



ASHFORD
BOROUGH COUNCIL

CIVIC CENTRE,
TANNERY LANE
ASHFORD
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www.ashford.gov.uk

STANDARDS COMMITTEE

Notice of a Meeting to be held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on THURSDAY, the 12TH JULY 2007 at 7.00 pm

The Members of this Committee are:-

Cllr. Packham (Vice-Chairman)

Cllrs. Mrs Blanford, Honey, Mrs Laughton, Wood

Parish Council Representative:- Mr D Lyward (Mr A P Mobbs – Substitute)

Independent Members: Mrs C A Vant, Mr M V T Sharpe

A G E N D A

Page
Nos.

1. **Apologies**
2. **Election of Chairman**
3. **Declarations of Interest** – Declarations of Interest under the Code of Conduct adopted by the Council on the 24th May 2007 relating to items on this Agenda should be made here. The nature as well as the existence of any such interest must be declared
4. **Minutes** – To approve the Minutes of the Meeting of this Committee held on the 7th March 2007 (attached)

PART I – FOR DECISION

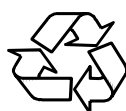
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| 5. Annual Report of the Monitoring Officer 2006/2007 | 1 - 9 |
| 6. The New Code of Conduct for Members | 10 - 25 |

PART II – MONITORING/INFORMATION ITEMS

NONE

DJS/AEH
27th June 2007

Queries concerning this agenda? Please contact Diana Sawyer 330499
diana.sawyer@ashford.gov.uk
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Website: <http://www.ashford.gov.uk>
Under 'Council Services' - 'Committee' – 'Full Committee List'



STANDARDS COMMITTEE

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held in the Council Chamber,
Civic Centre, Tannery Lane, Ashford on the **7th MARCH 2007**

PRESENT: Mrs C A Vant (Chairman);
Cllr Davidson (Vice-Chairman);
Cllrs. Elliff, Wickham
Mr D Lyward – Parish Council Representative
Mr M Sharpe – Independent Member

In accordance with Procedure Rule 1.2(iii) Councillor Elliff attended as Substitute Member for Councillor Mrs Larkin.

APOLOGIES: Cllrs Cooling, Mrs Larkin.

ALSO PRESENT: Monitoring Officer, Member Services and Scrutiny Support Officer.

524 MINUTES

Resolved:

That the Minutes of the meetings of this Committee held on the 6th July 2006 be approved and confirmed as a correct record, subject to it being noted that Councillor Yeo and not Councillor Mrs Larkin had apologised.

525 DRAFT REVISED CODE OF CONDUCT

The Chairman thanked the Monitoring Officer for the report and suggested that the Committee considered each of the questions in Appendix 1 and the draft Comments in Appendix 2.

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Appendix 2 Comments 11 and 12 – Agreed.

Q2. Subject to powers being available to us to refer in the Code to actions by Members in their private capacity beyond actions which are directly relevant to the office of the Member, is the proposed text which limits the proscription of activities in Members' private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Appendix 2 Comments 13 and 14 – Agreed. The Monitoring Officer explained the difficulties created by the recent Livingstone case.

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Appendix 2 did not refer specifically to this question and the Monitoring Officer agreed to add a comment about retention of the Publicity Code.

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Appendix 2 Comment 24 Agreed subject to the first sentence being deleted. The Committee also agreed with the Parish Council Representative's comments about the Register of Gifts and Hospitality being made publicly available but remaining separate from the Register of Member Interests.

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a Member, including family, friends, business associates and personal acquaintances?

Appendix 2 Comments 27 and 31 Agreed.

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

The Committee agreed with the approach in the draft Code.

Q7. Is the proposed text, relaxing the rules to allow increased representation at meetings, including where Members attend to make representations, answer questions or give evidence, appropriate?

Appendix 2 Comment 41 Agreed subject to minor amendments. A discussion ensued about Members who wished to make a planning application being disadvantaged compared with other applicants who were able to speak at the Planning Committee for three minutes. Members were generally advised to use an Agent representing an additional cost and a financial disadvantage. The Richardson case was referred to and the Monitoring Officer referred to Appendix 1 Participation in Relation to Prejudicial Interests paragraph 19 which suggested that Councillors would be able (at the invitation of a Committee) to speak even where they had a prejudicial interest.

Q8. Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for Members?

The Committee expressed no view on this.

A Member suggested one or two changes in detailed wording before submission of Appendix 2 to government and it was agreed in Comment 4(f) to delete "is lazy and"; and in Comment 24 to delete first sentence. Discussion ensued about allegations being determined in accordance with the Code in force at the time of the alleged event or if this should be the Code in force at the time when an allegation was made. The Monitoring Officer advised the latter suggestion was unusual and in his view fundamentally unfair.

Resolved:

That subject to the Committee's decisions and discussions the comments set out in Appendix 2 to the report be submitted by the Monitoring Officer to the Government by the 9th March 2007.

(DJS/AEH/VS)
MINS:STD0710

**STANDARDS COMMITTEE
12 JULY 2007**

**COUNCIL
26 JULY 2007**

**ANNUAL REPORT OF THE COUNCIL'S
MONITORING OFFICER - 2006-07**

BACKGROUND

1. Last year I presented to the Council my first annual report. The principal purpose of the annual report is to focus on and assess activity in probity matters, especially formal complaints albeit alleged breaches of approved protocols and codes of conduct by parish and borough councillors. The Standards Committee has received similar interim reports since 2003. The annual report provides an opportunity to review the effectiveness of current procedures based on real data. The year on which the current report is based is April 2006 to March 2007.
2. So far as the Council's Code of Conduct is concerned, a revised model code was issued by central government in early 2007 and this was the subject of a separate report to the Council and adopted in May 2007. This annual report is of course based on the 'old' code of conduct adopted by the Council in May 2002 and which applied throughout the year 2006/07.
3. Whilst the ethical framework, including compliance with codes of conduct, is overseen by the national Standards Board for England, regulations now enable the Board to refer matters back to me as Monitoring Officer to arrange for local determination or local investigation through our own Standards Committee. I have received referred cases in the past two years under these new procedures. Furthermore the Local Government and Public Involvement in Health Bill proposes further substantial changes whereby complaints (against both borough and parish councillors) will generally no longer be made to or investigated by the national body but will be made locally and "filtered" by local Standards Committees rather than the Board. The Board will retain responsibility only for investigation of the most serious cases and as a "strategic regulator." The resource implications of this for local authorities - especially those with large numbers of parish councillors - are likely to be significant but at present the government has not recognised this with any increased resources to local government.
4. In October 2004 the Council adopted a 'Good Practice Protocol for Councillors when Dealing with Planning Matters'. This protocol sets out detailed best practice rules for this specialist and sensitive area of the Council's work and which go well beyond the general rules set out in the Council's adopted Code of Conduct. The protocol is not part of the Council's Code of Conduct but is overseen by the Council's own Standards Committee. The protocol does not apply to Parish Councils although discussions about this are ongoing through the Kent Association's local area Committee.
5. During 2006-07 I personally delivered additional code of conduct training to parish councillors and parish clerks. The event was held in the Council Chamber in February 2007 and was attended by 35 people.

6. In April 2006 administration of the Overview & Scrutiny function was transferred to the Head of Legal and Democratic Services and Monitoring Officer along with the handling of all Ombudsman complaints. I have included with this annual report the relevant 2006/07 data for Ombudsman complaints as well.
7. The Local Government Ombudsmen investigate complaints by members of the public who consider that they have been caused injustice through maladministration by local authorities and other bodies within their jurisdiction.
8. Under the Terms of Reference of the Council's Standards Committee, regular reports are required to be submitted to that Committee on Local Government Ombudsman complaints and outcomes, as the Standards Committee is responsible for the monitoring of any issues of probity raised in Ombudsman investigations. This report covers the period from 1st April 2006 to March 31st 2007.
9. This report details those complaints where the Ombudsman has made a finding against the Council, either with an official report, or under the terms of 'local settlement'. The categories by which the Ombudsman can find against the Council are:
 - Maladministration (with or without injustice)
 - Local Settlement
10. The information in this report has, in line with the Local Government Ombudsman's standards, been made anonymous, so that neither complainants nor sites can be identified. This is also in line with the Council's own recommended good practice on customer care.

ANALYSIS OF CODE OF CONDUCT COMPLAINTS

11. The attached Appendix 1 gives brief details of all formal complaints made to the Standards Board for England in 2006/07 regarding borough councillors and parish councillors within the borough.
12. During 2006/07 only six new formal complaints were made to the Board. In addition, a decision was made in 06/07 in relation to two complaints made in the preceding year (the Biddenden parish cases in the table). Of the six new complaints, two related to parish councils and four related to borough councillors. However, only one of the six new complaints has been referred for investigation (the Orlestone complaint in the table). No complaints made against borough councillors were regarded as worthy of investigation by the Standards Board. This statistic continues the Borough Council's excellent record of not having had a single complaint against a borough councillor referred for investigation since adoption of the Code in 2002.
13. The figures for 2006/07 compare favourably with the figures for 2005/06 when a total of eleven formal complaints were made (8 parish, 3 borough) of which 7 were investigated. Having said that, already during the first month of 2007/08 I have already been notified of three parish council complaint cases which are to be referred to me for investigation. Whilst one cannot draw firm conclusions on long term trends from the statistics available, the incidence of complaints has remained extremely low.

14. It is also worth noting that no complaints have been made regarding breaches of the Council's approved planning protocol. No complaints to the Local Government Ombudsman have involved alleged code breaches by councillors. All meeting agendas include a first item (after apologies) seeking declaration of interests. Declarations of personal interests are made and minuted and where appropriate checked against councillors' registered interest forms. Ad hoc advice on interests is regularly sought from the Monitoring Officer and his staff by borough councillors (and on occasions parish clerks/councillors) particularly in relation to Planning Committee matters. This process continues to demonstrate a good general level of understanding by borough councillors and a desire to comply with the code of conduct.
15. I have been able to obtain some comparative data from a few other Kent authorities. These are as follows:

Ashford: (total 39 parishes)	6 complaints - 2 against parish councillors 1 of which referred for investigation (ongoing), 4 against borough councillors but none referred for investigation
Tunbridge Wells: (total 17 parishes)	22 complaints against parish/town councillors none of which investigated (several were "repeat" complaints on a single issue). 1 complaint made and investigated against a borough councillor and breach found.
Maidstone: (total 35 parishes)	3 complaints against parish councillors two of which were investigated resulting in one finding of breach 5 complaints against borough councillors only one of which was investigated with no finding of breach.
Tonbridge & Malling: (27 parishes)	2 complaints against parish councillors 2 complaints against borough councillors only 1 referred for investigation (ongoing)

16. On the basis of all the above matters, I am satisfied - as I was in 2005/06 - that the Council's Code of Conduct (and good practice protocol) are widely understood and observed.

ANALYSIS OF OMBUDSMAN COMPLAINTS

17. The Ombudsman resolved 27 complaints against Ashford Borough Council within the period 1st April 2006 to 31st March 2007, a decrease of 4 from the previous year's total of 31.
18. No complaints were ruled as maladministration by this Council in the above period. The outcomes of those complaints resolved by the Ombudsman are detailed below.
- 3 = Local settlement
- 8 = No evidence of maladministration

- 8 = Ombudsman's discretion (Ombudsman has exercised his right not to pursue the complaint, i.e. there is no or insufficient injustice to warrant pursuing the matter further).
- 5 = Outside jurisdiction
- 3 = Premature complaints (i.e. Council should be given a chance to resolve the complaint first)

19. Where the Ombudsman determines a complaint as a local settlement an agreement will have been negotiated between the council and the complainant. Further details relating to these 3 complaints ruled as local settlement are contained in appendix 2.

20. There are no complaints outstanding for this period, although the Ombudsman's statistics show four parking related complaints which we have not yet received from the Ombudsman.

21. Two charts are attached at appendix 3 for the Committee's information:

- Ombudsman complaints by service
- Outcome of Ombudsman Complaints

22. I have also attached the Ombudsman's Annual Letter 2006/07 for information.

23. The Ombudsman has a target response time of 28 days for the Council to respond to a complaint. A table showing the number of first enquiries received by this Council, and the average number of days to respond, is shown below. This has increased since last year, but Members should be aware that Ombudsman complaints are, at Ashford, dealt with by the Scrutiny section of the authority and April 2006 saw the merger of the Scrutiny and Member Services section and the loss of the Scrutiny Managers' post. However it is particularly pleasing that the Council has maintained its position within the 49.4% of district councils who have a response time of less than 28 days, 23.4% of districts responded in 29 – 35 days, and 27.2% of districts took over 36 days to respond.

Response Times	First Enquiries	
	Number of First Enquiries	Average Number of Days to Respond
01/04/2006 – 31/03/2007	4	27.3
2005 / 2006	10	21.9
2004 / 2005	10	26.7

24. I have also included in appendix 4, some comparative data from other Kent authorities for the period 2005 – 2006, as this year's data is not produced in time for this annual report.

Appendix 1.

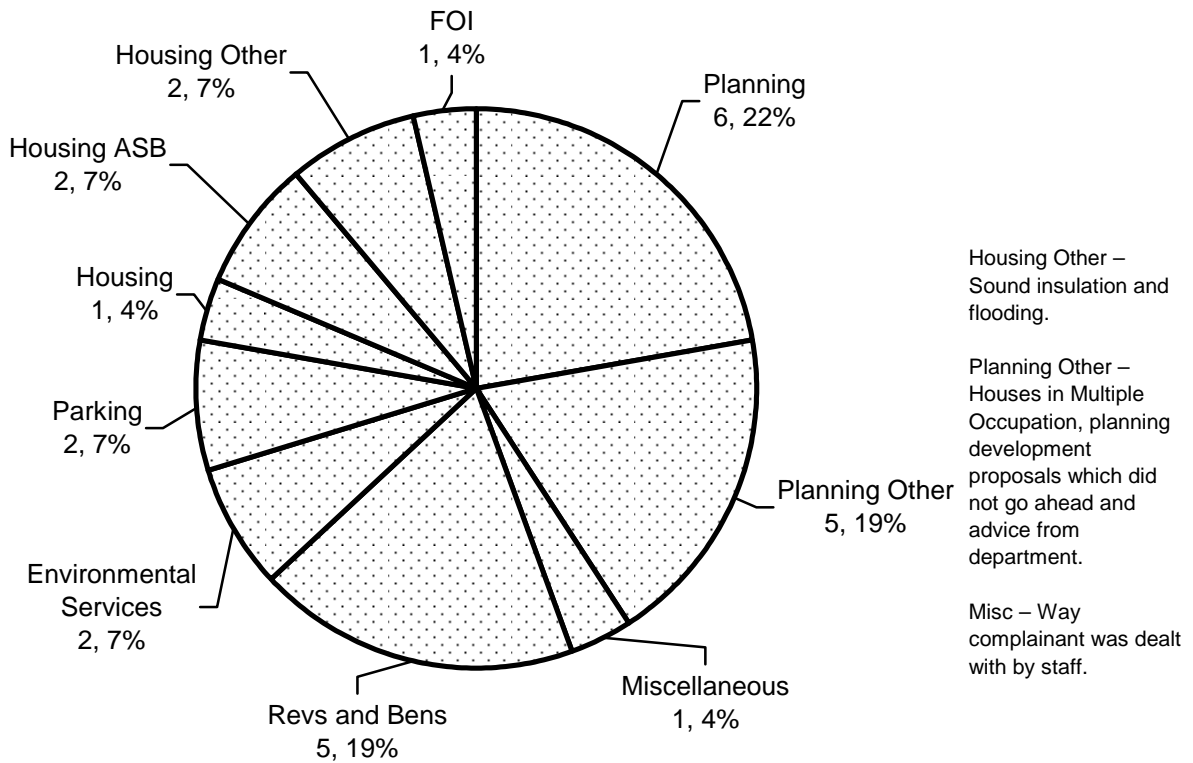
CODE OF CONDUCT COMPLAINTS 2006-07			
PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION			
COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
1. ORLESTONE PARISH SBE 17220.07	Failure to declare an interest at one or more meetings and reportedly intimidatory behaviour at such meeting(s). Allegations by a member of the public.	Referred to Monitoring Officer for Investigation - Not Concluded	
2. BIDDENDEN PARISH SBE 13761.06 & 13808.06	Failure to declare personal interest, failure to withdraw from meetings when matter involving prejudicial interest was discussed and improperly seeking to influence a decision on such a matter. Allegations by members of public and parish councillors	Breach of Code by failure to declare personal interest (proximity of home) but no prejudicial interest and no improper influence	The Standards Board's Ethical Standards Officer found that in the circumstances of the case no action needed to be taken in relation to the breach.
PART B - CASES WHERE STANDARDS BOARD DECIDED NO INVESTIGATION JUSTIFIED			
COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
1. ASHFORD BOROUGH SBE 14746.06	Councillor breached his authority, acted ultra vires and committed the Council to an unauthorised course of action by signing certain documents. Allegation by a borough councillor	The alleged conduct even if it were found to have occurred would not have involved any breach of code of conduct	
2. ASHFORD BOROUGH SBE 15210.06	Councillor failed to deal with community issues fairly and colluded in intimidation of a witness in a criminal case. Allegation by a member of the public	No evidence of improper conduct or breach of code of conduct	
3. BROOK PARISH SBE 17420.07	Misuse of parish council resources by employment of uninsured contractor resulting in damage to third party property and subsequent denial of information or redress to complainant all of which brought the parish councillor's office and council into disrepute. Allegation by member of the public	Evidence provided did not disclose a potential breach of the code of conduct	
4. ASHFORD BOROUGH SBE 17563.07	Collusion to falsify minutes of a meeting and failure to treat with respect at a committee meeting. Allegation made by a borough councillor	Information provided did not support the allegation of collusion to falsify minutes and alleged conduct at meeting not likely to disclose a potential failure to comply with the Code of Conduct	
5. ASHFORD BOROUGH SBE 17757.07	Collusion to falsify minutes of a meeting. Allegation by a borough councillor	Information provided did not support the allegation of collusion to falsify minutes.	

Appendix 2 - Local Government Ombudsman Complaints: April 2006 to March 2007.

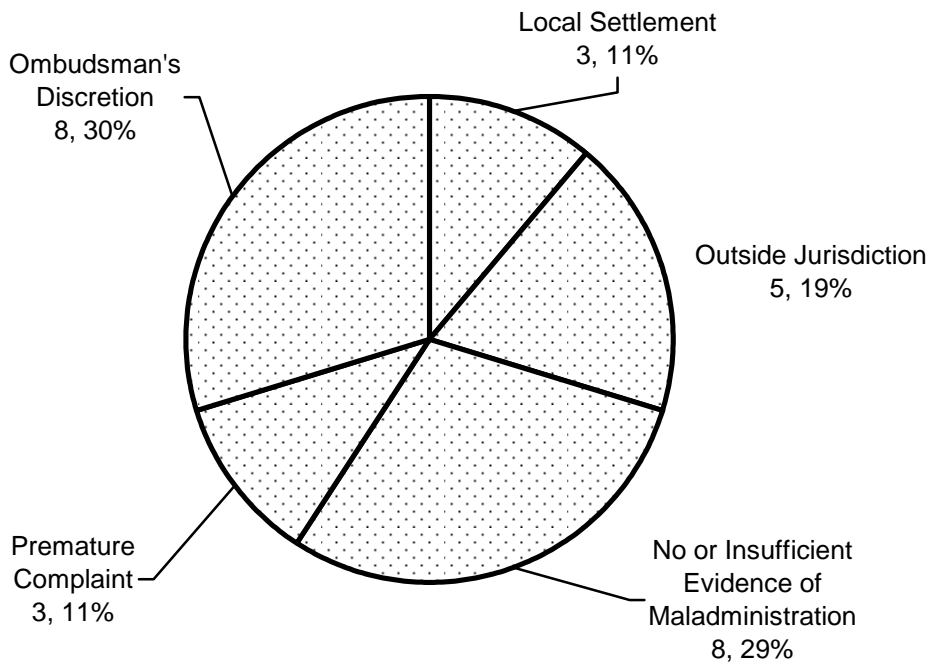
Basis of complaint	Ombudsman's Ruling	Outcome/Comment	Probity Issues Raised
<p>Environmental Services</p> <p>That the Council failed to deal properly with the disposal of allotment land</p>	<p>Local Settlement (No Report)</p>	<p>Council provided ample evidence of the promotion of allotments by the Council; however, some of the information was missing from the website. This omission was corrected and a section on allotments has been reinstated.</p>	<p>None</p>
<p>Planning</p> <p>The complaint was that the Council allowed the development of a barn opposite the complainant's house and a full planning application should have been required rather than allowing the barn to be built under 'permitted development'</p>	<p>Local Settlement (No Report)</p>	<p>The Ombudsman requested local settlement on this complaint and the complainant was offered £3,000 in full and final settlement following approval of the suggested amount by the Council's Executive.</p>	<p>None</p>
<p>Housing - ASB</p> <p>That the Council failed to deal properly with complaints of neighbour nuisance.</p>	<p>Local Settlement (No Report)</p>	<p>The Council paid the complainant £200 and apologised for the problems experienced.</p>	<p>None</p>

Appendix 3 – Ombudsman Complaints by Service and Decisions made

**Ombudsman Complaints by Service
Decision between April 2006 and March 2007**



Decisions Made on Ombudsman Complaints



Appendix 4 - Comparative data from other Kent authorities: 2005/06

	Total complaints determined (excluding premature complaints)	Maladministration and injustice reports	Local settlements	Maladministration reports	No maladministration reports	No maladministration without report	Ombudsman's discretion	Outside jurisdiction
Authority	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06
Ashford BC	22	0	5	0	0	3	8	6
Canterbury City C	30	0	4	0	0	15	3	8
Dartford BC	15	0	2	0	0	1	7	5
Dover DC	12	0	0	0	0	4	5	3
Gravesham BC	11	0	3	0	0	4	1	3
Maidstone BC	20	0	5	0	0	5	6	4
Medway C	74	0	16	0	0	32	14	12
Sevenoaks DC	10	0	2	0	0	5	1	2
Shepway DC	22	0	3	0	0	3	10	6
Swale BC	12	0	3	0	0	5	1	3
Thanet DC	38	0	5	0	0	22	7	4
Tonbridge & Malling BC	9	0	1	0	0	2	5	1
Tunbridge Wells RB	11	0	0	0	0	3	4	4

Members are invited to consider this annual report of the Monitoring Officer.



The Commission for
Local Administration in England

**The Local Government Ombudsman's
Annual Letter
Ashford Borough Council
for the year ended
31 March 2007**

The Local Government Ombudsman (LGO) investigates complaints by members of the public who consider that they have been caused injustice through administrative fault by local authorities and certain other bodies. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

RECEIVED
22 JUN 2007

Annual Letter 2006/07 - Introduction

The aim of the annual letter is to provide a summary of information on the complaints about your authority that we have received and try to draw any lessons learned about the authority's performance and complaint-handling arrangements. These might then be fed back into service improvement.

I hope that the letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

There are two attachments which form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

Complaints received

In 2006/07 I received 28 complaints against your authority, a decrease of 2 on the previous year.

Complaints about planning and building control remain the largest group and the distribution of other complaints is broadly similar to last year. The numbers remain small and do not seem to indicate any particular trends in service delivery.

Decisions on complaints

During the year my office made decisions on 27 complaints against your authority. We found no maladministration in eight complaints and we exercised discretion to close a further eight without requiring any action by the Council. Five were outside my jurisdiction.

Reports and local settlements

We use the term 'local settlement' to describe the outcome of a complaint where, during the course of our investigation, the Council takes, or agrees to take, some action which we consider is a satisfactory response to the complaint and the investigation does not need to be completed. These form a significant proportion of the complaints we determine. When we complete an investigation we must issue a report.

I issued no reports against your authority this year. We settled three complaints resulting in compensation totalling £3200.

One complaint concerned the way the Council decided that the erection of a barn to house livestock within 400 metres of the complainant's home was permitted development. I was concerned that the Council had denied the complainant the opportunity to object to the development and that there had been considerable delay in resolving his subsequent complaint. I concluded, however, that even if the Council had dealt differently with matters it was likely the barn would still have been erected. On this basis I agreed to settle the complaint on payment of compensation to the complainant of £3000.

A second complaint was about anti social behaviour. I considered that the Council had failed to keep the complainant informed of what it was doing to address the reported nuisance. The Council apologised and paid compensation of £200. The Council also agreed to review its anti social behaviour procedure in the light of recent government guidance.

A third complaint concerned the publicity that the Council gives to vacant allotments. The Council settled the complaint by agreeing to re-instate a page on allotments on its website.

You: Council's complaints procedure and handling of complaints

My office referred three 'premature complaints' to your authority for consideration, as we did not think you had had sufficient opportunity to deal with them through your own procedures. At 11% of all decisions this is well below the national average.

Two premature complaints were resubmitted to me during the period, neither of which I pursued.

Training in complaint handling

As you know part of our role in providing advice on good administrative practice involves offering training courses for all levels of local authority staff in complaints handling and investigation. Your staff have received training in the past and the feedback from courses that have been delivered over the past two and a half years is very positive.

The range of courses is expanding in response to demand and in addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution). We can run open courses for groups of staff from smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

Liaison with the Local Government Ombudsman

The target time for councils to respond when we make enquiries is 28 days. Your Council's average response time was 27 days. This is an increase on last year's average of 21 days despite there being fewer enquiries made but nevertheless still within my target. The quality of your Council's responses is good and your staff helpful.

As I reported in last year's annual letter my Deputy and an Investigator visited your Council in June 2006. I reiterate my thanks for the opportunity this provided for our respective organisations to exchange information and views.

LGO developments

I thought it would be helpful to update you on a project we are implementing to improve the first contact that people have with us as part of our customer focus initiative. We are developing a new Access and Advice Service that will provide a gateway to our services for all complainants and enquirers. It will be mainly telephone-based but will also deal with email, text and letter correspondence. As the project progresses we will keep you informed about developments and expected timescales.

Changes brought about by the Local Government Bill are also expected to impact on the way that we work and again we will keep you informed as relevant.

Conclusions and general observations

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
LONDON SW1P 4QP**

June 2007

Enc: Statistical data
Note on interpretation of statistics
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Benefits	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2006 - 31/03/2007	3	2	6	9	2	6	28
2005 / 2006	7	1	7	10	3	2	30
2004 / 2005	2	12	4	5	4	0	27

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2006 - 31/03/2007	0	3	0	0	8	8	5	3	24	27
2005 / 2006	0	5	0	0	3	8	6	9	22	31
2004 / 2005	0	5	0	0	11	3	2	7	21	28

See attached notes for an explanation of the headings in this table.

Average local authority response times 01/04/2006 to 31/03/2007

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2006 - 31/03/2007	4	27.3
2005 / 2006	10	21.9
2004 / 2005	10	26.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	48.9	23.4	27.7
Unitary Authorities	30.4	37.0	32.6
Metropolitan Authorities	38.9	41.7	19.4
County Councils	47.1	32.3	20.6
London Boroughs	39.4	33.3	27.3
National Park Authorities	66.7	33.3	0.0

Notes to assist interpretation of the LGO's local authority statistics

1. Local authority report

This information forms an integral part of the Annual Letter to your council. Again this year, the Annual Letter will be published on our website, at www.lgo.org.uk

The detailed information in the printouts is confidential.

2. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we refer back to the council for consideration. The figures may include some complaints that we have received but where we have not yet contacted the council.

3. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

/...

Premature complaints: decisions that the complaint is premature. The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it to the council as a 'premature complaint' to see if the council can itself resolve the matter.

Total excl premature: all decisions excluding those where we referred the complaint to the council as 'premature'.

4. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

5. Average local authority response times 2006/07

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

6. Categories of complaint

From 1 April 2007 we have amended our complaint category system, and you may notice some changes in the descriptions used in our decision letters and on the printouts attached.

The major change is that we now split social services cases between 'adult care services' and 'children and family services', in order that complaints relating to children and young people can be easily identified.

7. Complaints about personnel matters (employment and pensions)

We receive some complaints from members of council staff about personnel matters. These are usually outside our jurisdiction, and our practice is now to advise you that we have received the complaint without informing you of who made it.

For that reason, any such complaints on the attached printouts will show a blank space for the complainant's name.

**STANDARDS COMMITTEE
12 JULY 2007**

**THE NEW CODE OF CONDUCT
FOR MEMBERS**

1. The Council adopted the new code of conduct for members at the Annual Meeting on 24 May 2007. A copy of my report to Council is attached. Unfortunately timing of the introduction of the new code made it impractical to present that report through the Standards Committee.
2. The purpose of this report is to give the Standards Committee an opportunity to consider the new code and make any observations on it or on the arrangements for training for both borough and parish council members.
3. The new code was the subject of brief induction sessions for borough councillors on 15th and 16th May and a more detailed session on 7 June. In addition the Good Practice Protocol on Planning was included within the induction training for the Planning Committee. A further externally facilitated training event on the new code of conduct is being held at the Civic Centre on the evening of Tuesday 17 July. This is open to borough and parish councillors and parish clerks. Several parish councils have already taken the opportunity to adopt the new code. It is likely that a further event for parishes will need to be arranged by the Monitoring Officer later in the year in order to ensure wider coverage.
4. Adoption of the new code of conduct necessitates further detailed work by the Monitoring Officer to update and supplement the Council's Constitution as follows:-
 - Part 5 of the Constitution on Codes and Protocols requires a thorough review to reflect the new code. This includes substantial revisions to the Good Practice Protocol on Planning.
 - The new code requires local protocols to be prepared and agreed to deal with
 - (a) procedures to be followed by councillors in exercising their right under paragraph 12(2) of the code to speak on matters in which they have a prejudicial interest.
 - (b) the Council's requirements in relation to any exercise by a councillor of the right in paragraph 4(a)(iv) of the Code to disclose confidential information "in the public interest."
5. I intend to undertake this further work in the coming months and submit it for approval by the Council through the Standards Committee.

T W MORTIMER
Monitoring Officer &
Head of Legal & Democratic Services

Agenda Item No: 16

Report To: COUNCIL

Date: 24 MAY 2007

Report Title: NEW CODE OF CONDUCT FOR MEMBERS

Report Author: MONITORING OFFICER/HEAD OF LEGAL & DEMOCRATIC SERVICES



Summary: The Government has introduced a new national model code of conduct for councillors to replace the old code introduced in 2002. Whilst the legislation allows 6 months for adoption (from April 2007) this report recommends its immediate adoption by the Council in order to avoid confusion which would be caused by a significant overlap between old and new codes in the new Council. The new code is also clearer and less restrictive in some respects and it is therefore considered appropriate to bring forward this report as early as possible. This report briefly highlights the principal changes/new provisions in the new code.

Key Decision: NO

Recommendations: THAT THE COUNCIL

- (1) Notes the ten general principles of conduct already prescribed by the Secretary of State and set out in Appendix 2 to this report and adopts with immediate effect the new code of conduct as set out in the Local Authorities ((Model Code of Conduct) Order 2007 as a replacement for the code adopted in May 2002; the new code constituting "the code as to the conduct which is expected of members of Ashford Borough Council" described in the undertakings to observe the code already given by members.
- (2) Authorises the Monitoring Officer to give all necessary statutory notices and publicity to the adoption of the new code.
- (3) All parish councils within Ashford Borough be recommended to adopt the new code as soon as possible and be given such advice and assistance and training by the Monitoring Officer as reasonably practicable.
- (4) All members of the Borough Council be encouraged to attend one of the introductory training sessions which will include reference to the new Code of Conduct on 15 May (morning) or 16 May (evening) and/or the more detailed training session on constitutional issues - including the new code - on Thursday 7 June (evening)
- (5) Further reports on all consequential changes to the Council's Constitution - in particular Part 5 of the Constitution on "Codes and Protocols" - be submitted by the Monitoring Officer via the Standards Committee.

Policy Overview: Adoption of the new code is, in effect, mandatory rather than constituting a discretionary policy decision.

Financial Implications: No direct financial implications.

Other Material Implications: The Council should adopt the new code as soon as possible to ensure the clearer and slightly less restrictive provisions of the new code are brought into force without delay.

Background Papers: Model Code of Conduct Order 2007

Report Title: NEW CODE OF CONDUCT FOR MEMBERS

Purpose of the Report

To recommend to the Council the adoption of a new code of conduct for councillors based on the mandatory provisions of the new 2007 Model Code of Conduct Order

INTRODUCTION

- 1.1 Following a lengthy consultation process, the Secretary of State for Communities and Local Government made the Local Authorities (Model Code of Conduct) Order 2007 on 2nd April 2007. The Order contains a new Model Code, which is attached as Appendix '1'. Copies of the new code were also given to all councillors as part of the induction/information pack following the election on 3 May. Under Section 51 of the Local Government Act 2000, it is the duty of a Local Authority to adopt the new Model Code within 6 months of the making of the Order.
- 1.2 The Standards Board for England has issued general Guidance on the Code and a copy of this guidance will be provided for all councillors. The Standards Board strongly recommend that Local Authorities should adopt the new Code in its model form without amendment. This is to give certainty to members and the public as to what standards are expected; ensure consistency throughout England, and minimise the legal risk of adopting additional provisions that are unenforceable. The Standards Board, however, do recommend that local authorities include a preamble to the Code which outlines the ten general principles governing the conduct of members which were first prescribed by the Secretary of State in 2001. The principles are set out as Appendix '2'. For the avoidance of doubt I am recommending simply that the ten principles are noted and included within the relevant part of the Constitution. The new code itself states that "you should read this Code together with the general principles prescribed by the Secretary of State."
- 1.3 As the new Code relaxes certain restrictions on members making representations where they have a prejudicial interest, it is considered that there is no merit in continuing to apply such restrictions and that the new Code should be adopted by the Council at the earliest opportunity. Unfortunately this has not allowed time for the matter to be reported through the Standards Committee but the Chairman of that Committee has agreed that it is important to report to Council on adoption of the new code as soon as possible.
- 1.4 It is intended as part of the induction process for all members to be given some training on the new Model Code. It is recommended that all members be encouraged to attend one of the introductory induction sessions on 15th/16th May and/or the more detailed Constitutional issues induction session on the evening of 7th June 2007 at which the new Code of Conduct will be covered. Training session(s) for parish councils will be arranged by the Monitoring Officer in due course once the new code has been more widely adopted by the parishes.

SUMMARY OF PRINCIPAL CHANGES TO THE CODE

Scope

- 2.1 As before, the Code is intended to apply principally when a member is acting in an official capacity. Although not well phrased, para 2.3 of the Code states that in some circumstances the Code will also apply to conduct in a private capacity, but only where a criminal conviction has been imposed as a result of it. The 3 instances set out in the Code where this is the case are in relation to intimidation (para 3.2c); bringing the office or authority into disrepute (para 5); and improperly seeking an advantage (para 6.a). The last 2 instances were also included within the previous Code. However the courts in the recent case involving the Mayor of London made it clear that unless primary legislation is changed, the code can only apply where a councillor is performing functions as a councillor or where his/her actions have a

clear link with the functions of the office eg: representing oneself as a councillor in order to secure a personal advantage.

- 2.2 Until the proposed amendments to section 52 of the Local Government Act 2000 (which are currently before Parliament within the Local Government and Public Involvement in Health Bill) reinstate the situation prior to the decision in the *Livingstone* case, only in the very limited circumstances referred to above will the Code apply to conduct outside of a member's official capacity.

General Obligations

- 2.3 The positive obligation to treat others with respect remains (para 3.1 of the Code). Rather than being required to promote equality as under the existing Code, however, the new Code requires members not to do anything that may cause the authority to breach any of the equality enactments (para 3.2.a). A new requirement not to bully any person has been inserted (para 3.2.b). Some guidance on the new bullying provision is included in the Guidance from the Standards Board and it stresses that whereas offensive, intimidating or insulting behaviour is likely to constitute a breach of the new Code, this should be contrasted with legitimate challenges to fellow councillors or officers as to why they hold their views or have given particular advice. Personal criticism or attack, however, is likely to cross the line of what is acceptable behaviour.
- 2.4 The provisions regarding confidentiality have been changed to also allow disclosure of confidential information if it is reasonable and in the public interest to do so, and if disclosure is made in good faith and in compliance with the reasonable requirements of the authority (para 4.a.iv). So far as the new confidentiality provisions are concerned, brief advice is included within the Guidance issued by the Standards Board especially as to the nature of the 'public interest' test that should be satisfied before disclosure. There is an emphasis on the need to raise concerns through the proper channels before disclosure. At present I recommend that members should contact the Monitoring Officer for case-specific advice before they release any confidential information in reliance on this provision. In the meantime, the matter of "the authority's requirements" in this respect should be further considered through reports from the Monitoring Officer via the Standards Committee.
- 2.5 The obligation to have regard to any relevant advice given by the Monitoring Officer and the Chief Finance Officer has been retained and strengthened (para 7.1).
- 2.6 There is no longer any requirement on members to report any breaches of the Code to the Standards Board.

Declarations of Interest - Personal Interests

- 2.7 The new list of personal interests required to be registered in the Register of Members Interests (para 8.1.a) is very similar to the current list. To the current list, however, has been added a new personal interest; namely, where it relates to or is likely to affect the interests of any person from whom at least £25 worth of gift or hospitality has been received (para 8.a.viii). Although such gifts or hospitality did need to be registered under the old Code, receipt did not constitute a personal interest and did not need to be declared at meetings.
- 2.8 A personal interest should be declared at a meeting if it is registered in the Register of Members' Interests. A personal interest should also be declared where the matter under discussion might reasonably be regarded as affecting the well-being or financial position of the member, or 'a relevant person', to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision. The old code provided for this test to apply to the whole of the authority's area - accordingly this revised provision is likely to lead to less instances of personal interests arising.
- 2.9 The list of relevant people includes family or 'any person with whom you have a close personal association' as well as employers of those people. A member is, however, only liable to declare the interest if aware or ought reasonably to be aware of its existence. The reference in the old code to "friend" has been removed and replaced with the wider term "close association".

- 2.10 Personal Interests as listed in para 8.1.a should be registered in the Register of Members' Interests, which is maintained by the Monitoring Officer, and changes notified within 28 days, as now (para 13). If a Personal Interest arises at a meeting, then the existence and nature of the interest should generally be declared at the outset whether or not the member intends to speak (para 9.1).
- 2.11 Where the personal interest relates to a body to which the member has been nominated or appointed by the Council, or relates to a body exercising functions of a public nature, then the new Code proposes that the personal interest need only be declared at meetings where the member actually speaks on the relevant issue (para 9.2).
- 2.12 As now, if a Personal Interest is declared which is not prejudicial, the member may stay, speak and vote.
- 2.13 There are some detailed provisions with regard to disclosure of particular interests that members will need to acquaint themselves with in case any apply to their own circumstances. Details of 'sensitive information' that could create a serious risk of violence or intimidation need not be disclosed (para 9.5) or registered (para 14) provided the Monitoring Officer agrees.

Prejudicial Interests

- 2.14 The basic prejudicial interest test is the same as now; namely, that where there is a personal interest, then the interest is also prejudicial where it 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 members judgment of the public interest (para 10.1).
- 2.15 The new Code, however, provides (para 10.2) that a member does not have a prejudicial interest where:
- the matter under discussion does not affect the financial position of the member, or any person or body described in para 8 in relation to whom a member may have a personal interest;
 - the matter does not relate to the determining of any approval, consent, licence, permission or registration in relation to the member, or any person or body described in para 8 in relation to whom a member may have a personal interest; or
 - the matter relates to specific exceptions such as housing; school meals, school transport and travel expenses; statutory sick pay; members allowances, payments or indemnities; ceremonial hours; or setting the council tax.
- 2.16 These exceptions are fundamentally different from the position under the old Code and in effect involve a reversion to the old 'pecuniary' and 'non-pecuniary' distinction in interests. They could lead to less need to declare prejudicial interests but the complex common law rules on bias will continue to apply and in some limited circumstances, whether or not there is a breach of the code of conduct, members may still be unable to participate eg: where there was a real possibility that the decision - making process would be biased as a result of the participation of member(s) with a personal interest in the outcome or member(s) who have "closed minds" and have predetermined the outcome. I strongly recommend that advice is taken from the Monitoring Officer as early as possible where any member intends to participate in a decision in reliance on the new provisions in para 10.2 of the Code.

Effect of Prejudicial Interests on participation

- 2.17 The basic rule is as now; namely that unless a dispensation has been obtained from the Standards Committee, a member with a prejudicial interest must withdraw from the room or chamber. Prior to withdrawing, however, under the new Code a member with a prejudicial interest may make representations, answer questions or give evidence at a meeting open to the public, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. After speaking, the member must then immediately withdraw from the room or chamber.
- 2.18 The intention is to ensure that a member has and is able to exercise the same right as an ordinary member of the public to speak at a meeting open to the public despite having a

prejudicial interest. This would allow a councillor to undertake the "community advocate" role, despite a prejudicial interest, in a wider range of circumstances than at present. Again it is suggested that any member wishing to take advantage of this new provision seeks early advice from the Monitoring Officer at least until the new provision is widely understood in practice.

CONCLUSION

- 3.1 There are a number of significant changes from the current Code and, indeed, from the draft Code issued for consultation earlier this year. The delicate balance between the freedom of members to act as local advocates, and the need to ensure that decisions are made without the improper influence of personal interests has been re-examined in the new Code and greater participation by members with prejudicial interests is likely to be possible within the new Code. However the need for members to take early advice from the Monitoring Officer is, if anything, heightened by the new Code because of its failure to address the related issue of bias in the decision making process.
- 3.2 There will be consequential changes needed to the Council's existing Codes and Protocols as a result of the adoption of the Code, and it is suggested that these be the subject of further reports by the Monitoring Officer via the Standards Committee as soon as possible. Some provisions of the code require councillors to act "in accordance with the requirements of the authority" eg: para 4(a) in relation to disclosure of confidential information. The approval of a protocol to clarify such requirements would be helpful and again this work could be channelled through the Standards Committee.

OTHER OPTIONS CONSIDERED

- 4.1 It is a statutory duty to adopt the Code. If not adopted within 6 months, it will automatically be applied. Although it is possible to make amendments, the advice from the Standards Board for England is that this is not done for the reasons set out above.

Contact: Email:	Terry Mortimer; Tel: 01233 330210 terry.mortimer@ashford.gov.uk
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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 sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

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

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

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

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

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

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

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

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

6. You—

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

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

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

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

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

The Ten General Principles of Public Life

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.