



# STANDARDS COMMITTEE

## — Agenda —

**WEDNESDAY  
10 NOVEMBER 2004**

**7.00 PM**

**COMMITTEE ROOM 4  
HAMMERSMITH  
TOWN HALL  
LONDON W6 9JU**

### **Membership**

Mr. Christopher Troke (Chair)  
Mr. Steven Moussavi  
Ms. Rafela Fitzhugh  
Councillor Colin Aherne  
Councillor Chris Allen  
Councillor Nicholas Botterill

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jpc/02/11/04

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## —Agenda—

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<u>ITEM</u>		<u>PAGE</u>
<b>1.</b>	<b>ELECTION OF CHAIR</b>	
1.1	The Chairing of the Committee normally occurs by rotation among the independent members. This year should be the turn of Rafela Fitzhugh to Chair the Committee, but Rafela has indicated that, due to her new family commitments, she is unable to take up the position.	
1.2	Members of the Committee (both independent and Councillor) are therefore requested to elect a Chair pro.tem. from among the remaining independent members.	
<b>2.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>3.</b>	<b>MINUTES – 19 APRIL 2004</b>	4 – 7
3.1	Matters arising (if any).	
3.2	To confirm and sign the Minutes of the meeting held on 19 April 2004 as an accurate record.	
<b>4.</b>	<b>DECLARATION OF INTERESTS</b>	
4.1	If a Councillor has any prejudicial or personal interests in a particular report, they should declare an interest.	
4.2	A Councillor should not take part in the discussion or vote on a matter in which they have a prejudicial interest. They should withdraw from the meeting while the matter is under discussion unless the disability to discuss the matter has been removed by the Standards Committee.	
<b>5.</b>	<b>3<sup>rd</sup> ANNUAL ASSEMBLY OF STANDARDS COMMITTEES</b>	
5.1	To consider feedback from the 3 <sup>rd</sup> Standards Committees Conference held on 13 & 14 September at the ICC in Birmingham attended by Mr.Troke and Councillor Allen.	
5.2	To note a summary paper from the Standards Board for England outlining delegates' feedback from Conference workshops on proposals to conduct a review of the working of the Code of Conduct.	8 – 11

- 6. ADVICE & GUIDANCE FOR MEMBERS FROM THE STANDARDS BOARD FOR ENGLAND**
- 6.1 The Committee is asked to note further recent advice issued by the Standards Board for England concerning membership of Lobby Groups, Dual-hatted members & on declaring prejudicial interests. 12 – 33
- 6.2 The Committee is also asked to note **revised advice** issued by the Standards Board concerning registering & declaring membership of the Freemasons. 34 – 35
- 7. A MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES** 36 – 56
- 7.1 The ODPM Consultation paper on this topic is being consulted on via the Employers Organisation, the ALG, LGA, Trade Unions and other relevant bodies.
- 7.2 As local Standards Committees will not be involved in hearing misconduct allegations against employees breaching the Code (which will be an employer/ employee disciplinary matter), the Committee is merely asked to note the Employees' Code of Conduct as the long-awaited companion piece to the existing Members' Code of Conduct.
- 8. THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004** 57 – 72
- 8.1 The Committee is asked to note that ODPM has now published the Statutory Instrument which will permit the local investigation and determination of misconduct allegations by Monitoring Officers / local Standards Committees. The Regulations will come into force on 4<sup>th</sup> November 2004.
- 9. MISCONDUCT: COMPLAINTS & INVESTIGATIONS FOR MONITORING OFFICERS & STANDARDS COMMITTEE MEMBERS – TRAINING COURSE** 73
- 9.1 The Committee is asked to note the above training course to be held on 1 December 2004 at NUT, Mabledon Place, London, and to agree delegates to attend.
- 10. DETERMINATION & INVESTIGATIONS – PROCESS & PROCEDURES** 74 – 78
- 10.1 The Committee is asked to approve the attached Model Procedures, which will be used locally when cases are referred to the Monitoring Officer / Standards Committee for local investigation and / or determination.

11. **LBHF LOCAL PROTOCOL ON USE OF THE COUNCILLORS' SECRETARIAT – PROPOSED CESSATION OF THE “BULK MAIL-OUT” FACILITY** 79 – 81

The Committee is asked to agree the report from the Monitoring officer.

12. **APPLICATION FOR GRANT OF DISPENSATION: ADMINISTRATION MEMBERS OF THE PLANNING COMMITTEE** 82 – 89

The Committee is asked to agree the grant of dispensation to Administration members of the Planning Applications Committee in the circumstances described in the report.

Appendix A to report

**ANY OTHER BUSINESS**

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Under minute item 6, Councillor Allen asked whether the Standards Board's definition of "friend" had been circulated as yet to all members of the Planning Applications Committee. Members were advised that the definition, and other recent guidance notes from the Standards Board were set out on the agenda at item 6, and would be circulated to all members following the meeting.

PAD/JPC/ RL  
to note & action

**RESOLVED:**

That the Minutes of the meeting held on 12 January 2004 be confirmed and signed as an accurate record.

Item 4 **DECLARATIONS OF INTEREST**

No declarations of interest were made at this meeting of the Committee

Item 5 **"CRACK THE CODE" - 3rd ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

The Committee noted the agenda and programme for the 3<sup>rd</sup> Annual Assembly of Standards Committees to be held in Birmingham on 13 & 14 September 2004.

The Committee were advised that a maximum of two delegates per Authority were permitted to attend the Conference as places were limited.

**RESOLVED:**

That Mr.Troke and Councillor Allen attend as the Authority's delegates to the Conference.

PAD/ JPC/ RL  
to note & action

Item 6 **STANDARDS BOARD FOR ENGLAND – ADVICE & GUIDANCE FOR MEMBERS**

The Committee noted the recent advice and guidance issued to all members by the Standards Board for England.

Regarding the Standards Board advice on declaring / registering memberships of political-party councillor associations, Councillor Aherne queried whether individual councillors' membership of political groups (e.g. the Labour party), or membership of organisations such as the ALG or LGA (which were councillor organisations containing subgroups of the various political parties), was included. Councillor Allen also asked whether bodies such as the Urban Commission, a political campaigning body, was included. It was agreed that further clarification on these matter be sought from the Standards Board, for report back to members.

PAD/ JPC/ RL  
to note & action

**RESOLVED:**

That the Standards Board advice be circulated to all members for information, with a footnote stating that further advice was being sought from the Standards Board in relation to political-party councillor association declarations.

PAD/ JPC/ RL  
to note & action

Item 7

**ODPM CONSULTATION PAPER - LOCAL AUTHORITIES  
(CODE OF CONDUCT) (LOCAL DETERMINATION)  
(AMENDMENT) REGULATIONS 2004**

The Committee received the ODPM Consultation paper regarding the extension of the powers of Monitoring Officers to encompass carrying out local investigations into alleged breaches of the Code of Conduct. The ODPM proposal was for certain cases to be referred by the Standards Board for England to local Monitoring Officers for investigation, who would then report their findings to the local Standards Committee for adjudication and judgement.

Members welcomed the ODPM proposals, which had long been anticipated, and agreed that the following responses be made to the questions posed in the ODPM Consultation paper:

PAD/ JPC/ RL  
to note & action

Q1.

& Q2 The powers proposed for Monitoring Officers and Standards Committees were felt to be sufficient

Q3.- All cases investigated by the Monitoring Officer should be referred to the Standards Committee for decision, as proposed in the ODPM consultation paper.

Q4.- The Monitoring Officer should be able to refer cases back to the Standards Board if new evidence came to light.

Q5.- The balance of actions between the Monitoring officers and Standards Board appeared about right.

[Members also requested that the Committee's concerns regarding the lack of an appeal right from the President of the Adjudication Panel's decision not to allow a member's appeal to proceed further be brought to ODPM's attention at the same time.]

PAD /JPC/ RL  
to note & action.

**RESOLVED:**

1. That the ODPM Consultation Paper and outline Draft Regulations be noted.
2. That the Committee's response, as outlined above, be agreed for submission to ODPM.

Item 8 **DETERMINATIONS AND INVESTIGATIONS - PROCESS AND PROCEDURES**

The Committee received a further version of the model procedures to be followed locally during investigation / determination hearings which had been revised in the light of comments made by members at the January meeting of the Committee.

Councillor Allen asked for the following further amendments to be made:

- Para 6: delete ..."if they are present, where appropriate".
- Para 11: Insert new paragraph detailing separate procedure where there is no disagreement between the parties.
- Para 14: delete ..."(after the Committee has passed the appropriate resolution)".
- Para 17: delete ..."with a view to promoting higher standards of conduct generally among members".
- Para 23: delete ...."of the hearing". Substitute ..." of coming to a decision. (In normal circumstances, decisions will be made within 10 working days)".

Item 9 **ANY OTHER BUSINESS**

None.

Meeting began 7:10pm  
Meeting ended 8:15pm

CHAIR.....

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## **REVIEWING THE CODE OF CONDUCT**

### **The review**

The Code of Conduct was introduced in November 2001 and came into force across all authorities in May 2002. The Standards Board For England and the regulated community have therefore accumulated almost three years' experience in working with the Code of Conduct. The Standards Board For England therefore felt that the time was ripe to review the effectiveness of the Code of Conduct and see if there were ways in which it could be improved or clarified.

This approach was endorsed by the Minister Nick Raynsford in his speech to the Annual Assembly when he invited The Standards Board for England to carry out such a review and make recommendations to Government. He stressed, however, that the Government did not want to dilute the basic underlying principles of the Code of Conduct but rather see what we learnt from experience of living with it.

The Standards Board for England's intention is to issue a consultation paper by the end of the year seeking views on the Code of Conduct. This will be a three-month consultation and the paper will be sent to all relevant authorities as well as other key stakeholders. It is important to remember that the Code of Conduct is there both to ensure councillors are working to the same high standards across the country and to give the public reassurance that their representatives are working to the highest standards. We shall therefore also be seeking ways to engage with representatives of the public to understand their views about what standards they would expect from their representatives. We shall also be looking at what lessons we can learn from the equivalent Scottish and Welsh codes as well as similar codes governing other walks of life.

Once the consultation is over, The Standards Board for England will reflect on views received and will feed these results back to the local government community as part of its planned series of regional roadshows next year. We shall then make recommendations to Government as to what, if any, changes we believe are necessary. It is important to remember that any changes are ultimately for Ministers and Parliament to decide rather than The Standards Board for England.

### **What to review**

The Code of Conduct can broadly be divided into two different areas. The first part looks at personal behaviour; the second part deals with declaration and registration of interests. The review will seek to address all aspects of the Code of Conduct.

However, at the Annual Assembly of Standards Committees The Standards Board for England concentrated on looking at the first part of the Code of Conduct and sought views on the underlying principles around personal behaviour. All delegates were invited to debate these key issues in a series of workshops chaired either by a Board member or member of the Board's Management Team.

The discussions concentrated on six areas in particular. The discussions were focussed both on the principle of regulating various aspects of behaviour and also the practicalities of seeking to regulate personal behaviour. The discussions were as follows:

### **Disrespect**

The Code of Conduct requires members to treat others with respect when on council business. As with most of the provisions in the first part of the Code, it is a deliberately broad provision which sets a general standard. The Standards Board for

England sought views on whether there was sufficient clarity as to the standards expected of members. It also looked at whether the Code of Conduct allowed sufficient scope for robust political debate or whether there should be an attempt to draw a better distinction between attacking ideas and attacking individuals or groups.

The Board, in enforcing the Code of Conduct, has tended to draw a distinction between comments made about fellow politicians or political parties and comments made about council officers and members of the public. The Board's view has been that fellow councillors are able to rebut comments publicly and have a public platform which is not easily accessible to officers or the public. The Board has also taken a view that, provided comments do not breach discrimination legislation, they tend to allow people to express views about ideas or groups provided the comments do not spill over into personal abuse. There appeared to be a feeling amongst delegates that abusive language used in the council chamber was generally not acceptable and should be seen as a breach of the Code of Conduct. There was, however, a recognition that often these situations could be better handled locally by, for example, better chairing of meetings. It was also recognised that local authorities and political parties themselves could do more to encourage respect and ensure that meetings were conducted without descending into personal abuse.

The other area in relation to this provision which The Standards Board for England has been asked to address through cases is where the boundaries lie between the ability of people to enjoy freedom of speech and the need to protect minorities from discrimination. The conference felt that, whilst people should be entitled to express views which may be unpalatable, there should be a respect of people's human rights. It was important to focus on trying to make people treat each other with respect as a general principle rather than a narrow focus on seeking to see where the line could be drawn as a general rule.

### **Private conduct**

The Code of Conduct says that a councillor should not do anything to bring his or her authority into disrepute. This is a provision which applies both to the member when on council business but also to behaviour during a councillor's private life. This is again a deliberately broad provision and The standards Board for England was seeking views on how far it was appropriate to investigate private matters and whether the Code of Conduct should be concerned with private business. In enforcing the Code of Conduct, the Board has tended to look at whether the private behaviour has had an effect either on the member's ability to carry out their duties or the public's confidence in the member's ability to carry out their public duties.

Debate on this issue can be characterised as where on a scale people position themselves. At one extreme there is a view that councillors, as democratically elected representatives of the community, lose their entitlement to a truly private life and they have a duty to show themselves in a good light under all circumstances. At the other extreme there is a view that private matters are essentially between a councillor and their electorate and that the Code of Conduct should only be regulating behaviour by councillors when on council business.

The general consensus was that there were some activities in a councillor's life which should be regulated. There was a view that a criminal conviction was generally something which would bring an authority into disrepute although there was a view that a distinction should be drawn between so-called regulatory criminal offences (such as speeding) and criminal offences such as assault. However, others felt that any lawbreaking should not be tolerated in an elected representative.

Questions were also raised as to whether distinctions should be drawn around the position a member held within an authority or the type of body on which they served.

### **The duty to report matters to The Standards Board For England**

The Code of Conduct requires members who have a reasonable belief that a fellow member has breached the Code of Conduct to report the matter to The Standards Board for England. There has been a perception that this provision, in its absolute terms, has led to a number of allegations which have been essentially politically motivated.

There was a general consensus that there was a need to give people statutory protection when they were reporting breaches by their colleagues. However it would be helpful to ensure there was a distinction drawn so that matters were reported which were serious and, if proven, would be likely to lead to some sort of sanction.

There was some feeling that a filter could be introduced under this provision so that where a member had suspicions they should seek the views either of the monitoring officer or the chair of the standards committee who could take a view whether the matter should be referred. The counterarguments to this included the difficulties in avoiding conflicts of interest if the matters were subsequently referred back locally.

There was also a request that any provision should not prevent a member from seeking advice about potential misconduct from, for example, their group leader or a colleague.

### **Misuse of resources**

Under the Code of Conduct, it is a breach to misuse resources, particularly for political purposes. The Standards Board for England was seeking views on whether it was clear what were legitimate and illegitimate use of resources and also whether there was any sensible cut-off point which would allow some minor use of resources.

This was the area where there was greatest feeling that this was ultimately a local rather than a national matter. Some people thought any misuse of resources, given that it was public money and amounted to theft, should be frowned upon whilst others accepted that there may be allowances for using the odd piece of paper. There was a feeling that there may be some difference between physical resources such as using council paper or photocopying facilities and electronic resources. For example, where councillors were given e-mail addresses by the council it was often difficult to make hard and fast rules, particularly around constituency and party business. Similar concerns were expressed around rules over use of phone lines.

There was a general feeling that it would be helpful to have some guidelines around this area although it was predominantly a matter for local protocols.

### **Confidential information**

Under the Code of Conduct, members must not disclose information they receive in confidence. The Standards Board for England asked whether the Code of Conduct should make a distinction between information which it was believed should be disclosed in the public interest.

There was a strong view that it was important to respect confidentiality and any legal definition of public interest would be difficult to draw up. If confidentiality was breached it would inhibit discussion and could also lead to proper consideration of matters being made more difficult. Where matters were disclosed as a matter of

conscience, such factors could be looked upon, on a case-by-case basis, as possible mitigation.

However there was a need for better advice on what should properly be regarded as legally confidential and also a need to consider how any such provision related to duties under the *Freedom of Information Act 2000*.

### **Prejudicial interests: a councillor's right to make representations**

The Code of Conduct is clear. A member with a prejudicial interest in a matter must withdraw from the meeting and must not seek improperly to influence the decision. The recent case of *Richardson v North Yorkshire County Council* made it clear that a councillor with a prejudicial interest cannot put aside their councillor's hat and make representations to the committee in the same way that a member of the public can. The public perception of the influence a councillor can have over her or his fellow councillors is too strong to allow them to divest themselves of that role. The Standards Board for England asked whether this provision was fair or whether it gave councillors disadvantages when it came, for example, to presenting their own planning applications to a committee as a member of the public would be able to. There is also the issue of representing the views of constituents when a member has a prejudicial interest.

The delegates were generally supportive of such a provision and recognised that members had to give up certain rights if public confidence was to be maintained in public decision-making. They did not want to see the provision watered down to allow councillors to present matters to a meeting before withdrawing as they felt that the public would not think this was right.

### **Other issues**

The conference did not look at detailed declaration and registration provisions. However, views were expressed that there needed to be a proper debate about whether membership of another public body should be treated as an interest as it currently is under the Code of Conduct. It was also recognised that there are difficulties between the Code's provisions which seek to encourage participation where a member merely has a personal interest (or indeed no direct personal interest at all), and the common law on bias and predetermination. Consideration should be given as to whether different provisions should apply to planning and licensing matters and other council business.

### **What next?**

It should be borne in mind that most delegates at the conference were standards committee members or monitoring officers and therefore more directly engaged in the details of the Code of Conduct. The views should not therefore be taken as representative of local government as a whole. However, The Standards Board for England appreciated the comments received and the consultation paper will seek to canvass views on the difficult questions raised at the conference.

We look forward to receiving your more detailed views.

September 2004



# Lobby groups, dual-hatted members and the Code of Conduct Guidance for members

A large, stylized white 'S' graphic is centered on a teal background, spanning most of the lower half of the page.

Confidence in local democracy

## Introduction

In the guidance *How do I register and declare interests and register gifts and hospitality?* we outlined your general responsibilities to register and declare interests that might affect the performance of your duties as a member. But for members of lobby groups and members who sit on more than one relevant authority and other public bodies (dual-hatted members), deciding whether you have an interest, and whether that interest is personal or prejudicial, can sometimes be difficult. It can also be difficult to know when to rely on paragraph 10(2) of the Code of Conduct (paragraph 9(2) for parish councils) to allow you to participate in meetings.

This guide will help you decide how to act in these circumstances. It's in three parts:

- **Membership of lobby groups**

Practical advice and examples to help you understand when membership of a lobby or campaign group may give rise to personal and prejudicial interests, and other important principles and legal requirements to consider when you are making decisions.

- **Dual-hatted members and paragraph 10(2)**

Explains the interests that can arise from service on other authorities and public bodies, and provides practical advice and examples to help you decide when to rely on the paragraph to participate in meetings.

- **If you have a prejudicial interest**

Advice on what you can do if you have a prejudicial interest.

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## Membership of lobby groups

As a member of your authority, you are at the heart of local democracy, making a difference in people's daily lives. You represent people in your area and take forward concerns of individuals, neighbourhoods and interest groups, drive change, participate in community and action groups, and make decisions for the benefit of the community as a whole.

Sometimes, these roles and responsibilities conflict, and you need to strike a balance between representation, driving change and ensuring the authority can even-handedly decide matters on their merits — and be seen to be doing so.

Remember that the Model Code of Conduct is not the only thing you need to consider: it does not change the legal principles that apply to decision-making in your authority. You must also act in accordance with the General Principles which underpin the Code of Conduct. So, for example, you should not place yourself in situations where your honesty and integrity may be questioned, and you must reach your own conclusions on the issues before you. The law requires you to take decisions fairly, on the merits known to you at the time you make the decision. You should not reach a final conclusion before you come to take a decision on an issue.

This guidance only covers interests and issues that arise from your membership of a lobby or campaign group. As with any matter, you must also consider whether or not you have a personal or prejudicial interest in the issue due to personal circumstances. For example, it may affect your house or job, or those of your family and friends.

## Principles

When you are considering what interests arise from your membership of a lobby or campaign group, you should keep in mind the General Principles that underpin the Code of Conduct, set out in the *Relevant Authorities (General Principles) Order 2001*.

The first General Principle states that members should "serve only the public interest". It would be wholly unreasonable to expect you to be devoid of general views about a range of local issues. In fact, you may

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well have been elected because of your views on those issues. The Standards Board for England believes that it would not serve the public interest for people with strong views on local issues to be discouraged from involvement in local government.

However, you also need to consider other principles:

- the second General Principle states: "members should not place themselves in situations where their honesty or integrity may be questioned";
- the third General Principle states: "members should make decisions on merit";
- the sixth General Principle states: "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".

Your statements and activities should not create the impression that your views on a matter are fixed, and that you will not fairly consider the evidence or arguments presented to you when you are making a decision. Public confidence in the probity of decision making is paramount.

### **Personal interests arising from membership of lobby groups**

Membership of lobby and campaign groups should be included on your register of interests, as these are bodies "whose principle purposes include the influence of public opinion or policy". The Code of Conduct requires you to declare a personal interest in any matter that relates to an interest you must include in your register of interests. So you are required to declare a personal interest if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority.

You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your decisions. You can continue to participate unless the interest is also prejudicial.

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Even if your lobby group does not keep a formal membership list, the Code of Conduct still applies to you in the same way. If you are acting as a member — perhaps attending meetings or participating in group activities — you should still register your membership of the group and declare interests following the guidance in this booklet.

### **Prejudicial interests arising from membership of lobby groups**

Under the Code of Conduct, you only have to withdraw from an item in a meeting in which you have a personal interest, if that interest is also prejudicial — that is, if the issue is so significant that a member of the public with knowledge of the relevant facts would reasonably think that your judgment of the public interest is likely to be prejudiced. As always, each case depends on its merits. You should consider the points outlined below in each case, to help you decide whether or not your personal interest is also prejudicial.

If you have a prejudicial interest in a matter, you should declare the existence and nature of the interest and withdraw from the meeting before the matter is discussed. You should not attempt to influence improperly the discussion or decision.

#### **Direct impact on lobby and campaign groups**

If the matter to be discussed will have a direct impact on a lobby or campaign group you belong to, you are likely to have a prejudicial interest. This includes anything that directly affects the rights and obligations of a group to which you belong.

For instance, if, during your council work, you discuss whether to grant funding to your lobby group, or to approve a planning application submitted by the group, you would normally have a prejudicial interest. You should never take part in discussions of this nature.

#### **Indirect impact on lobby and campaign groups**

Matters that relate to the things a group campaigns on or has expressed public opinions about, without affecting the operation of the group directly, have an indirect impact on that group. If the matter to be discussed relates

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indirectly to a lobby or campaign group you belong to, you may have a personal or prejudicial interest in it.

To determine if you have a prejudicial interest in a matter of indirect impact, consider the following factors:

- the nature of the matter to be discussed;
- the nature of your involvement with the lobby or campaign group;
- the publicly expressed views of the lobby or campaign group;
- what you have said or done in relation to the particular issue.

You must weigh up all these factors in relation to the specific matter being discussed and consider whether a reasonable member of the public who knows the relevant facts would think it likely that your judgment of the public interest would be prejudiced. These factors are explained in more detail below.

### Factors to consider

The more focused your group is on a particular issue, the more involved and active you have been, and the more committed you appear to a particular outcome, the more likely it is that your interest will be prejudicial. The test is not whether your approach to a particular issue will be affected by an interest, but whether an informed member of the public would think there is a real possibility that you could be biased. In these circumstances, always seek advice from your monitoring officer or parish clerk.

The nature of the matter is one of the most important factors to consider, and one to which The Standards Board for England gives particular weight. In our view, a reasonable member of the public who knows the relevant facts will appreciate that those involved in local government are likely to have strong views on a range of issues, based on their experiences and political outlook. These views may have been reflected in the member's election manifesto; even members with no political affiliation may have sought election on the basis of their views on matters of local controversy. Therefore, members will tend to have an opinion on many matters that arise, and these opinions may be reflected in membership of particular campaign or lobby groups.

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The Standards Board for England believes that, in many cases, opinions of this kind may not amount to a prejudicial interest, even if you belong to a campaign or lobby group. Campaigning about a particular issue does not, in our view, indicate a possibility that you will not fairly consider the evidence and arguments presented. Simply approaching the issue from a particular point of view does not make an interest prejudicial. This is particularly relevant to budget issues and matters of broad policy, such as setting key priorities in fields like education, transport and social services. In our view, it is highly unlikely that campaigning on issues of this kind will amount to a prejudicial interest.

You may need to consider discussions on policy decisions and implementation more carefully. Here, specific decisions are being made about specific places, individuals and organisations. The Code of Conduct is not intended to prevent you from campaigning on issues like these, but it is possible that you could identify yourself so closely with a particular outcome that an informed member of the public would reasonably think your judgment was prejudiced.

Regulatory matters, such as planning and licensing, are particularly sensitive. For instance, if you are considering planning applications, you must follow a formal administrative process involving rules of procedure and rights of appeal, and you are expected to act reasonably and fairly when making your decisions. In both planning and licensing matters, the public is entitled to make applications and have them determined in accordance with the law. Often, individual rights under the *European Convention on Human Rights* are involved.

In our view, you should adopt a particularly cautious approach to planning and licensing matters. Membership of a group that campaigns for or against a particular planning or licensing application may well constitute a prejudicial interest. You should avoid committing yourself on any matter that may fall to be decided by you as a member of a planning or licensing committee.

Different considerations apply when an authority is consulted for its views on a matter in which it does not have the power to take a final decision.

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A reasonable and informed member of the public would accept that campaigners should be able to participate in consultation, even in consultation on planning and licensing matters. In these cases, you should declare a personal, but not prejudicial, interest, even if you have campaigned heavily on the issue.

### **Executive members**

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. It makes no difference if your interests arise through your involvement in a lobby or campaign group. So if your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions, providing you declare your interest. You can also exercise delegated powers in the matter.

If you have a prejudicial interest in a matter, you are barred from discussions and decision-making about that matter in cabinet. You also should not participate in any early consideration of, or exercise any delegated powers in, that matter. 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. However, you can still be called to give evidence on the matter to an overview and scrutiny committee.

### **Examples of indirect impact on lobby groups**

These are hypothetical examples to help illustrate our general views. In a real situation, you must be careful to consider all the relevant circumstances on their merits, and seek the advice of your monitoring officer or parish clerk if you are in any doubt. He or she can provide specific advice about your situation, help you decide if you have an interest, and whether that interest is personal or prejudicial.

If you were a senior member of a **national research and lobby group** which made strong representations to your council about the council's transport plan, you would have a personal interest in any discussions

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involving that transport plan. However, that interest would not be prejudicial.

If you were an annual member of **English Heritage**, you would have a personal interest when determining an application for listed building status if English Heritage had expressed support for the application. However, that interest would not be prejudicial unless other factors were involved. If English Heritage had not expressed a view on the application, you would not have a personal or prejudicial interest.

If you were a leading and active campaigner in the **Coalition of Developers Against a National Park**, you would have a personal interest when considering a government consultation paper on a proposal for a new national park in your authority's area. However, this interest would not be prejudicial.

If you were a leading campaigner in the **Expand Our Leisure Centre** campaign, you would have a personal interest when discussing your authority's capital plan if it involved some change to the leisure facilities in your authority's area. However, as this project is only one part of the plan, you would not have a prejudicial interest in the whole discussion and decision on the plan. Clearly, if you were part of the committee discussing whether to expand that individual leisure centre, you would have a prejudicial interest.

If you were the main public spokesperson for the **Save Our Primary School** action group, you would have a personal, and probably prejudicial, interest in any decision by the council about the future of the school. In this case, your very close association with the campaign group would be likely to be viewed as impairing your judgment of the public interest. If you were an ordinary member of the action group without any active role in the campaign, you would have a personal, but not prejudicial, interest.

If you were a vocal member of the **No More Incinerators** group, and sat on a planning committee to determine an application for a new incinerator, you would have a personal and prejudicial interest in the matter. Your participation might also be challenged on the grounds of predetermination — see the following section: 'Have I made up my mind about the issue?'.

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### **Have I made up my mind about the issue?**

This guidance reflects what should be current normal practice in local government when dealing with the impact of membership of lobby and campaign groups. The Model Code of Conduct has not introduced new restrictions.

As noted earlier, you should not reach a final conclusion on an issue before you come to take a decision on it. This doesn't mean you cannot form a view about the matter before the meeting, but if you have formed a provisional view, you must still be willing to consider all arguments presented at the meeting and be open to persuasion on the merits of the case. If you are not, your decision might be open to legal challenge because of the common law concept of predetermination. This is a legal concept that the courts have always applied to local authority decision-making. It predates the Code of Conduct and is not altered by it. In our view, the courts are the appropriate forum for determining if a decision is flawed because a member was not open to persuasion on the merits of the case.

For instance, if you made a particular issue a centrepiece of your election campaign, or were elected on the basis of a single-issue campaign, but are not a member of a related lobby group, you will not have a personal or prejudicial interest under the Code of Conduct. However, you still need to consider whether you are genuinely open to persuasion about the matter.

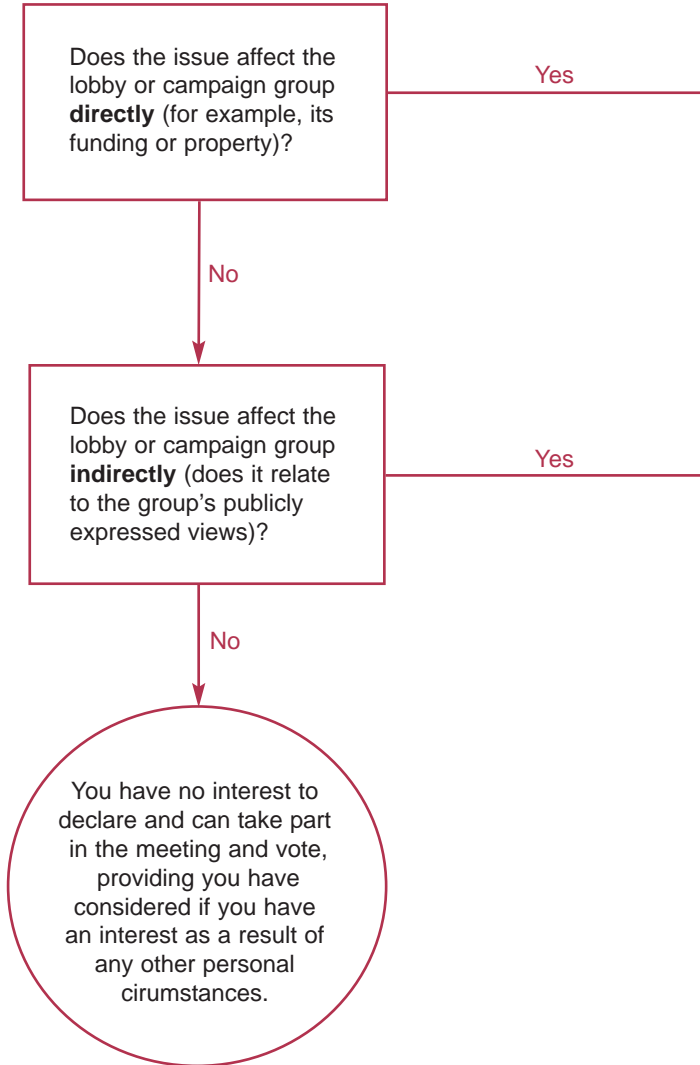
A member of the executive asked to draw up proposals for discussion at cabinet is entitled to form a preliminary view on the proposals. Such a preliminary view would not normally mean that you were closed to persuasion when the matter was discussed in detail at the cabinet.

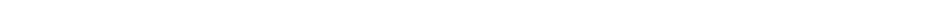
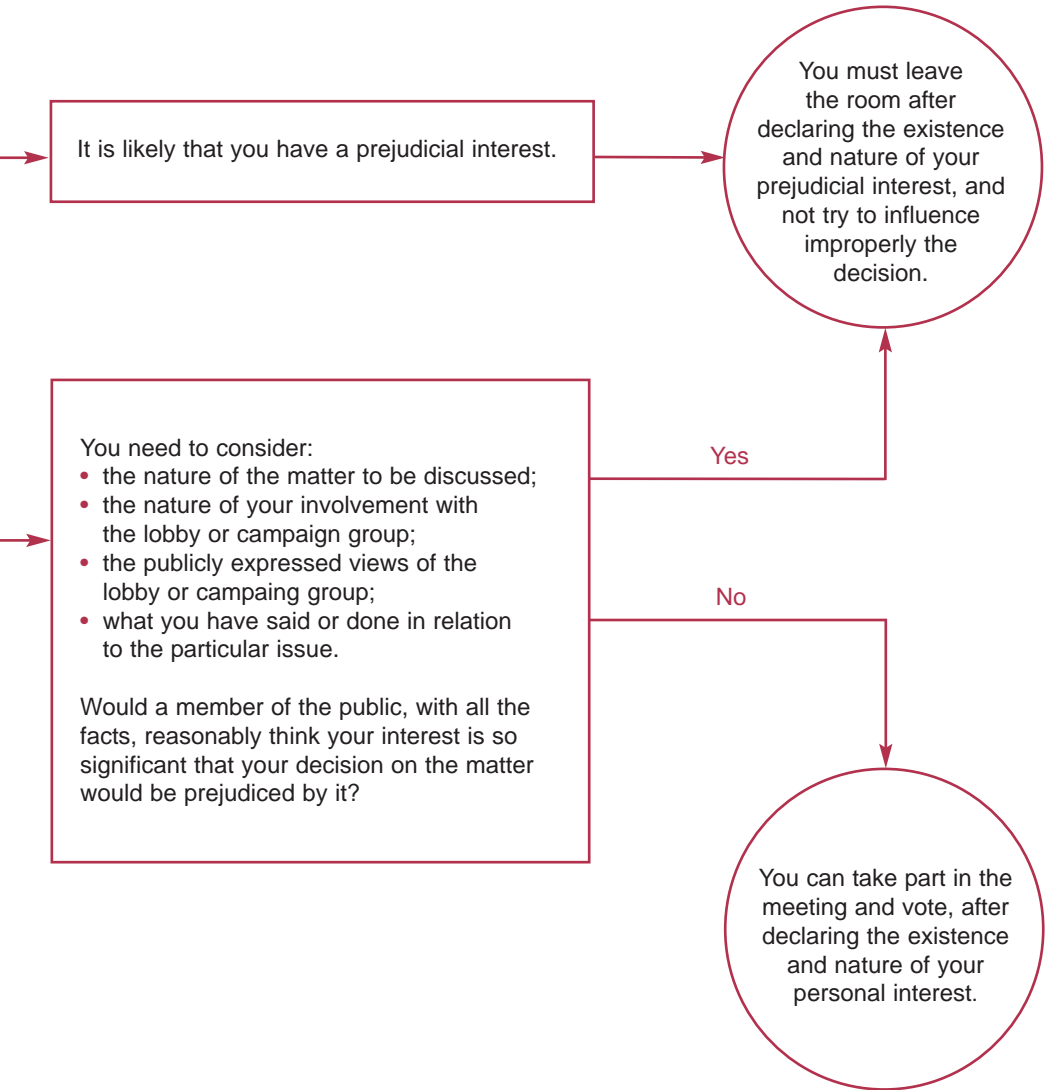
Publicly stating that you are open to persuasion may not be sufficient to prove you are not predetermined. You must genuinely be open to persuasion. Clearly a statement such as "This application will only get approval over my dead body," would be a strong indication that you are not open to persuasion on the merits of the case.

For further advice about the law on predetermination, contact your monitoring officer or parish clerk.

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## Declaring interests relating to lobby groups — questions to ask yourself







## Dual-hatted members and paragraph 10(2)

Paragraph 10(2) deals with situations where members have interests arising from service on other authorities and public bodies — such as a governor on a school board or a trustee of a village hall — where the rules in relation to prejudicial interests might interfere with the proper conduct of authority business.

In the Model Code of Conduct for parish councils, it's actually paragraph 9(2), but the provisions are similar. In this guidance, where we refer to paragraph 10(2), we also mean 9(2) for parish councils.

This guidance provides our view on what the paragraph aims to achieve, and how you should consider your interests in the circumstances it describes. Ethical standards officers also apply these principles when investigating allegations about these kinds of interests.

Given the difficulty of this area, you should always seek the advice of your monitoring officer or parish clerk when considering these kinds of interests. He or she can provide specific advice about your situation, help you decide if you have an interest, and whether that interest is personal or prejudicial.

### **The aims of paragraph 10**

Paragraph 10 aims to balance three principles:

- that members must withdraw from consideration of issues where their interests conflict with their public duties;
  - that the rules on interests should not obstruct members who are involved in other forms of public service, such as another tier of local government;
  - that the rules on interests are not intended to interfere with the proper conduct of council business.
-

Paragraph 10 of the Model Code of Conduct for local authorities states:

- 10.1 *Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if 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 the member's judgement of the public interest.*
- 10.2 *A member may regard himself as not having a prejudicial interest in a matter if that matter relates to:*
- a. another relevant authority of which he is a member;*
  - b. another public authority in which he holds a position of general control or management;*
  - c. a body to which he has been appointed or nominated by the authority as its representative;*
  - d. the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;*
  - e. the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;*
  - f. the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and*
  - g. the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.*
-

The provisions of sub-paragraphs 10(2)(d–g) differ slightly in all the Model Codes of Conduct, reflecting the varied powers and responsibilities of each authority, but they serve broadly the same function.

The provisions of sub-paragraphs 10(2)(d–g) apply to a specific set of situations that commonly arise during authority business, such as setting allowances for members of the authority. In these areas, it is clear that members will not have a prejudicial interest in related discussions and members should have no difficulty applying the provisions.

However, interpretation of sub-paragraphs 10(2)(a–c) can sometimes be difficult because they apply to a much broader set of situations, where members belong to outside bodies. Reliance on these sub-paragraphs requires greater care.

### **Understanding sub-paragraphs a–c**

This section of the Code of Conduct is intended to remind members that some interests arising from involvement in other forms of public service should not unduly restrict the activities of the members concerned.

If you have a personal interest in a matter as a result of your membership of one of these groups, you still need to consider whether that interest is prejudicial. You should apply the same test as for any interest: would a reasonable member of the public who knew all the relevant facts think that your interest was so strong that your judgment would be prejudiced?

Many interests that arise from service on other public bodies or as a representative of the authority will not be prejudicial. A reasonable member of the public will recognise that there is no objection, in principle, to an individual serving on a number of public bodies, and the fact that an issue may relate to membership of another such body will not necessarily indicate that the member's judgment of the public interest will be prejudiced.

However, in some cases a reasonable member of the public might consider that such an interest is prejudicial. These provisions do not exempt you from the rules governing prejudicial interests, so if your

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interest is prejudicial, you must withdraw from the room and not attempt improperly to influence the discussion.

## Dual-hatted members

### Considering a matter at more than one authority

The Code of Conduct does not automatically prevent you from considering the same issue at more than one tier of local government, including speaking and voting in both tiers. The reference in paragraph 10(2)(a) to members of "another relevant authority" reinforces this point.

So, for example, if an issue comes up for discussion at both the parish and district level, and you sit on both authorities, you should:

- at the parish level, make it clear that you will reconsider the matter at the district level, taking into account all relevant evidence and representations at the district tier;
- at the district level, declare a personal (but not prejudicial) interest arising from your membership of the parish council which has already expressed a view on the matter, and make it clear that the parish council's view does not bind you and that you are considering the matter afresh.

These guidelines apply even if a proposal has a direct impact on a particular location. For example, to continue the example of a parish and district councillor, there is no objection, in principle, to you speaking and voting on issues in the district council's development plan that particularly affect your parish. Of course, you must still consider if you have a prejudicial interest arising from the impact of the proposals on your well-being or financial position. In such circumstances, it would not be appropriate for you to rely on paragraph 10(2).

### Considering applications for decision, such as licensing and planning

In some situations, it is unrealistic to expect a member of the public to believe you would disregard the interests of another public body on which you serve. For example, you should not sit on decision-making bodies, such as planning and licensing committees, when they decide applications

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from an authority on which you also serve. Even though these situations fall within the scope of sub-paragraphs 10(2)(a) and (b), a reasonable member of the public would think that your judgment is likely to be prejudiced. In addition, a legal challenge could be made against the authority's decision-making process if you participate in these circumstances.

Another common situation is a contract between the two authorities, such as a parish council renewing its lease on a building owned by a district council. In this case, a member of both bodies could not participate in negotiations over the lease renewal. He or she would clearly have a conflict between seeking the highest possible rent for the district council and the lowest rent for the parish council.

## **Members of outside bodies**

### **Discussing matters that relate to the body generally**

As with all interests, a member of the public with all the relevant facts is less likely to think that your judgment would be prejudiced if the matter you are discussing relates indirectly, or in a general way, to the group you belong to, or will otherwise not have a significant impact on that group. For instance, if you are a school governor, you will not have a prejudicial interest in setting broad education objectives and spending priorities for the council: clearly, these discussions relate to all schools. However, you are likely to have a prejudicial interest in matters that relate specifically to the school of which you are a governor, such as a decision on whether to close your school.

## **Members of outside bodies**

### **With an advisory role at council**

If you are a member of an outside group and a related issue comes up for discussion at your authority, but you are participating in an advisory capacity, in our view, you are likely to have few problems. For example, it would be entirely appropriate for a county councillor who was also a school governor to take part in an all-party committee advising the

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council's executive on a private finance initiative scheme affecting the member's school. The school governor's knowledge and experience of local schools would be invaluable to the work of the advisory committee. The fact that the county councillor was not a member of the decision-making body (the executive) means that there would be no question of improper decision-making.

Similarly, where the decision-making power has been delegated to an individual portfolio-holder, a member of the executive who was also governor of the school affected could properly take part in executive discussions, provided he or she was not the decision-taker on the particular issue.

### Members of parish community groups

It is common for parish councillors to be involved with other community bodies, such as a village hall management committee or its trustees. Sometimes, the parish council may nominate you to represent the council on one of these bodies. Overlapping responsibilities of this kind are a normal part of life in small communities, and these circumstances are covered by paragraph 9(2)(c) of the Code of Conduct for parish councils. In many circumstances, it will be appropriate for you to participate in council discussions and decisions relating to the relevant body. However, if there could be a genuine conflict between the interests of the parish council and the outside body on important matters of principle or the allocation of significant public funds, a member of the public would think that your close involvement in the body is likely to prejudice your judgment of the public interest.

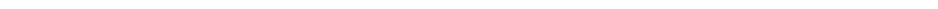
### Understanding parts d–g

The second part of paragraph 10(2) relates to interests that are likely to arise frequently in the course of authority business. In the Model Codes of Conduct for local authorities, fire and joint authorities, and national park and the Broads authorities, there are four sub-paragraphs (d–g); in the Model Codes of Conduct for parish councils and police authorities, there are only two — (d) and (e).

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You do not need to declare a prejudicial interest in situations covered by these parts of the Code of Conduct, but you should still declare a personal interest. The rules on prejudicial interests are not intended to interfere with the proper conduct of council business, and these sub-paragraphs help to ensure that they don't.

For instance, one of the sub-paragraphs enables members to set the level of certain allowances that it defines. Similarly, if you are a local authority tenant, you are allowed to discuss matters relating to the housing functions of your authority, provided that you do not have rent arrears of more than two months and the matters under discussion do not relate to your tenancy. In each case, you should still declare a personal interest, but you can remain and participate in the meeting.



## If you have a prejudicial interest

If you have a prejudicial interest in a matter to be discussed, you must leave the room and not seek to influence improperly the decision. Faced with this situation, there are a number of things you can do instead, and some additional things that you cannot do.

### What you can do

As a councillor or member of another authority, your status means that you give up certain rights that other members of the public may exercise, such as the right to speak about your own planning applications. However, you can still present your views to the meeting through some other means that do not involve improperly influencing the decision:

- you can make written representations, providing you disclose the existence and nature of your interest and do not seek preferential consideration for your representations. Such written representations in a private capacity can be made to officers involved, but not to individual members;
- in the case of planning applications, you can use a professional representative to make an application on your behalf, avoiding any appearance of impropriety;
- if constituents from your area have views about a matter in which you have a prejudicial interest, you could arrange for another member of the authority to present those views. You should formally advise your constituents about your interest and inform them that the other member will represent their views on the issue. When representing the views of your constituents, the other member should make it clear to the committee or officers that he or she is acting in your place because you have a prejudicial interest in the matter.

### What you cannot do

- You cannot be present in the public gallery or speak as a member of the public, even during separate public discussion sessions.
  - You should not make written representations to members of the relevant committee (you should submit them only to the relevant officers).
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- To prevent any appearance of improper influence, you should avoid discussing the matter with any member of the authority, even to ask a ward councillor to present your views in your absence (but you are permitted to approach other members to represent the views of your constituents).
  - You should certainly not attempt to lobby committee members about the matter, before or after a meeting, attempt to use your status as a member to influence consideration of a submission, or try to get officers to change a decision or recommendation.
-

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4 October 2004

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Dear Sir/Madam

**Code of Conduct: Registering of Interests and Freemasonry – revised advice**

We wrote to you earlier this year regarding the issue of Freemasons under the code of conduct and whether or not they should register membership of their Masonic lodge on the public register of interests. We advised that although it was not necessary for Freemasons to register membership of their lodge (unless it was a lodge directed to charitable purposes or had a charitable status), it was necessary for Freemasons to register their membership of the Grand Charity.

Following discussions, we have been asked to issue further clarification on the issue. The position remains that most Freemasons will, by virtue of membership of the Grand Charity, be required to register an interest. However it is permissible for an individual Freemason to opt out of membership of the Grand Charity.

We have amended our website FAQ (number 38) to reflect this clarification, but I should be grateful if you could pass on this advice to members accordingly.

Please note below the amended FAQ.

**Registering and declaring membership of the Freemasons.**

*Freemasons who are members of The Grand Charity must register membership of The Grand Charity under paragraph 15 (c) of the Code of Conduct in the Register of Members' Interests and declare when appropriate their membership of the Grand Charity as a personal or prejudicial interest before or during council meetings.*

If an individual Lodge is one which has charitable status or could be described as a body directed towards charitable purposes then membership would need to be registered.

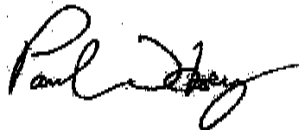
Confidence in local democracy

*Membership of charities or bodies directed to charitable purposes must be registered in the register of interests in accordance with paragraph 15(c) of the Code of Conduct.*

*It is important to remember that declarations of interest operate independently of the requirement to register certain interests. As with all types of interests, if a matter under discussion would affect a member more than other people in the council's area because the member is a Freemason, then the member will need to declare the existence and nature of that interest, such as membership of the Order or an individual Lodge, before the matter is discussed. The member will need to consider whether the interest is also prejudicial.*

As you may be aware, the Board has been asked by the Government to look at possible revisions to the Code of Conduct. In consulting on possible revisions we shall be seeking views as to whether registration provisions could be made clearer.

Yours faithfully



**Paul Hoey**  
**Head of Policy and Guidance**

**10 NOVEMBER 2004**

**CONTRIBUTORS**

**PAD (DPA)**

**MODEL CODE OF CONDUCT FOR LOCAL  
GOVERNMENT EMPLOYEES**

**ALL WARDS**

The ODPM has recently issued to the ALG, Trade Unions, and other relevant bodies for consultation the long-awaited counterpart to the Members' Code of Conduct - the Model Code of Conduct for Local Government Employees (**attached**).

It is the Government's intention that both the Members' Code and Employees' Code of Conduct should establish a common core of values to underpin the standards of conduct to be expected in local government.

The draft Model Code for Local Government Employees defines the minimum standards of conduct employees will be expected to observe when carrying out their duties, and mirrors in large part the principles set out in the Members' Code of Conduct.

Consultation on the Employees' Code of Conduct is being carried out via the Employers Organisations, ALG, LGA, Trade Unions and other relevant employer / employee bodies. The consultation ends on 19 November.

Following the consultation, the Secretary of State is empowered under section 82(7) of the Local Government Act 2000 to make an Order which will have the effect of deeming the Code incorporated into prescribed employees' terms and conditions of employment. Breaches of the Employees' Code of Conduct, however, will not be dealt with by local Standards Committees or the Standards Board for England, but by the relevant employing authority in the same way as other breaches of employees' contracts or terms and conditions are dealt with (i.e. as a disciplinary matter).

For this reason, the Employees' Code of Conduct is reported to the Standards Committee for information only, and the Committee is asked merely to note its publication rather than seek to formulate views on its provisions, as this will be done via other mechanisms.

**RECOMMENDATION:**

That the draft Model Code of Conduct for Local Government Employees be noted.

jpc/02/11/04



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

# *A Model Code of Conduct for Local Government Employees*

*A Consultation Paper*

August 2004

Office of the Deputy Prime Minister: London

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## 1. Introduction

1.1 The Local Government Act 2000 provided a new statutory framework to govern the conduct of members and employees of relevant authorities in England and police authorities in Wales. Under the provisions of the Act<sup>1</sup> the Secretary of State may, by order, issue a code regarding the conduct which is expected of qualifying employees of relevant authorities in England and police authorities in Wales. Once issued, this code will become part of such an employee's terms and conditions of employment.

1.2 This consultation seeks views on the Government's proposals for a model employees' code of conduct. Copies are being sent to the bodies listed at Annex B. The paper will be of particular interest to local government employees, their employers and the public sector unions. All authorities to which this consultation document is being copied are invited to draw it to the attention of their employees.

1.3 Comments on this consultation paper, by email or on paper, should be sent to:

William Tandoh  
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Office of the Deputy Prime Minister,  
Zone 5/A1  
Eland House  
Bressenden Place  
London SW1E 5DU

e-mail: [william.tandoh@odpm.gsi.gov.uk](mailto:william.tandoh@odpm.gsi.gov.uk)

The closing date for comments is **19 November 2004**. When commenting please make clear whether you represent any organisation or group, and in what capacity you are responding.

1.4 Further copies of the consultation paper are available from the above address or by telephoning 0207 944 8765. It is also available in the Local Government section of The Office's website at [www.odpm.gov.uk](http://www.odpm.gov.uk)

In due course, the Office may wish to publish contributions, or deposit them in the Office's library. Unless, therefore, a respondent specifically asks that a contribution be treated as confidential, it may be published, or otherwise made public. Confidential contributions will be included in any statistical summary of the numbers of comments received and views expressed. Correspondents should be aware that, in exceptional circumstances, confidentiality cannot always be guaranteed, for example where a response includes evidence of a serious crime. Any automatic confidentiality disclaimer generated by your organisation's IT system will not be respected unless you specifically include a request to the contrary in the main text of your response.

<sup>1</sup> Section 82

A summary of responses will be published on the ODPM web site by the end of February 2005. Paper copies of the summary will also be made available. The contact details will be as set out in paragraph 13.

This consultation document has been produced in accordance with the Government's Code of Practice on Consultation. The principal criteria governing this Code are reproduced at Annex C.

## 2. Background

2.1 The Local Government Act 2000 provides<sup>2</sup> for the Secretary of State to specify, by order, a code of conduct for relevant local government employees (“the *employees’ code of conduct*”).

2.2 Before making an order the Secretary of State is required<sup>3</sup> to consult representatives and employees of relevant authorities, the Audit Commission and the Commission for Local Administration in England.

2.3 The Government has already made orders setting out general principles of conduct, and model codes, for elected and co-opted members of relevant local authorities. These, together with the proposed code of conduct for employees in Section 6, seek to establish a common core of fundamental values that should underpin standards of conduct in local government

2.4 In August 2000, the Secretary of State invited the Local Government Association, Local Government Employers Organisation and the public sector unions to establish a working party to advise the Government on the scope and content of an employees’ code of conduct. The working party submitted its recommendations at the end of November of that year. The Government would like to thank the working party for its detailed consideration of the issues and further help in the development of the proposed code. The draft Code in Section 6 draws heavily on the work and recommendations of the working party

2.5 The draft code defines the minimum standards of conduct that employees of relevant authorities will be expected to observe when carrying out their duties. By virtue of section 82(7) of the Act, once the Order containing the code has been made, these standards will be deemed to have been incorporated in employees’ terms and conditions of employment. The employing authority, therefore, can deal with any breaches of the code in the same way as any other breaches of employees’ contracts or terms and conditions.

<sup>2</sup> Section 82

<sup>3</sup> by Section 82(4)

### 3. Scope and Coverage

#### Categories of employees covered

3.1 Local authorities employ around 1.5 million people in a wide variety of jobs. The employees' code of conduct will<sup>4</sup> apply to them all, unless they are specifically excluded by regulations.

3.2 Reflecting the conclusions of the working party referred to at paragraph 2.4, the Government proposes to exclude firefighters and teachers from being subject to the local government employees' code. This is because they already have their own codes of conduct. Consultees might wish to consider whether there is also a case for excluding school support staff, who, like teachers are guided in their conduct by the school's policies and held accountable, through the head teacher, to the governing body.

3.3 In addition, under the Police Reform Act 2002 the Home Office is committed to producing a code of practice, which will cover standards of conduct, for community support officers.

3.4 The Government does not at present propose to make any further exclusions. Therefore, subject to the outcome of this consultation, the employees' code of conduct will apply to all other employees of relevant authorities.

**Q.1 Is the Government right to exclude firefighters, teachers and community support officers?**

**Q.2 Are there other categories of employee who should not be subject to the employees' code, for example, school support staff? If so, which categories, and why should they be excluded?**

#### Council Managers

3.5 Part II of the Local Government Act 2000 provided that principal local authorities (ie. county, district and London borough councils) must adopt executive arrangements. The broad models allowed included mayor/council manager, mayor/cabinet or leader/cabinet. In the first of these structures, the council manager would be an employee of the whole authority, but could be responsible for taking decisions relating to the delivery and implementation of the policy framework agreed by the council

3.6 It has been argued that the functions exercised by a council manager make his or her role similar to that of an executive member of an authority; and that a council manager should therefore be subject to a code of conduct that mirrors those to which elected members are subject.

<sup>4</sup> by Section 82

3.7 However, many other employees take decisions that are delegated to them by the council; and the Government therefore believes that a council manager should not be regarded as being in a fundamentally different position. Like other employees of the council, they should be subject to the employees' code. It, however, defines the *minimum* standards, so the employing authority could if appropriate impose additional, more stringent, conditions as part of a council manager's terms and conditions of employment.

**Q.3 Do you agree that council managers should be subject to the same code as other employees?**

## Political Assistants

3.8 The Local Government and Housing Act 1989 makes provision for up to three persons to be employed as 'political assistants' to work with the three main parties of an authority. Each of the three largest political groups (subject to the third largest having at least 10% of the members of the authority) is entitled to appoint one political assistant. The assistants usually undertake research and provide administrative support for the groups. An elected mayor may appoint a political assistant and the Mayor of London may appoint two political advisers. Mayors' assistants are additional to the complement of assistants for political groups.

3.9 While such assistants do not serve all members of the authority, they are employees of the authority. The Government therefore proposes that they should be subject to the employees' code. This would be on the understanding that, in the case of these staff, the principle of impartiality in the Code should not imply a duty of political neutrality.

**Q.4 Should different rules, or a separate Code, apply to political assistants?**

## 4. Detailed Proposals

4.1 Relevant authorities employ a very wide range of staff. It would not be possible, within a single code of conduct, to provide a set of detailed requirements for every local government employee. In many cases, employees will be subject to detailed terms and conditions of employment, which are tailored to their particular job. In all cases, staff will be expected to comply with written, or oral, instructions about the way in which they tackle their duties.

4.2 The employees' code of conduct seeks to establish a set of "core principles" which underpin the concept of public service and which are applicable to all employees of relevant authorities, regardless of the precise nature of the job they do. The Government proposes that the code should establish requirements in the following areas:

- Honesty, Integrity, Impartiality and Objectivity
- Accountability
- Respect for Others
- Stewardship
- Personal Interests
- Registration of Interests
- Reporting Procedures
- Openness
- Appointment of Staff
- Duty of Trust

### *Honesty, Integrity, Impartiality and Objectivity*

1. **An employee must perform his duties with honesty, integrity, impartiality and objectivity.**

Paragraph 1 provides a short overarching statement of the qualities expected of relevant authority employees, regardless of their position within the authority.

### *Accountability*

2. **An employee must be accountable to the authority for his actions.**

Paragraph 2 sets out the accountability of an employee to his employer.

### *Respect for Others*

3. **An employee must –**
- (a) **treat others with respect;**
  - (b) **not discriminate unlawfully against any person; and**
  - (c) **treat members and co-opted members of the authority professionally**

Paragraph 3 makes any failure to comply with these provisions a breach of the conditions of employment.

### *Stewardship*

4. **An employee must –**
- (a) **use any public funds entrusted to or handled by him in a responsible and lawful manner; and**
  - (b) **not make personal use of property or facilities of the authority unless properly authorised to do so.**

Paragraph 4 makes any failure to comply with these provisions a breach of the conditions of employment.

**Q.5 Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources?**

### *Personal Interests*

5. **An employee must not in his official or personal capacity**
- (a) **allow his personal interests to conflict with the authority's requirements; or**
  - (b) **use his position improperly to confer an advantage or disadvantage on any person.**

Paragraph 5 articulates further the requirement in paragraph 1. It deals with the need for employees to ensure that their personal interests do not conflict with their public duty. For example, it might be that an official's spouse is an employee of a firm tendering to provide a service to the authority. It would be inappropriate for that official to take part in the tender assessment process.

This paragraph reflects the fact that the activities of an authority's employee outside the working environment are under public scrutiny in a way that private sector employees are not; the Code therefore requires higher standards of conduct from them.

**Q.6 Is it appropriate for the code to impact on an employee's private life or should it only apply to an employee at work?**

### *Registration of Interests*

6. **An employee must comply with any requirements of the authority –**
- (a) **to register or declare interests; and**
  - (b) **to declare hospitality, benefits or gifts received as a consequence of his employment**

This provision deals with the registration of employees' interests that may have a bearing on the way in which the functions of the authority are discharged.

- Q.7 **As with the members' code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered?**
- Q.8 **If so, what should the list contain? Should it mirror part 3 of the councillors' code or be restricted to financial interests?**
- Q.9 **Should such a list be available to the public?**
- Q.10 **Alternatively, could the need for a list be restricted to officers above a certain salary, as applies, for example, to the current political restrictions regime?**
- Q.11 **Should this provision be explicitly limited to interests, gifts etc that may have a bearing on the way in which the functions of the authority are discharged by the employee?**

### *Reporting Procedures*

7. **An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.**

This provision aims to address the need to protect employees who "blow the whistle" from victimisation. The Government attaches considerable importance to the need to ensure that individuals who are concerned about the conduct of their authority or individuals within it should be encouraged to make those concerns known.

Unlike elected and co-opted members of authorities, employees of authorities who "blow the whistle" are afforded some statutory protection. The Public Interest Disclosure Act 1998 builds on employment legislation by affording a measure of protection to workers who are dismissed or subject to detrimental treatment as a result of having 'blown the whistle'



The Government does not believe that it is necessary, therefore, to go further and impose a duty on employees to report misconduct. However, to strengthen the protection afforded to employees who do report their concerns, the Government proposes that it should be a breach of an employee's terms and conditions of employment if they victimise another employee who has used the authority's reporting procedures to report the misconduct of others.

**Q.12 Does the proposal on the reporting of misconduct provide suitable protection for employees?**

**Q.13 Should the Code impose a duty on employees to report misconduct?**

### *Openness*

8. An employee must –

- (a) not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
- (b) not prevent another person from gaining access to information to which that person is entitled by law.

Paragraph 8(b) reinforces the provisions in section 100H of the Local Government Act 1972 which introduced a criminal offence for anyone who intentionally obstructs a person from gaining access to information to which they are entitled. This part of the code applies, among other things, to the information to which a person is entitled by virtue of any regulations made under section 22 of the Local Government Act 2000, for example, access to committee meetings which are open to the public, written records of decisions made and reasons for those decisions, background papers and other relevant documents

### *Appointment of Staff*

9. (1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

(2) In this paragraph –

- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- (b) “partner” in subparagraph (a) above means a member of a couple who live together.

This paragraph gives effect to the working party's views that this sometimes sensitive issue should be addressed within the code. Employees of authorities are, as a matter of course, frequently involved in decisions that bear on the appointment, promotion, discipline, and terms or conditions of employment of staff. The Government takes the view that it would be appropriate therefore to emphasise the need to ensure that such decisions are made impartially and objectively

Paragraph 9(1) therefore prohibits employees from being involved in the appointment of or any other decision relating to the discipline, promotion or pay and conditions of an employee or potential employee who is a relative or close friend. Paragraph 9(2) defines "relative" and "partner" for the purposes of paragraph 9(1)

The term 'friend' is not defined in the code. The Standards Board for England's guidance on this point, in the context of the members' code of conduct, is that: *"friendship' connotes a relationship going beyond regular contact with colleagues in the course of employment... Social contact is likely to be a strong indicator of friendship, but not necessarily the only one."*

**Q.14 Is 'friend' the appropriate term to use in the draft code? If so, should it be defined, and what should the definition be? (for example, a person with whom the employee spends recreational time outside the work environment, or actively shares a mutual interest?)**

**Q.15 Does the phrase 'relative or friend' as defined above adequately cover all the relationships with which this part of the code should be concerned?**

### *Duty of Trust*

- 10. An employee must, at all times, act in accordance with the trust that the public is entitled to place in him.**

Paragraph 10 emphasises the need for local government employees to carry out their duties in a way that secures public confidence in their actions.

## 5. Next Steps

5.1 Once the consultation process has ended the results will be collated and, if necessary, amendments made. An Order will be prepared setting out the Code. If there are fundamental changes proposed a full further consultation will take place.

5.2 The Government is keen to ensure that all employees are aware of the provisions of the code. We shall therefore discuss with the Local Government Association, Local Government Employers Organisation and the public sector unions the date on which the Order should be brought into force and the date on which it will become part of employees' terms and conditions of employment.

5.3 Arrangements must also be made for ensuring that all employees are properly informed about the content of the code before it comes into force

**Q.16 Do you have any comments on what arrangements might be appropriate for ensuring employees are informed about the code?**

## 6. Draft Model Code of Conduct for Local Authority Employees

### THE EMPLOYEES' CODE OF CONDUCT

#### *Honesty, Integrity, Impartiality and Objectivity*

1. An employee must perform his duties with honesty, integrity, impartiality and objectivity.

#### *Accountability*

2. An employee must be accountable to the authority for his actions.

#### *Respect for Others*

3. An employee must –
  - a) treat others with respect;
  - b) not discriminate unlawfully against any person; and
  - c) treat members and co-opted members of the authority professionally.

#### *Stewardship*

4. An employee must –
  - a) use any public funds entrusted to or handled by him in a responsible and lawful manner; and
  - b) not make personal use of property or facilities of the authority unless properly authorised to do so.

#### *Personal Interests*

5. An employee must not in his official or personal capacity –
  - a) allow his personal interests to conflict with the authority's requirements; or
  - b) use his position improperly to confer an advantage or disadvantage on any person.

#### *Registration of Interests*

6. An employee must comply with any requirements of the authority –
  - a) to register or declare interests; and
  - b) to declare hospitality, benefits or gifts received as a consequence of his employment.

*Reporting procedures*

7. An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

*Openness*

8. An employee must –
- a) not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
  - b) not prevent another person from gaining access to information to which that person is entitled by law.

*Appointment of staff*

9. (1) An employee must not be involved in the appointment of any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.
- (2) In this paragraph –
- a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
  - b) “partner” in sub-paragraph (a) above means a member of a couple who live together.

*Duty of trust*

10. An employee must at all times act in accordance with the trust that the public is entitled to place in him.

## ANNEX A

### Summary of questions posed

- Q.1 Is the Government right to exclude teachers, firefighters and community support officers? (paras 3.2, 3.3)
- Q.2 Are there other categories of employee who should not be subject to the employees' code, for example, school support staff? If so, which categories, and why should they be excluded? (para 3.2)
- Q.3 Do you agree that council managers should be subject to the same code as other employees? (paras 3.5-3.7)
- Q.4 Should different rules, or a separate Code, apply to political assistants? (paras 3.8-3.9)
- Q.5 Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources? (para 4 of Section 4)
- Q.6 Is it appropriate for the code to impact on an employee's private life or should it only apply to an employee at work? (para 5 of Section 4)
- Q.7 As with the members' code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered? (para 6 of Section 4)
- Q.8 If so, what should the list contain? Should it mirror part 3 of the councillors' code or be restricted to financial interests? (para 6 of Section 4)
- Q.9 Should such a list be available to the public? (para 6 of Section 4)
- Q.10 Alternatively, could the need for a list be restricted to officers above a certain salary, as applies, for example, to the current political restrictions regime? (para 6 of Section 4)
- Q.11 Should this provision be explicitly limited to interests, gifts etc, that may have a bearing on the way in which the functions of the authority are discharged by the employee? (para 6 of Section 4)
- Q.12 Does the proposal on the reporting of misconduct provide suitable protection for employees? (para 7 of Section 4)
- Q.13 Should the Code impose a duty on employees to report misconduct? (para 7 of Section 4)
- Q.14 Is 'friend' the appropriate term to use in the draft code? If so, should it be defined, and what should the definition be? (for example, a person with whom the employee spends recreational time outside the work environment, or actively shares a mutual interest?) (para 9 of Section 4)

Q.15 Does the phrase 'relative or friend' as defined above adequately cover all the relationships with which this part of the code should be concerned? (para 9 of Section 4)

Q.16 Do you have any comments on what arrangements might be appropriate for ensuring employees are informed about the code? (paras 5.2 and 5.3)

## ANNEX B

### List of Consultees

Copies of this consultation paper are being sent to:

- All principal local authorities in England
- Town and parish councils in England
- National Parks
- Fire and Rescue and Fire and Civil Defence Authorities in England
- Police authorities in England and Wales
- Local Government Associations and other organisations representing relevant authorities.

Copies are also being sent to:

- The Audit Commission
- The Commission for Local Administration in England
- The Standards Board for England
- Public Sector Unions
- Other bodies and academic institutions that may have an interest in the issues raised.



## ANNEX C

### Consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at  
[www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm](http://www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm)

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact David Plant, ODPM Consultation Co-ordinator, Room 3 19, 26 Whitehall, London, SW1A 2WH;

or by email to:  
[david.plant@odpm.gsi.gov.uk](mailto:david.plant@odpm.gsi.gov.uk)

10 NOVEMBER 2004

CONTRIBUTORS	THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004	ALL WARDS
PAD (DPA)		

Following a consultation paper earlier this year (as reported to the Committee in April), ODPM has now finalised and published the long-awaited s.66 regulations, the ***Local Authorities (Code of Conduct) (Local Determinations) (Amendment) Regulations 2004***, which empowers the local investigation and determination of misconduct allegations by Monitoring officers / Standards Committees. These Regulations come into force on 4<sup>th</sup> November 2004.

A separate report which sets out the detailed process and procedure to be followed locally when undertaking local investigations / determinations is set out on the agenda later for agreement (agenda item 10 refers).

**RECOMMENDATION:**

That the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 be noted.

jpc/02/11/04

## Statutory Instrument 2004 No.2617

### **The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004**

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STATUTORY INSTRUMENTS

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2004 No.2617

**LOCAL GOVERNMENT**

**The Local Authorities (Code of Conduct) (Local Determination)  
(Amendment) Regulations 2004**

<i>Made</i>	<i>7th October 2004</i>
<i>Laid before Parliament</i>	<i>14th October 2004</i>
<i>Coming into force</i>	<i>4th November 2004</i>

The First Secretary of State, in exercise of the powers conferred upon him by sections 53(6) and (12), 54(4), 55(8), 66, 73(1) to (6) and 105 of the Local Government Act 2000[1] hereby makes the following Regulations:

**Citation, commencement and application**

1. - (1) These Regulations may be cited as the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 and shall come into force on 4th November 2004.

(2) These Regulations apply to relevant authorities in England and to police authorities in Wales.

**Amendment of the Relevant Authorities (Standards Committee) Regulations 2001**

2. The Relevant Authorities (Standards Committee) Regulations 2001[2] shall be amended by the substitution, for paragraph (4) of regulation 7 (application of the Local Government Act 1972), of the following -

" (4) Where a meeting of a standards committee or a sub-committee of a standards committee is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Act the provisions of Schedule 12A of the 1972 Act shall apply with the addition of the following descriptions of exempt information after paragraph 15 of Part 1 of that Schedule -

" 16. Information relating to the personal circumstances of any person.

17. Information which is subject to any obligation of confidentiality.

18. Information which relates in any way to matters concerning national security.

19. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000."

**Amendment of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003**

3. The Local Authorities (Code of Conduct) (Local Determination)

Regulations 2003[3] shall be amended in accordance with the following provisions of these Regulations.

**Amendment of regulation 2**

4. In regulation 2 (interpretation), after paragraph (2), insert the following paragraph -

" (3) Any reference in these Regulations to a monitoring officer shall include any person nominated by a monitoring officer as his deputy for the purposes of section 5(7) of the Local Government and Housing Act 1989[4] and any person nominated under the provisions of section 82A(2) or (3) of the Act to perform any function.[5]."

**Amendment of regulation 4**

5. In regulation 4 (modification of section 63 of the Local Government Act 2000) for paragraph (2) substitute the following paragraph -

" (2) Section 63(1) of the Act shall be modified by the insertion, after paragraph (a), of the following paragraph -

" (aa) the disclosure is made for any one or more of the following purposes -

(i) enabling a monitoring officer, including any person nominated by a monitoring officer as his deputy for the purposes of section 5(7) of the Local Government and Housing Act 1989 and any person nominated under the provisions of section 82A(2) or (3), to perform any of his functions under this Part, or under Regulations made under this Part, in connection with -

(a) the investigation and consideration of an allegation of a breach of an authority's code of conduct, or

(b) any other steps he may be directed to take by an ethical standards officer in connection with an allegation of a breach of an authority's code of conduct;

(ii) enabling a standards committee or sub-committee of a standards committee established under this

Part to perform any of its functions under this Part, or under Regulations made under this Part, in connection with the investigation and consideration of an allegation of a breach of an authority's code of conduct; or

(iii) enabling a tribunal drawn from members of the Adjudication Panel to consider any appeal from a finding of a standards committee or sub-committee of a standards committee established under this Part in connection with an allegation of a breach of an authority's code of conduct."

#### **Amendment of regulation 5**

6. For regulation 5 (reports received by a monitoring officer) substitute the following regulation -

#### **" Matters referred to a monitoring officer by an ethical standards officer**

5. - (1) Where a matter is referred to a monitoring officer of an authority under section 64(2) or 71(2) of the Act he shall -

(a) send a copy of any report received from the ethical standards officer who has referred the matter to any member who is the subject of such a report; and

(b) arrange for the standards committee of that authority to meet to consider that report.

(2) Paragraphs (3) to (12) apply where a matter is referred to a monitoring officer of an authority under section 60(2) or (3) or 70(4) or (5) of the Act.

(3) The monitoring officer shall, unless otherwise directed by the ethical standards officer -

(a) inform

(i) any member who is the subject of the allegation of failure to comply with the code of conduct;

(ii) the person who made the

allegation; and

(iii) any parish council concerned

that the matter has been referred to him for investigation;

(b) subject to paragraph (6), conduct an investigation into the matter referred to him;

(c) give any member who is the subject of the investigation the opportunity to comment on the allegation made; and

(d) have regard during the conduct of his investigation to any guidance issued by the Standards Board pursuant to section 57(5) of the Act[6] or pursuant to any order made under section 57(3) of the Act [7].

(4) The monitoring officer may, in conducting any investigation -

(a) require any of the authorities concerned to provide such advice and assistance as he may reasonably need to assist him in the investigation;

(b) require any of the authorities concerned, other than a parish council, to meet the cost of any advice and assistance provided in accordance with sub-paragraph (a) so far as such cost is reasonable;

(c) if any of the authorities concerned is a parish council, require the responsible authority[8] to meet any costs incurred by that parish council in accordance with sub-paragraph (a) so far as such cost is reasonable; and

(d) require any of the authorities concerned to afford him reasonable access to such documents in the possession of that authority as appear to him to be necessary for the purpose of conducting his investigation.

(5) Where a monitoring officer conducts an investigation in accordance with paragraph (3) (b) he may, at any stage prior to the completion

of his investigation, by a request in writing to the ethical standards officer concerned ask that the matter be referred back to that ethical standards officer for him to undertake an investigation; and any such request must set out the reasons for making it.

(6) Where a matter is referred to an ethical standards officer under paragraph (5) the ethical standards officer must respond to the request within 21 days of its receipt and may -

(a) direct that the matter be referred to him for investigation, in which case the monitoring officer concerned shall cease his investigation; or

(b) direct that the monitoring officer concerned continue his investigation in accordance with these Regulations, in which case the monitoring officer concerned shall continue his investigation and may not make any further request under paragraph (5) in respect of that matter.

(7) Where a monitoring officer of an authority conducts an investigation he shall, following such investigation -

(a) make one of the following findings -

(i) that he considers that there has been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned ("a finding of failure"); or

(ii) that he considers that there has not been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned (a "finding of no failure");

(b) prepare a written report concerning his investigation and his findings;

(c) send a copy of that report to the member who was the subject of the investigation;

(d) where the report concerns a finding of



failure, refer that report to the standards committee of his authority for a hearing under the provisions of these Regulations;

(e) where the report concerns a finding of no failure, refer that report to the standards committee of his authority.

(8) A standards committee which receives a report under paragraph (7)(e) shall consider the report and make one of the following findings -

(a) that it accepts the monitoring officer's finding of no failure ("a finding of acceptance"), or

(b) that the matter should be considered at a hearing of the standards committee conducted under the provisions of these Regulations.

(9) As soon as reasonably practicable after making a finding of acceptance, the standards committee shall -

(a) give written notice of that finding to -

(i) the member who is the subject of the finding of no failure;

(ii) the ethical standards officer concerned;

(iii) the standards committee of the authority concerned, if not the standards committee that made the finding;

(iv) the standards committee of any other authority concerned, if not the standards committee that made the finding;

(v) any parish council concerned; and

(vi) any person who made an allegation that gave rise to the investigation; and

(b) subject to paragraph (10), arrange for a notice to be published in at least one newspaper circulating in the area of the authority concerned or, as the case may

be, in the area of each of the authorities concerned stating that the standards committee have found that there has not been a failure on the part of the member to whom the finding of no failure relates to comply with the code of conduct of the authority concerned or, as the case may be, with the code of conduct of any other authority concerned.

(10) The notice referred to in paragraph 9(b) shall not be published if the member concerned so requests.

(11) Where a monitoring officer has been directed by an ethical standards officer to deal with any matter referred to him otherwise than by conducting an investigation, the monitoring officer shall -

(a) deal with the matter in accordance with the direction, and

(b) within the period of three months beginning on the day on which he received the direction, submit to the ethical standards officer a written report giving details of what action he has taken or is proposing to take to comply with the direction.

(12) If the ethical standards officer is not satisfied with the action taken or proposed to be taken he may require the monitoring officer to arrange for a statement to be published in at least one newspaper circulating in the area of the authority concerned or, as the case may be, in the area of each of the authorities concerned giving details of the direction given by the ethical standards officer and the monitoring officer's reasons for not fully implementing it."

#### **Amendment of regulation 6**

7. In regulation 6 (hearings by standards committees) -

(a) for paragraph (1) substitute the following paragraph -

" (1) Where -

(a) a monitoring officer refers to a standards committee of an authority -

(i) a report received from an ethical standards officer under section 64(2) or 71(2) of the Act, or

(ii) a report prepared by the monitoring officer in accordance with regulation 5(7)(b) and which concerns a finding of failure; or

(b) a standards committee makes a finding of the description in regulation 5(8)(b),

the standards committee shall convene to conduct a hearing in relation to the allegation that the member failed to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned.";

(b) in paragraph (2), for sub-paragraphs (a) to (c), substitute the following sub-paragraphs -

" (a) the hearing is conducted having regard to any guidance issued by the Standards Board pursuant to section 57(5) of the Act or pursuant to any order made under section 57(3) of the Act;

(b) subject to sub-paragraph (c), the hearing is held within the period of three months beginning -

(i) in the case of a report referred by an ethical standards officer under section 64(2) or 71(2) of the Act, on the date on which the monitoring officer first received that report; or

(ii) in the case of a report prepared by the monitoring officer under regulation 5(7)(b), on the date on which that report is completed;

(c) the hearing shall not be held until at least fourteen days after the date on which -

(i) in the case of a report referred by the ethical standards officer under section 64(2) or 71(2) of the Act, the monitoring officer sent the report to the member who is the subject of the allegation; or

(ii) in the case of a report prepared by the monitoring officer under regulation 5(7)(b), he sent the report to the member who is the subject of the allegation

unless, in either case, the member concerned agrees to the hearing being held earlier;"; and

(c) after paragraph (8) insert the following paragraphs -

" (9) A standards committee may at any stage prior to the conclusion of the hearing adjourn the hearing and require the monitoring officer to seek further information or undertake further investigation on any point specified by the standards committee; but the standards committee shall not adjourn the hearing on more than one occasion under the provisions of this paragraph.

(10) A standards committee may at any stage prior to the conclusion of the hearing adjourn the hearing and make a written request to the ethical standards officer concerned that the matter be referred back to the ethical standards officer for him to undertake an investigation; and any such request must set out the committee's reasons for making it.

(11) Where a matter is referred to an ethical standards officer under paragraph (10) the ethical standards officer must respond to the request within 21 days of its receipt and may -

(a) direct that the matter be referred to him for investigation, in which case the standards committee shall cease its consideration of the matter; or

(b) direct that the standards committee shall continue to deal with the matter in accordance with these Regulations, in which case the standards committee shall do so and shall not make any further request under paragraph (10) in respect of that matter.

(12) Where an ethical standards officer gives a direction under paragraph (11)(b), the standards committee shall convene to continue

its consideration of the matter within three months of the receipt of the ethical standards officer's direction."

**Amendment of regulation 7**

**8. In regulation 7 (findings of standards committees) -**

(a) in paragraph (3), for sub-paragraphs (i) to (vi) substitute the following -

" (i) censure of that member;

(ii) restriction for a period up to a maximum of three months of that member's access to the premises of the authority and that member's use of the resources of the authority, provided that any such restrictions imposed upon the member -

(aa) are reasonable and proportionate to the nature of the breach; and

(bb) do not unduly restrict the member's ability to perform his functions as a member;

(iii) partial suspension<sup>[9]</sup> of that member for a period up to a maximum of three months;

(iv) suspension<sup>[10]</sup> of that member for a period up to a maximum of three months;

(v) a requirement that that member submit a written apology in a form specified by the standards committee;

(vi) a requirement that that member undertake training as specified by the standards committee;

(vii) a requirement that that member undertake conciliation as specified by the standards committee;

(viii) partial suspension of that member for a period up to a

maximum of three months or until such time as he submits a written apology in a form specified by the standards committee;

(ix) partial suspension of that member for a period up to a maximum of three months or until such time as he undertakes such training or conciliation as the standards committee may specify;

(x) suspension of that member for a period up to a maximum of three months or until such time as he submits a written apology in a form specified by the standards committee;

(xi) suspension of that member for a period up to a maximum of three months or until such time as he undertakes such training or conciliation as the standards committee may specify.", and

(b) for paragraph (5), substitute the following -

" (5) A standards committee may direct that a sanction imposed under any of sub-paragraphs (ii) to (xi) of paragraph (3) shall commence on such date, within a period of six months after the imposition of that sanction, as the committee may specify in their direction."

Signed by authority of the First Secretary of State

*Nick Raynsford*  
Minister of State, Office of the Deputy Prime Minister

7th October 2004

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#### EXPLANATORY NOTE

*(This note is not part of the Order)*

Under the provisions of Part III of the Local Government Act 2000 ethical standards officers may

carry out investigations into allegations that a member of a relevant authority in England has failed to comply with the authority's code of conduct. A Local Commissioner in Wales may carry out a similar investigation into an allegation that a member of a police authority in Wales has failed to comply with the authority's code of conduct. The ethical standards officer or the Local Commissioner, as the case may be, may choose to refer the report on the outcome of his investigation to the monitoring officer of any authority concerned. The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 ("the 2003 Regulations") made provision in respect of the way such matters referred to monitoring officers are dealt with by the authority's standards committee.

The ethical standards officer may also choose to refer an allegation to the monitoring officer of an authority concerned prior to his having carried out or concluded an investigation. These Regulations amend the 2003 Regulations to make provision in respect of the way such matters should be investigated by monitoring officers and also in respect of the way standards committees should then deal with reports prepared by the monitoring officer on the outcome of any such investigation.

Regulation 1 provides for the commencement of the Regulations and for their application to relevant authorities in England and police authorities in Wales.

Regulation 2 amends the Relevant Authorities (Standards Committees) Regulations 2001 ("the 2001 Regulations"). The 2001 Regulations make provision in respect of standards committees of relevant authorities in England and police authorities in Wales. They apply, with certain modifications, the provisions of Part VA of the Local Government Act 1972 (which relates to access to meetings and documents of certain authorities, committees and sub-committees) to meetings of standards committees. The 2001 Regulations are amended so as to apply the provisions of Part VA where a standards committee is considering a report from either a monitoring officer or an ethical standards officer.

Regulation 4 amends regulation 2 of the 2003 Regulations (interpretation) so as to clarify the meaning of the term "monitoring officer".

Regulation 5 amends regulation 4 of the 2003 Regulations (modification of section 63 of the Local Government Act 2000). It further modifies the application of section 63 of the Local Government Act

2000 in relation to monitoring officers, standards committees and appeals tribunals in the performance of their functions under Part III of that Act. Section 63, as so modified, provides that disclosure of any information obtained by an ethical standards officer will not be prohibited if it is made for the purpose of enabling any of those functions to be carried out.

Regulation 6 amends regulation 5 of the 2003 Regulations (reports received by a monitoring officer). It specifies how matters referred by ethical standards officers to monitoring officers for investigation shall be dealt with.

Regulation 7 amends regulation 6 of the 2003 Regulations (hearings by standards committees). It specifies how standards committees will deal with reports referred to them by monitoring officers.

Regulation 8 amends regulation 7 (findings of standards committees) so as to make further provision concerning the combinations of sanctions that may be imposed by a standards committee.

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*Notes:*

[1] 2000 c. 22.[back](#)

[2] S.I. 2001/2812. Paragraph (4) was inserted by S.I. 2003/1483, [regulation 3\(3\).back](#)

[3] S.I. 2003/1483.[back](#)

[4] 1989 c. 42.[back](#)

[5] Section 82A was inserted by section 113(2) of the Local Government Act 2003 (2003 c. 26).[back](#)

[6] Section 57(5)(b) of the Act gives the Standards Board for England power to issue guidance to relevant authorities in England and police authorities in Wales on matters relating to the conduct of members and co-opted members of such authorities.[back](#)

[7] Section 57(3) of the Act gives the Secretary of State power to make an order conferring functions on the Standards Board for England in addition to those already conferred by Part III of the Act.[back](#)

[8] See section 55(12) of the Act for the definition of "responsible authority".[back](#)

[9] See section 83(7), (9) and (10) of the Act for the



[interpretation of partial suspension.back](#)

[10] [See section 83\(9\) and \(10\) of the Act for the interpretation of suspension.back](#)

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*Prepared 14 October 2004*

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**10 NOVEMBER 2004**

**CONTRIBUTORS**

**PAD (DPA)**

**DETERMINATIONS & INVESTIGATIONS –  
PROCESS & PROCEDURES**

**ALL WARDS**

At its meetings on 12 January & 19 April 2004, the Committee received and considered a report on draft Model Procedures to be used in the event of referrals from an ESO or the Standards Board of alleged breaches of the Code of Conduct for local investigation and/or determination.

The Committee agreed a number of drafting changes to the original model procedures, which officers have now actioned in revising the draft to comply with members' requests.

The revised draft Model Procedures is now being brought back to the Committee for members' final agreement and approval.

**RECOMMENDATION:**

**That the Standards Committee approve the model procedures to be followed locally during investigation or determination of matters referred to the Monitoring Officer by an ESO or the Standards Board for England.**

## **Model Hearing Procedures for the LBHF Standards Committee**

### **Interpretation of terms**

1. “Member” means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. (For the purposes of this procedure, the reference also includes the member’s nominated representative, if any).
2. “Investigator” means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. (In the case of matters referred for local investigation, references to the investigator mean the Monitoring Officer or another investigating officer, and his or her nominated representative).
3. “Committee” also refers to “a Standards Sub-Committee” where one has been established.
4. “Legal Advisor” means the officer responsible for providing legal advice to the Standards Committee, usually the Council’s Head of Legal Services.

### **Representation**

5. The member may be accompanied or represented during the hearing by a Solicitor, Counsel or, by permission of the committee, another person, agreement to which shall not be withheld unreasonably.

### **Legal Advice**

6. The Committee may take advice from the legal advisor at any time during the hearing or while considering the outcome. The substance of any legal advice given to the committee will be shared with the member and the investigator.

### **Introductions**

7. After the members and the parties to the hearing have been formally introduced, the Chair will explain the procedures for the hearing.

### **Preliminary procedural issues**

8. The committee will first resolve any issues or disagreements which have not been resolved during the written pre-hearing process (e.g. whether all or part of the hearing should be heard in public or in private).
9. After dealing with any preliminary issues, the committee will move on to consider whether or not there are any significant disagreements about the facts, as contained in the investigator’s report.

## **Disagreements over facts**

10. If the member disagrees with any relevant fact(s) in the investigator's report without having given notice beforehand of that disagreement, he or she must give very good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will need to consider whether it would be in the public interest to continue the hearing in his / her absence. After considering the member's explanation for not raising the matter at an earlier stage, the committee may decide to :
  - (a) continue with the hearing, relying on the information in the investigator's report;
  - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
  - (c) postpone the hearing to arrange for the investigator and/or any appropriate witnesses to be present.
11. If there is a disagreement, but the investigator is present, he or she will be invited to make representations to support their report, including any findings of fact .

## **The hearing**

12. The committee will invite the investigator first to present his/her case and to call any supporting witnesses to give evidence. Following the submission, the committee will then ask any questions, and will also give the respondent member the opportunity to ask questions and/or challenge the evidence put forward by any witness called by the investigator.
13. The roles set out above are then reversed, and the member has the opportunity to present his/ her case and to call any witnesses to give evidence in support or present mitigation. Following the member's submission, the committee will ask any questions, and will give the investigator the opportunity to ask questions and/or challenge the evidence put forward by any witnesses called by the respondent member.
14. This process will then be followed by a summing-up of their case by both parties. (No new evidence may be introduced at this stage). The respondent member will always go second, so as to have the last word on the matter.
15. Following this, both parties and their witnesses will be asked to leave while the committee retires to consider the facts and evidence, and reach a decision in private.

## **Did the member fail to follow the Code?**

16. The committee will consider and determine, based on the facts and evidence presented to it, whether or not the member has failed to follow the Code of Conduct.

17. The committee may make one of the following findings on the case:
- (a) the member has not failed to follow the code;
  - (b) the member has failed to follow the code, but no further action need be taken;
  - (c) the member has failed to follow the code, and a sanction should be applied.

**If the member has not failed to follow the Code of Conduct**

18. If the committee decides that the member has not failed to follow the Code of Conduct, it should consider whether any recommendations need to be made to the authority about issues arising from the case.

**If the member has failed to follow the Code**

19. If the committee decides that the member has failed to follow the Code of Conduct, it must then determine what penalty (if any) should be applied.
20. When determining the penalty, the committee must be careful to ensure that it is reasonable and in proportion to the member's behaviour. The committee should consider :
- The member's intention - was the member aware he/she was breaching, or was likely to breach, the Code of Conduct at the time of the incident?
  - Had the member sought or received any advice before the incident, and if so, was it acted upon?
  - Had there been a breach of trust?
  - Had there been any financial impropriety?
  - How serious was the incident?
  - Did the member accept he/she was at fault?
  - Did the member apologise subsequently to the relevant people?
  - Had the member been warned or reprimanded for similar misconduct or had they previously breached the Code?
21. Where a member has repeatedly or blatantly misused or abused the authority's resources or facilities, the committee may need to consider the withdrawal of use of those resources or facilities from the member.
22. In more serious cases, such as bullying of officers / members of the public, attempting to gain advantage for themselves or others, dishonesty, or breaches of trust, a suspension from office (maximum 3 months) may be in order.
23. The committee may decide on one, or a combination, of the following penalties:
- to censure the member. (This is the only penalty available where the person is no longer a councillor);
  - to restrict the member's access to the resources / facilities of the authority for any period up to 3 months;
  - to suspend \* or partly suspend\* the member for any period up to 3 months;

- to suspend \* or partly suspend\* the member for any period up to 3 months, on condition that the suspension will be lifted if the member undertakes appropriate training, or publicly apologises, or takes part in appropriate conciliation, as ordered by the Committee.

[NB: \* Suspension may also involve loss of financial allowance, depending on the circumstances of the breach of the Code.]

#### **The decision**

24. The committee may give a short oral decision on the case at the conclusion of the hearing if practicable (although it may also reserve judgement at this time), but in any event, all parties to the hearing will be notified of the decision in writing (including reasons) within 10 working days of coming to a decision. (In normal circumstances, decisions will be made within 10 working days of the hearing).

#### **Publicity**

25. The committee's findings and decision on the case will be published in summary form in a local newspaper, unless the finding is "No breach of the Code", in which case, the member is permitted to request non-publication.

jpc/ 10 November 2004

10 NOVEMBER 2004

**CONTRIBUTOR:  
MONITORING  
OFFICER (DPA)**

**PROPOSED CESSATION OF THE  
COUNCILLORS' SECRETARIAT 'BULK  
MAIL-OUT' FACILITY**

**ALL WARDS**

The Standards Committee has discussed on previous occasions the facility currently in place at LBHF whereby Councillors can request 'bulk mail-outs' of correspondence to ward residents.

While the use of this facility is currently very limited, interpretation of guidelines (as revised by the Standards Committee) remains a difficult and often contentious area. The Standards Committee is asked to endorse a recommendation from the Council's Monitoring Officer that the facility should cease.

### **RECOMMENDATIONS:**

1. To endorse the recommendation from the Council's Monitoring Officer to cease the current practice whereby ward Councillors can request bulk mail-outs.
2. To agree that this change takes effect following the Standards Committee decision, and that consequential changes to the protocol on use of Secretariat facilities are made for the annual re-adoption of the Council's Constitution in May 2005.



## **PROPOSED CESSATION OF THE COUNCILLORS SECRETARIAT 'BULK MAIL-OUT' FACILITY**

### **1. INTRODUCTION**

- 1.1 For many years the LBHF Councillors' Secretariat has provided to Councillors a facility for word-processing and mailing out constituency correspondence in bulk. This is designed to enable Ward Councillors to communicate with their constituents.
- 1.2 This service is available to all Councillors (although in practice only a minority have made use of it, and the number of 'bulk mail-outs' is usually only a handful in any one year). The LBHF Councillors Code contains information, and a set of guidelines, as to its use. These guidelines have previously been reviewed, and tightened up, by the Standards Committee.
- 1.3 As Standards Committee members will be aware, any use of Council facilities for political purposes is improper, and outlawed by the national Model Code of Conduct, to which all LBHF Councillors are signed up. With ward Councillors sending out unsolicited mail-shots, there can sometimes be difficulties in defining where 'political purposes' come into play. Hence, the Council operates with guidelines on the use of the mail-out facility which have hitherto been adopted and applied at LBHF, as a local protocol within the Council's Constitution.
- 1.4 'Bulk mail-outs' are deemed by the Audit Commission to be a form of local authority publicity. Their content is therefore subject to a Code on Publicity and to restrictions set out in the Local Government Act 1988. This leads to further difficulties in interpreting what is, and what is not, acceptable for such mail-outs.
- 1.5 In 2000, complaints over alleged inappropriate use of the facility led to the involvement of the District Auditor, and to discussions over the ground-rules that the Council applied. In 2002, a second complaint to District Audit led to the LBHF Standards Committee reviewing the rules and guidance on bulk mail-outs, in the Councillors Code. The Standards Committee in March 2002 resolved to add to the local protocol the requirement that "no such bulk mail-outs in the 6 weeks before an election period would be permitted without the prior authorisation of the Monitoring officer as to its legitimate use".
- 1.6 In March 2003, the LBHF Standards Committee further reviewed the wording of the local protocol, in the light of suggestions from District Audit and added further wording to strengthen and clarify requirements. The updated version, as adopted at the May 2003 Annual Council, reads as follows:

"The Secretariat can undertake occasional bulk word processing but it must be appreciated that this is extremely time consuming. Bulk use up until now has not caused a major problem, but should it become widespread a limit of two bulk jobs per Councillor will be introduced. The Council's Standards Committee has also reviewed this last provision, and has advised that no bulk mail-outs will be permitted from the start of the official election period (normally 6 weeks in the case of a local election) without the prior authorisation of the Monitoring officer as to its

legitimate use. In determining whether a bulk mail-out is appropriate, regard will be had as to whether the information contained in the bulk mail-out is widely available elsewhere. Council resources should be used for their proper purposes – i.e. their use should relate to a Councillor's existing duties or role as a ward Councillor (in which role they should not be used to communicate with constituents of another ward). The undertaking of bulk jobs cannot, of course, be undertaken in anything like the normal word processing time-scales and may have to be fitted around other workload at the time”.

## **2. PROPOSALS FOR ABOLITION OF THE BULK MAILOUT FACILITY**

- 2.1 While there have been very few examples in the past two years of Councillors wishing to make use of the bulk mail-out facility, each has involved a process of vetting of draft content by the Monitoring Officer (DPA and/or Head of Legal Services). Each has led to some issues over what constitutes ‘political’ content in terms of the requirements of the 1998 Local Government Act and associated Code on Publicity.
- 2.2 Costs and staff time expended on bulk mail-outs are a further consideration. Costs are estimated at £450 per thousand copies (including stationary, postage, and staff time in stuffing envelopes). Where Councillors ask for bulk mail-outs, it is often to all residents in a significant part of a ward, or whole ward, with costs of £1,500 or more.
- 2.3 There is no specific budget for the facility, and if used at all regularly by a majority of Councillors, significant overspends would result.
- 2.4 It is therefore the recommendation of the Monitoring Officer that the facility be discontinued. Councillors will of course be able to continue to use Secretariat facilities to correspond with residents. Where a ward Councillor needs to send a letter to a limited number of named residents this will also be allowed.
- 2.5 But the current facility for ward Councillors to request a bulk mail out via the Councillors Secretariat of unsolicited correspondence is recommended to cease.
- 2.6 The Standards Committee is asked to endorse this recommendation and, if agreed, this change will be incorporated in the annual updating of the Council's Constitution in May 2005. (It is also recommended that the change be put in into effect as from the date of the Standards Committee meeting, there being no current requests for bulk mail-outs in the pipeline).

DPA/HP/CAH/October 2004

CONTRIBUTORS

PAD (DPA)

**APPLICATION FOR GRANT OF  
DISPENSATION : ADMINISTRATION  
MEMBERS OF THE PLANNING  
APPLICATIONS COMMITTEE**

ALL WARDS

The Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 prescribes the circumstances in which the Council's Standards Committee is empowered to grant dispensations to members and co-opted members of relevant authorities. These Regulations came into force on 18 March 2002.

A request for the grant of a dispensation must be made in writing, and the Standards Committee may only grant the dispensation if certain specified conditions are met.

A request has been submitted for the grant of dispensation to the 5 Administration members of the Council's Planning Applications Committee, on the grounds that the number of members prohibited from participating in the business of the Committee exceeds 50% of those entitled and required to participate, thus rendering the Committee inquorate.

If the Standards Committee agrees to grant a dispensation, a member or co-opted member who acts in accordance with that grant of dispensation, will not be held to have failed to comply with the mandatory provisions of the Code of Conduct, as adopted by the Council on 27 May 2002.

**RECOMMENDATION:**

**That the Standards Committee agree the grant of dispensations to Councillors Aherne, Cartwright, Harcourt, Khaled & Treloggan.**

## **1. BACKGROUND**

- 1.1 The Council's Planning Applications Committee will shortly have before it for consideration an application for a Certificate of Lawfulness submitted by Councillor Dame Sally Powell (a member of the Committee) in respect of the use of the flat roof space at 30 Coverdale Road W12 as a roof terrace.
- 1.2 In accordance with the Council's Code of Conduct, Councillor Powell will necessarily need to declare a prejudicial interest and withdraw from further participation in the meeting while the matter is being decided. The remaining Administration members of the Committee (Councillors Aherne, Cartwright, Harcourt, Khaled and Treloggan) have also all concluded that they will need to declare a prejudicial interest due to the nature and length of their friendship with Councillor Powell, and similarly will need to withdraw from further participation in the meeting.
- 1.3 There are 10 members on the Planning Applications Committee, split in the ratio 6 Administration : 4 Opposition members, in accordance with the political balance on the Council, as required under the provisions of the Local Government & Housing Act 1989. The quorum of the Committee is 5 members.
- 1.4 As there will be insufficient members of the Committee remaining to form a quorum, and over 50% of those members entitled and required to participate are thus prohibited from doing so, the Planning Applications Committee will be unable to fulfil its statutory function in determining this particular application.
- 1.5 The above situation in respect of Councillor Powell's application will continue to prevail unless and until the Standards Committee determines the requests made for a grant of dispensation from the affected Planning Applications Committee members.
- 1.6 It should be pointed out that on 8 July 2002, the same Planning Committee members requested, and were duly granted, a dispensation from the Standards Committee in relation to a planning application submitted by Councillor Powell in similar circumstances.

## **2. CIRCUMSTANCES IN WHICH THE STANDARDS COMMITTEE MAY GRANT DISPENSATIONS**

- 2.1 The Standards Committee is empowered under the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 to grant a dispensation to a member in the following circumstances :
  - a) *the transaction of business of the authority would, on each occasion on which the dispensation would apply, otherwise be impeded by or as a result of the mandatory provisions [of the Code of Conduct] because –*

*i) the number of members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those members that are entitled or required to so participate; or*

*ii) the authority is not able to comply with any duty which applies to it under s 15(4) of the Local Government & Housing Act 1989;*

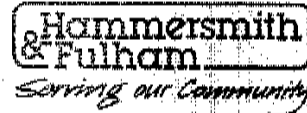
*b) the member has submitted to the Standards Committee a written request for a dispensation explaining why it is desirable; and*

*c) the Standards Committee concludes that, having regard to the matters mentioned in paragraph (a) above, the content of the application made under (b) above, and all the other circumstances of the case, it is appropriate to grant the dispensation.*

- 2.2 The relevant Administration members of the Planning Applications Committee who will be affected have all submitted the required written application for grant of dispensation to the Standards Committee. [**Appendix A**]
- 2.3 The Standards Committee is obliged to consider these applications for dispensation in the light of the statutory provisions set out in paragraphs 2.1 (a), (b) & (c) above, and to make a determination accordingly.
- 2.4 If the Committee is minded to grant dispensation, the existence, nature and duration of the dispensation must be recorded in writing, and kept with the Register of Members' Interests.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1	The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002	John Cheong x 2062	PAD/Room 203 Hammersmith Town Hall



COUNCILLOR WESLEY HARCOURT  
COLLEGE PARK & OLD OAK WARD

27 October 2004

Mr Christopher Troke  
Chair of the Standards Committee  
London Borough of Hammersmith & Fulham  
Hammersmith Town Hall  
King Street  
London W6 9JU

**LONDON BOROUGH OF  
HAMMERSMITH & FULHAM**

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HOME ADDRESS  
Ground Floor Flat  
42 Davisville Road  
London W12 9SJ

TEL 020 8749 3298

Dear Mr Troke

**Re: Planning Applications Committee - Request for a Dispensation**

I request that the Standards Committee grant me a dispensation to speak and vote when considering a forthcoming application by Councillor Dame Sally Powell for a Certificate of Lawfulness for the use of the flat roof space at 30 Coverdale Road W12 as a roof terrace which will be considered by the Planning Applications Committee.

The grounds of my application are that due to the nature and length of my friendship with Councillor Powell I consider I have both a personal and a prejudicial interest in this matter and I am therefore precluded from participating under the Councillors' Code of Conduct. I believe that five other members of the Committee as well as myself consider that we have prejudicial interests in this matter which exceeds 50% of the membership of the Committee and renders it inquorate and/or changes its political composition.

The Council's planning officers have not yet decided whether or not to recommend approval of this application and will not do so until sometime towards the end of November. However the Planning Applications Committee will not be able to consider this application unless the appropriate dispensations are granted.

The reason why I am asking that this request for a dispensation be considered at the next meeting of the Standards Committee on 10 November 2004 is that although the application will not be considered by the Planning Applications Committee until its meeting on 13 December 2004 or 5 January 2005, the next meeting of the Standards Committee after that is not until 15 March 2005.

Yours sincerely

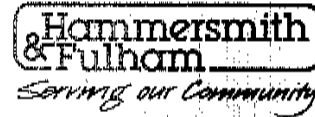
  
Councillor Wesley Harcourt  
Chair, Planning Applications Committee



2002-2003  
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THE MAYOR  
COUNCILLOR CHARLIE TRELOGGAN



**LONDON BOROUGH OF  
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FAX 020 8753 2014

Mr Christopher Troke  
Chair of the Standards Committee  
London Borough of Hammersmith & Fulham  
Hammersmith Town Hall  
King Street  
London W6 9JU

27 October 2004

Dear Mr Troke

**PLANNING APPLICATIONS COMMITTEE - REQUEST FOR A DISPENSATION**

I request that the Standards Committee grant me a dispensation to speak and vote when considering a forthcoming application by Councillor Dame Sally Powell for a Certificate of Lawfulness for the use of the flat roof space at 30 Coverdale Road W12 as a roof terrace which will be considered by the Planning Applications Committee.

The grounds of my application are that due to the nature and length of my friendship with Councillor Powell I consider I have both a personal and a prejudicial interest in this matter and I am therefore precluded from participating under the Councillors' Code of Conduct. I believe that five other members of the Committee as well as myself consider that we have prejudicial interests in this matter which exceeds 50% of the membership of the Committee and renders it inquorate and/or changes its political composition.

The Council's planning officers have not yet decided whether or not to recommend approval of this application and will not do so until sometime towards the end of November. However the Planning Applications Committee will not be able to consider this application unless the appropriate dispensations are granted.

The reason why I am asking that this request for a dispensation be considered at the next meeting of the Standards Committee on 10 November 2004 is that although the application will not be considered by the Planning Applications Committee until its meeting on 13 December 2004 or 5 January 2005, the next meeting of the Standards Committee after that is not until 15 March 2005.

Yours sincerely

**Councillor Charlie Treloggan**



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WORMHOLT & WHITE CITY WARD

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HAMMERSMITH & FULHAM**

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Mr Christopher Troke  
Chair of the Standards Committee  
London Borough of Hammersmith & Fulham  
Hammersmith Town Hall  
King Street  
London W6 9JU

27 October 2004

Dear Mr Troke

**PLANNING APPLICATIONS COMMITTEE - REQUEST FOR A DISPENSATION**

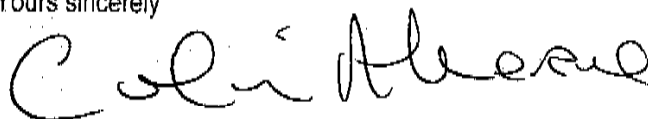
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Yours sincerely



**COUNCILLOR COLIN AHERNE**  
**CHIEF WHIP**



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**COUNCILLOR JAFAR KHALED**  
SHEPHERDS BUSH GREEN WARD

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Mr Christopher Troke  
Chair of the Standards Committee  
London Borough of Hammersmith & Fulham  
Hammersmith Town Hall  
King Street  
London W6 9JU

27 October 2004

Dear Mr Troke

**PLANNING APPLICATIONS COMMITTEE - REQUEST FOR A DISPENSATION**

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Yours sincerely

*A. S. M. Jafar Khaled*  
**COUNCILLOR JAFAR KHALED**



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DEPUTY FOR ENVIRONMENT & CONTRACT SERVICES  
 COUNCILLOR MICHAEL CARTWRIGHT  
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Mr Christopher Troke  
 Chair of the Standards Committee  
 London Borough of Hammersmith & Fulham  
 Hammersmith Town Hall  
 King Street  
 London W6 9JU

29 October 2004

Dear Mr Troke

**Planning Applications Committee - Request for a Dispensation**

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Yours sincerely

**Councillor Michael Cartwright**



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