

## **Standards Committee**

- To:** C Bainton (Independent Member, in the Chair),  
Councillors Kirk, Horton, Hudson,  
R Leaman (Independent Member) and D Crawford  
(Parish Council Member)
- Date:** Friday, 8 June 2007
- Time:** 3.00 pm
- Venue:** The Guildhall, York

### **AGENDA**

- 1. Declarations of Interest**  
At this point, members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.
- 2. Minutes** (Pages 1 - 6)  
To approve and sign the minutes of the meeting of the Standards Committee held on 9<sup>th</sup> March 2007.
- 3. Public Participation**  
At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Standards Committee, may do so. The deadline for registering is 5pm on Thursday 7<sup>th</sup> June 2007.
- 4. Review of Workplan** (Pages 7 - 8)  
To consider a Workplan for the municipal year 2007/2008 in the light of the Workplan of 2006/2007.

**5. Applications for Dispensation by Bishopthorpe Parish Council** (Pages 9 - 14)

This report sets out details of applications for dispensations received by Councillors Bruce, Jamison, Dale, Livesley, Dunn, Mellors, Green, Thornton, Harrison and Watkins of Bishopthorpe Parish Council in respect of their participation in the St Andrew's Reading Room charity.

**6. The Revised Model Code of Conduct for Local Authority Members 2007** (Pages 15 – 32)

This report recommends that the Standards Committee recommends to Council adoption of the new Model Code of Conduct for Local Authority Members 2007.

**7. Any other business which the Chair decides is urgent under the Local Government Act 1972.**

Democracy Officer:

Name: Louise Cook

Contact Details:

- • Telephone – (01904) 551027
- • E-mail – [louise.cook@york.gov.uk](mailto:louise.cook@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

City of York Council

Minutes

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MEETING	STANDARDS COMMITTEE
DATE	9 MARCH 2007
PRESENT	CHRISTINE BAINTON (INDEPENDENT MEMBER, IN THE CHAIR), I WAUDBY (VICE-CHAIR), SCOTT, LEAMAN (INDEPENDENT MEMBER) AND CRAWFORD (PARISH COUNCIL MEMBER)
APOLOGIES	COUNCILLOR D'AGORNE

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **61. DECLARATIONS OF INTEREST**

Members were invited to declare any personal or prejudicial interests they had in the business on the agenda. No interests were declared.

### **62. MINUTES**

RESOLVED: That the minutes of the meeting held on 26 January 2007 be approved and signed as a correct record.

### **63. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak at the meeting under the Council's public participation scheme.

### **64. REVIEW OF WORKPLAN**

Members reviewed the workplan for the Standards Committee for the 2006/07 municipal year. It was agreed that the following items be considered at the meeting scheduled for June 2007:

- Presentation on new Committee Management System
- Review of the Complaints Procedure

Members agreed to add an item on the 'Assessment of the impact of the White Paper on Standards Committee' and the workplan was amended to reflect those changes.

### **65. REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS**

Members considered a report that detailed the proposed changes to the Code of Conduct together with a suggested response to those proposals.

Members were informed that 75% of complaints made to the Standards Board for England were about Parish Councillors and that a Monitoring Officer was only informed about those cases where the Standards Board agreed there was a need to investigate the complaint.

In regard to 'Participation in relation to Prejudicial Interests', it was proposed that a Member having declared a prejudicial interest would be able to make representation and then withdraw from the debate and decision making process. In an effort to ensure an equitable approach across all parties, it had been suggested that Standards Committee would need to agree an annual dispensation including whether or not a Member would need to withdraw from the room during the debate.

In relation to inquorate Parish Council meetings, Members requested written guidance be circulated to all parish councils on what should be said at the meeting and who it should be addressed to.

RESOLVED: That the proposed response to the revised model code of conduct for Local Authority Members be approved for submission to the Department of communities and Local Government

REASON: To ensure the views of members in the York District are forwarded to the Government within the requisite timescale.

## **PART B – MATTERS REFERRED TO COUNCIL**

### **66. ANNUAL REPORT OF STANDARDS COMMITTEE 2006-2007**

Members considered a report which set out a review of the work carried out by the Standards Committee at City of York Council during the municipal year 2006/07.

The report detailed that there had been five allegations reported to the Standards Board for England against City of York Council Members during the municipal year 2006/07. On each of those occasions, the Standards Board had determined that no breach of the code had occurred. It was noted that in the case of allegations made against Parish Councils and Parish Councillors, a Monitoring Officer would only be informed when a breach had been determined and an investigation was required.

RECOMMENDED: That the contents of the Annual Report be noted and it be referred to full Council

REASON: To inform Council of the activities of the Standards Committee during the municipal year 2006/07.

C BANTON

Independent Member, In the Chair

The meeting started at 10.00 am and finished at 10.40 am.

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## 2006/07 Workplan for Standards Committee

### Ongoing Activities

Cases referred for investigation or determination  
 Database of Standards Committee topics  
 Standards Board Guidance  
 Parish Council Issues  
 Member and Officer Training

### Programme of New Work

<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Communication / Strategic Activity</u>
Confidentiality and Transparency – Conclusions of the Executive on the report of the Scrutiny Panel	26 January 2007	
Amendments to the Members' Code of Conduct	26 January 2007	
Advice to Elected Members re activities during the purdah period	26 January 2007	
Ethical Governance Audit	26 January 2007	
Presentation on new Committee Management System	June 2007	
Annual Report	23 March 2007	
Report of the Committee on Standards in Public Life	TBA	
Parish Councils – Good Practice at Meetings	May 2007	
Review of the Complaints Procedure	June 2007	
Employee Code of Conduct – Member/Officer training.	2006/07	

**Programme of New Work**

**Meeting Date**

**Communication / Strategic Activity**

Full Ethical Audit

2006/07

Yes

Comprehensive Performance Assessment (CPA) – contribution of Standards Committee

TBA (Late 2007)

Assessment of the impact of the White Paper on Standards Committee

TBA



## 2006/07 Workplan for Standards Committee

### Ongoing Activities

Cases referred for investigation or determination  
 Database of Standards Committee topics  
 Standards Board Guidance  
 Parish Council Issues  
 Member and Officer Training

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<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Communication / Strategic Activity</u>
Full Ethical Audit	2006/07	Yes
Comprehensive Performance Assessment (CPA) – contribution of Standards Committee	TBA (Late 2007)	
Assessment of the impact of the Whit Paper on Standards Committee	TBA	



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**STANDARDS COMMITTEE**

8 June 2007

Report of the Head of Civic, Democratic and Legal Services

**APPLICATIONS TO THE STANDARDS COMMITTEE FOR A DISPENSATION BY MEMBERS OF BISHOPTHORPE PARISH COUNCIL****Summary**

1. This report sets out details of applications for dispensations received by Councillors Bruce, Jamison, Dale, Livesley, Dunn, Mellors, Green, Thornton, Harrison and Watkins of Bishopthorpe Parish Council in respect of their participation in the St Andrew's Reading Room charity.

**Background**

2. Section 81(4) of the Local Government Act 2000 states that participation by a Member in any business which is prohibited by the mandatory provisions (Prejudicial Interests) is not a failure to comply with the Authority's Code of Conduct if the Member has acted in accordance with the dispensation from the prohibition granted by the Authority's Standards Committee in accordance with regulations.
3. The relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 state that a dispensation can be granted to individual Members when over 50% of the Council or a Committee would be prevented from taking part in a meeting because of prejudicial interests or when the political balance of the Council would be upset.
4. Annex 1 sets out the applications for dispensations received from Councillors Bruce, Jamison, Dale, Livesley, Dunn, Mellors, Green, Thornton, Harrison and Watkins of Bishopthorpe Parish Council in respect of their participation in the St Andrew's Reading Room charity. The regulations state that applications must be made in writing explaining why a dispensation is desirable.
5. The Standards Committee is required to consider applications and grant or otherwise a dispensation. In addition, the Standards Committee is required to ensure that the existence, duration and nature of any dispensation is recorded in writing and is kept with the Register of Interests. Members should note that such dispensations can be for no more than 4 years.

### **Consultation**

6. This is a matter for the Standards Committee. Further consultation is not required.

### **Options**

7. The Standards Committee can either grant or refuse the dispensation.

### **Analysis**

8. The information required for consideration is contained in the Annex attached.

### **Corporate Priorities**

9. Compliance with the Local Government Act 2000 contributes to the corporate priority of improving leadership at all levels to provide clear, consistent direction to the organisation.

### **Implications**

10. There are no specific Financial, HR, Equalities, Crime and Disorder, Information Technology, Property or Other implications of the applications. The Legal implications are as set out in this report.

### **Risk Management**

11. Compliance with the provisions of the Local Government Act 2000 ensure that decisions taken by both City of York Council and Parish Councils are robust and in accordance with the appropriate ethical governance framework.

### **Recommendations**

12. The Standards Committee are asked to consider the applications received and either agree to grant the dispensations or may choose not to do so.

Reason: To ensure that the decisions of Bishopthorpe Parish Council are in accordance with the provisions of the Local Government Act 2000.

### **Contact Details**

**Author:**

Suzan Hemingway  
Head of Civic, Democratic &  
Legal Services  
Chief Executive's Department  
Tel No. 551004

**Chief Officer Responsible for the report:**

Suzan Hemingway  
Head of Civic, Democratic & Legal Services

**Report Approved**



**Date** 24 May 2007

**Specialist Implications Officer(s)**

None

**Wards Affected:**

All

**For further information please contact the author of the report**

**Background Papers:**

None

**Annexes**

Annex 1 - The applications for dispensations from Councillors Bruce, Jamison, Dale, Livesley, Dunn, Mellors, Green, Thornton, Harrison and Watkins of Bishopthorpe Parish Council

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City of York Standards Committee  
C/O Monitoring Officer  
Suzan Hemingway

We the undersigned Bishopthorpe Parish Councillors are making representation to the Standards Committee for dispensation from the provisions of Code of Conduct which prevent participation in decisions where members have a prejudicial interest.

Members of the Parish Council are the sole trustees of the charity St Andrew's Reading Room. This charity is responsible for the village hall. The actual responsibility of running the village hall rests with the Parish Council who for that purpose has appointed a management committee with 3 Parish Councillors and selected users of the village hall.

Thus at discussions in council about the village hall, all councillors would have a prejudicial interest and would be required not to participate.

It is for this for this reason disposition is sought on the grounds that more than 50% of the Parish Council membership would be prevented from taking part in the meetings..

Catherine Bruce

Ian Jamison

Christopher Dale

David Livesley

Andrew Dunn

Brian Mellors

Carole Green

Lisa Thornton

Stewart Harrison

Gordon Watkins

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**STANDARDS COMMITTEE**

8 June 2007

Report of the Head of Civic, Democratic and Legal Services

**THE REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS 2007****Summary**

1. This report recommends that the Standards Committee recommends to Council adoption of the new Model Code of Conduct for Local Authority Members 2007.

**Background**

2. The Government tabled in Parliament the Revised Model Code of Conduct for Members on 2 April 2007. The Code is included in the Local Authorities (Model Code of Conduct) Order 2007 No. 1159.
3. The Code comes into force from 3 May 2007. However, under Section 51 of the Local Government Act 2000, the Council has six months from the date the Regulations were made not the date of them coming into force to formally adopt the Code. The "made" date on the Statutory Instrument is 2 April 2007. This means that if the new Code is not adopted by 1 October 2007 it will automatically apply. However, the expectation is that each Council will consider the new Code and formally resolve to adopt it.
4. Article 8 of the Council's Constitution states that one of the roles of the Standards Committee is to assist in the observation of the Members' Code of Conduct. In addition, the Scheme of Delegation to Council Committees and Other Bodies contained in the Constitution (Part 3, Schedule 2) states that one of the functions of the Standards Committee is to advise the Council on the adoption or revision of a Code of Conduct. Therefore it is for the Standards Committee to consider the new Model Code of Conduct and recommend its adoption to Council. A copy of the Statutory Instrument and the Model Code of Conduct is attached to this report at Annex 1.
5. The main changes to the Code are as follows:
  - Application of the Code

The new Code takes into account the outcome of the Livingstone Case where the High Court held that because the Members undertaking to observe the Code of Conduct extended only to conduct “in performing his functions” (as a Member), the Code of Conduct could not apply to conduct in a Member’s private life except where the Member misused his/her position as a Councillor in his/her private life for personal advantage. Paragraph 2(2) of the Revised Code of Conduct therefore provides that the Code of Conduct shall not have effect except in relation to conduct by a Member in, or purportedly in, his/her official capacity.

However, despite this judgement, paragraph 2(3) provides that particular paragraphs of the Code of Conduct, such as the requirement not to bring your office or authority into disrepute, shall also have effect in relation to conduct “at any other time” where that conduct constitutes a criminal offence for which the Member has been convicted. In addition, paragraph 2 (4) extends this to apply to a criminal offence which occurs before the Member was elected, co-opted or appointed as a Member, where the conviction for that offence occurs after the Member has been so elected, co-opted or appointed.

- Equality Provisions

These have been redrafted to specify a prohibition against causing the Authority to be in breach of any of the equalities enactments.

In addition there is a specific prohibition against bullying.

- Confidentiality

These provisions have been amended to permit disclosure of confidential information by a member where it is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Authority. The Revised Code of Conduct does not provide a definition of what will be considered as in the public interest, but it is expected that the Standards Board for England will suggest that the test currently used under the Freedom of Information Act would be appropriate.

- Interests

These provisions have been changed in particular provision relating to personal interests affecting “a relative or friend” have been changed to “a member for your family or a person with whom you have a close association”. At present there is no definition of “family” or of what constitutes “a close association”.

In addition, previously a Member did not have a personal interest where a decision on the matter would not affect him/her to a greater extent than other Council Tax payers in the whole of the Authority’s area, in the revised Code it is not a personal interest where it would not affect the Member to a greater extent than the majority of the Council Tax payers in his/her Ward or electoral division.

With regard to prejudicial interests, there is now a substantial limitation on the definition of a prejudicial interest. In the revised Code the definition states that a personal interest will not amount to a prejudicial interest unless

- Either it affects the financial position of the person or body
- Or it relates to the termination of any approval, consent, licence, permission or registration in relation to the person or body.

This means that, unless the matter comes within the defined list of approvals, consents etc., a matter cannot give rise to a prejudicial interest however much it affects the general wellbeing of the person or body and however likely it is to affect the way that Member may speak or vote on the matter, unless it actually affects the financial position of that person or body.

In addition, the Code also now makes a distinction between making representations to a meeting and being involved in the discussion and decision making. Now, a Member with a prejudicial interest is to be treated in a similar way to a member of the public, so that where procedure rules grant members of the public a right to speak at a meeting, the Member with a prejudicial interest may appear as a member of the public to present a case and answer questions but must then withdraw from any consideration and determination of the matter. This means that the Member still does not have quite the same rights as a member of the public in that he/she must withdraw after making representations.

- Registration of Members' Interests – Sensitive Information

The new Code includes an additional category of "Sensitive Information" which is information which, if available for public inspection, is likely to put the Member or someone who lives with the Member at serious risk of violence or intimidation. It is for a Member to advise the Monitoring Officer of the information which he/she considers to be sensitive and then only if the Monitoring Officer agrees that it is sensitive the Member can omit the sensitive information from his/her formal notification to the Monitoring Officer.

### **Transitional Arrangements**

6. Members do not have to give a new undertaking to observe the revised Code of Conduct as the Declaration of Acceptance of Office incorporates a provision to observe the Authority's Code of Conduct as adopted. However, the Statutory Instrument does not include any transitional provisions which would have carried forward existing Registrations of Members' Interests. Unfortunately this means that every Member who completed a Registration of Interests Form before adoption of the new Code will be required to complete a new Form within 28 days of the day on which the Authority adopts the revised Code of Conduct.
7. Members should note that any existing allegations of misconduct and any further allegations of misconduct prior to adoption of the revised Code of

Conduct will continue to be judged in accordance with the old Code of Conduct.

### **Consultation**

8. A copy of the proposed amendments was circulated to Parish Councils and to the political groups. Comments from the Groups and Parish Councils were incorporated in the Standards Committee consideration of the amendments at their meeting on 9 March 2007 and a detailed response to the consultation sent to the Department for Communities and Local Government within the prescribed deadline.

### **Options**

9. Members can either agree to recommend to full Council adoption of the Code set out in paragraph 15 below or

Members can agree not to recommend adoption as set out in paragraph 15 below. However, Members should note that if the Council does not formally resolve to adopt the Model Code of Conduct it will apply from 2 October 2007 in any event.

### **Analysis**

10. The Council's Monitoring Officer recommends adoption of the Model Code of Conduct as set out in paragraph 15 below as it is important that the Council is proactive in ensuring its ethical governance arrangements are up-to-date and in line with statutory requirements.

### **Corporate Priorities**

11. Consideration and adoption of the new Model Code of Conduct improves the Council's corporate governance arrangements and contributes to the corporate priority of improving leadership at all levels to provide clear, consistent direction to the organisation.

### **Implications**

12. There are no specific Financial, HR, Equalities, Crime and Disorder, Information Technology, Property or Other implications of adoption of the new Model Code of Conduct. However, the Legal implications are as set out in paragraph 10.

### **Risk Management**

13. Adoption of an up-to-date Code of Conduct and monitoring of its compliance will assist in reducing any risk of a successful complaint against Members in respect of their conduct within their role.

**14. Recommendations**

- That the Council adopt the revised Code of Conduct with effect from 1 August 2007.
- That all Members are notified of the need to renew their Registration of Interests within 28 days of adoption.
- That a copy of the revised Code of Conduct be provided to every Member of Council.

Reason: To ensure that the Council operates an up-to-date Code of Conduct in compliance with Statutory Regulations.

**Contact Details**

**Author:**

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Head of Civic, Democratic & Legal Services  
Chief Executive's Department  
Tel No. 551004

**Chief Officer Responsible for the report:**

Suzan Hemingway  
Head of Civic, Democratic & Legal Services

**Report Approved**

**Date** 24 May 2007

**Specialist Implications Officer(s)**

None

**Wards Affected:**

**All**

**For further information please contact the author of the report**

**Background Papers:**

None

**Annexes**

Annex 1 - Local Authorities (Model Code of Conduct) Order 2007 SI 2007 No. 1159

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SCHEDULE

THE MODEL CODE OF CONDUCT

Part 1

General provisions

**Introduction and interpretation**

1. —(1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State[[13](#)].
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

"meeting" means any meeting of—

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

"member" includes a co-opted member and an appointed member.

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

**Scope**

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

and references to your official capacity are construed accordingly.

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

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

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

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

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

**3.** —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006[[14](#)]);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,



in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

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

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4. You must not—**

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You—**

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986[15].

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

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

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

## Part 2

### Interests

#### **Personal interests**

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

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

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

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

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

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

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

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

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

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

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

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

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

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

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

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

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

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the

meeting if the interest was registered more than three years before the date of the meeting.

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

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

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

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000[16].

### **Prejudicial interest generally**

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

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

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a

school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

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

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

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

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### Part 3

#### Registration of Members' Interests

##### **Registration of members' interests**

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

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

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

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

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

##### **Sensitive information**

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

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

that the information be included in your authority's register of members' interests.

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

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## EXPLANATORY NOTE

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

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

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

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

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

**Article 4** revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001[[17](#)];

the Parish Councils (Model Code of Conduct) Order 2001[[18](#)];

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001[[19](#)]; and

the Police Authorities (Model Code of Conduct) Order 2001[[20](#)].

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

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



acceptance of office.

In the **Schedule to the Order**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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