

**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 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.