bringing the register into the public arena is supported; however, it will be very cumbersome for members to be required to update the Register of Members' interests each time they receive gifts and/or hospitality; further, it is considered unreasonable to expect a member to remember when the proposed five year period expires; the limit of £25 needs to be increased to reflect current day prices (£50 is considered appropriate); the Standards Board should be empowered to review the amount from time to time and to issue guidance to local authorities on increases in the amount.

(e) Paragraphs 12 and 13 - Interests of family, friends and those with a close personal association**Question 5**

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

Response

Supported but it will be very difficult to define a "close personal association"; without a clear definition there is unlikely to be any consistency in members' decisions to declare an interest; if this phrase is introduced, it makes the reference to "friends" superfluous.

(f) Paragraph 14 - Definition of personal interests**Response**

The proposal to restrict the requirement to register a personal interest only where the interest might be regarded as affecting the member to a greater extent than the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the matter is welcomed; however, this should be extended to Councillors in Parish and Town Councils which have wards.

(g) Paragraph 17 – Prejudicial interests – List of exemptions**Question 6**

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

Response

The three new items are supported.

(h) Paragraph 19 - Participation in relation to prejudicial interests**Question 7**

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

Response

Supported. The current Codes of Conduct of some statutory bodies e.g. Lee Valley Regional Park Authority are much more restrictive; these bodies should be required to follow the new model Code.

(i) Paragraph 23 - Gender neutrality of language**Question 8**

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

Response

It would be less clumsy and reduce the number of words if "you", "your" or "they" were used, as is the case in other similar codes; and

- (2) That the Monitoring Officer be authorised to review the Council's Protocols in the light of the new model Code of Conduct, when adopted.

33. PLANNING PROTOCOL - REVISION

The Deputy Monitoring Officer reported that, at the last meeting, it had been agreed that changes should be made to the Planning Protocol regarding planning applications made by officers and members and the role of Area Plans Sub-Committee Chairmen, if a planning matter was referred on to the District Development Control Committee.

Members were advised that there had been one significant development since the last meeting relating to a form for notifying member/officer status and of any relationship to any member of the Council. The Committee had been keen to ensure that a form should be sent to any applicant so as to prompt them to disclose these matters but the Government had now prescribed its own form which dealt with the point.

The Committee considered proposed amendments to the Planning Protocol.

RESOLVED:

That the revised Planning Protocol be recommended to the Council and to Parish/Town Councils for adoption.

34. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION

The Committee noted the current position and allegations made to the Standards Board for England regarding District and Parish/Town Councillors. The Allegations Determinations Manager reported on an allegation not included on the schedule in respect of which the Standards Board had decided there should be no investigation.

Members referred to recent statistics included in the Council Bulletin regarding allegations about the conduct of District and Parish/Town Councillors and the situation nationally.

RESOLVED:

That appropriate statistical information be included in the Committee's Annual Report to the Council.

35. DATES OF FUTURE MEETINGS

The Committee noted that the calendar for 2006/07 provided for a further meeting of the Committee on 25 April 2007.

Members also noted that the Council's draft calendar of meetings for 2007/08 provided for meetings of the Committee on 17 July 2007, 16 October 2007, 26 February 2008 and 22 April 2008.

CHAIRMAN

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STATUTORY INSTRUMENTS

2007 No. 1159

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Model Code of Conduct) Order 2007

Made - - - - - *2nd April 2007*

Laid before Parliament *4th April 2007*

Coming into force - - - *3rd May 2007*

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

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

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

Citation, commencement and application

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

(2) This Order applies—

- (a) in relation to police authorities in England and Wales; and
- (b) in relation to the following authorities in England—
 - (i) a county council;
 - (ii) a district council;
 - (iii) a London borough council;
 - (iv) a parish council;
 - (v) the Greater London Authority;
 - (vi) the Metropolitan Police Authority;
 - (vii) the London Fire and Emergency Planning Authority;
 - (viii) the Common Council of the City of London;
 - (ix) the Council of the Isles of Scilly;
 - (x) a fire and rescue authority;
 - (xi) a joint authority;
 - (xii) the Broads Authority; and

^(a) 2000 c.22.

^(b) See the Relevant Authorities (General Principles) Order 20001 (S.I. 2001/1401).

(xiii) a National Park authority,
and in this Order references to “authority” are construed accordingly.

Model Code of Conduct

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

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

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

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

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

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

- (a) in paragraph 1(4), in the definition of “meeting”—
 - (i) sub-paragraph (b);
 - (ii) in sub-paragraph (c), the words “or its executive’s” and “, or area committees”;
- (b) paragraphs 9(6), 9(7) and 12(1)(b);
- (c) in paragraph 11(a), the words “your authority’s executive or”
- (d) in paragraph 11(b), the word “executive,”; and
- (e) in paragraph 12(2), the words in brackets.

Disapplication of certain statutory provisions

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

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

Revocation and savings

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

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001(f);
- (b) the Parish Councils (Model Code of Conduct) Order 2001(g);

(a) 1972 c.70.

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

(c) 1989 c.42.

(d) 1995 c.25.

(e) 1999 c.29.

(f) S.I. 2001/3575.

(g) S.I. 2001/3576.

- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(a); and
- (d) the Police Authorities (Model Code of Conduct) Order 2001(b).

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

- (a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation relates to conduct which took place before the date when, pursuant to section 51 of that Act—
 - (i) the authority adopts a code of conduct incorporating the mandatory provisions of the Code in the Schedule to this Order in place of their existing code of conduct;
 - (ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the Code in the Schedule to this Order; or
 - (iii) the mandatory provisions of the Code in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;
- (b) the adjudication of a matter raised in such an allegation; and
- (c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

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

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

Phil Woolas
Minister of State

2nd April 2007

Department for Communities and Local Government

(a) S.I. 2001/3577.
(b) S.I. 2001/3578.
(c) Orders made under section 83 of the Local Government Act 1972 were disapplied, by the Orders mentioned in article 4(1)(a) and (b) of this Order, and are here being revived.

SCHEDULE

THE MODEL CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

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

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

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

(4) In this Code—

“meeting” means any meeting of—

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

“member” includes a co-opted member and an appointed member.

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

Scope

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

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

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

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

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

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

(a) See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).

- (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(a));
- (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—

(a) 2006 c.3.

- (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(a).

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;

(a) 1986 c.10.

- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

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

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

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

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

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

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

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

(a) See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I 2000/3272).

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

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

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

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

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

Effect of prejudicial interests on participation

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

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations,

answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

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

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

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

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

Sensitive information

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

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

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

EXPLANATORY NOTE

(This note is not part of the Order)

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

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

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

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

Article 4 revokes—

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

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

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

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

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

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

In the **Schedule to the Order**—

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

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

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

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- (a) S.I. 2001/3575.
(b) S.I. 2001/3576.
(c) S.I. 2001/3577.
(d) S.I. 2001/3578.

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

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

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

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

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

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

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

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

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

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

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

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EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007
2007 No. 1159

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Order revokes and replaces, with amendments, the following Orders-
 - the Local Authorities (Model Code of Conduct) (England) Order 2001;
 - the Parish Councils (Model Code of Conduct) Order 2001;
 - the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001; and
 - the Police Authorities (Model Code of Conduct) Order 2001.
 - 2.2 The Order prescribes the Model Code of Conduct (“the Code”) to apply to members (whether elected, appointed or co-opted members) of relevant authorities (ie county councils, district councils, London borough councils, parish councils, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, the Common Council of the City of London, the Council of the Isles of Scilly, fire and rescue authorities, policy authorities, joint authorities, the Broads Authority and National Parks authorities).
 - 2.3 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 people in the ward affected by the matter, rather than merely greater than the interest of other people in the council’s area (a modified version of this rule applies where the member does not represent a ward);
 - provide that the code of conduct will apply to members’ conduct 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 providing this is to solely to allow them to make representations, answer questions or give evidence, but not to vote.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Part 3 of the Local Government Act 2000 (“the 2000 Act”) concerns the conduct of members of relevant authorities in England and police authorities in England and Wales. Section 50 gives the Secretary of State power to issue a code of conduct for members and co-opted members of relevant authorities and to make the provisions of the code of conduct mandatory (which means they will apply to members or co-opted members of authorities even if the authority fails to adopt the code itself).

4.2 The provisions of the Model Code of Conduct which have been made are further explained in the ‘policy background’ section below.

5. Extent

5.1 This instrument applies in relation to relevant authorities in England and police authorities in Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Local Government White Paper, ‘Strong and Prosperous Communities’, issued in October 2006, set out the Government’s policy for localising and simplifying the conduct regime for local government members. In the White Paper the Government indicated its view that strong and accountable local leadership requires the highest standards of conduct so as to maintain the necessary public confidence and trust. As part of its programme to promote these goals, the Government announced its commitment to provide a clearer, simpler and more proportionate code of conduct for local government members, and to amend the rules on personal and prejudicial interest to remove barriers to councillors being able to speak up as advocates for, and leaders of, their local communities, and for the public bodies on which they serve.

7.2 The White Paper followed the Government’s discussion paper, ‘Conduct in English Local Government: The Future’, in December 2005, which set out the Government’s response to the recommendations made by the Standards Board for England for amendments to the model code of conduct. These

recommendations followed extensive consultation by the Board in 2005. The discussion paper indicated that we welcomed the recommendations the Board had presented, and that the Government agreed with the Board that amendments should be made to the code along the lines proposed, which would make the code clearer and more proportionate, but with a rigorous approach to the identification of serious misconduct.

7.3 On 22 January 2007 the Department therefore published a consultation paper setting out its proposals for the detailed amendments needed to put into effect our undertaking to amend the code of conduct so as to achieve the aims identified in the White Paper. Copies of the paper were sent to all local authorities, authorities' representative bodies and other stakeholders in England. It was also made available on the Department's web-site. The paper can currently be found on the Department's web-site at the following link:

<http://communities.gov.uk/index.asp?id=1137858>.

7.4 The consultation period closed on 9th March 2007. The Department received 906 representations in response to the consultation. A large majority of respondents supported the changes proposed.

7.5 Following the consultation, we have amended the Order in response to the detailed drafting comments made by a number of respondents. The main changes made are as below.

- To improve the accessibility and user-friendliness of the code by replacing references to 'the member' and 'him or her' with 'you' throughout.
- To delete references to 'public service interests' and extend the more relaxed provisions proposed for those with a public service interest to all members. This will mean that no member will have a prejudicial interest unless the matter affects his financial position or that of his family or those with a close association with him, or if the matter relates to the determining of any approval, consent or licence in relation to him, his family or those with a close association with him.
- To provide revised drafting to ensure that members with a prejudicial interest should have the same right to attend meetings so as to make representations, give evidence or answer questions as would apply to a member of the general public.
- To provide clearer drafting to ensure that the remit of the code in respect of conduct in a member's private capacity is restricted to behaviour for which a criminal conviction has been received.

Guidance

7.6 The intention is that the Standards Board will shortly publish guidance to assist members in relation to the new Code.

8. Impact

8.1 A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies; neither does it have significant financial impact on any public bodies.

9. Contact

Michael Davis at the Department for Communities and Local Government Tel: 020 7944 4277 or e-mail: michael.davis@communities.gsi.gov.uk can answer any queries regarding the instrument.

Agenda Item 5

(Monitoring Officer) To note the current position on allegations made to the Standards Board for England regarding District and Parish/Town Councillors.

Standards Board Reference	Current Position
SBE 17662.07 - SBE 17672.07	Standards Board decided that the allegations should not be referred to an Ethical Standards Officer for investigation - having taken account of the information available they did not believe that a potential breach of the Code is disclosed. They made no finding of fact.
SBE 17447.07	Standards Board decided that the information provided was insufficient to make a decision as to whether it should be referred for investigation. They made no finding of fact.

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