

DECLARATION OF INTEREST - CHECKLIST FOR ASSISTANCE OF MEMBERS – 2007

Name: Councillor

Cabinet/Council/Committee:

Date:

Item No:

Item Title:

Nature of Interest:

A Member with a personal interest in any business of the Council must disclose the existence and nature of that interest at commencement or when interest apparent except:

- Where it relates to or is likely to affect a person described in 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose the existence and nature when you address the meeting on that business.
- Where it is a personal interest of the type mentioned in 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.
- Where sensitive information relating to it is not registered in the register, you must indicate that you have a personal interest, but need not disclose the sensitive information.

A Member with a prejudicial interest must withdraw, **either** immediately after making representations, answering questions or giving evidence where 4 below applies **or** when business is considered and must not exercise executive functions in relation to that business and must not seek to improperly influence a decision.

Please tick relevant boxes

Notes

	General (not at overview & scrutiny)		Notes
1.	I have a personal interest* but it is not prejudicial.	<input type="checkbox"/>	<i>You may speak and vote</i>
2.	I have a personal interest* but do <u>not</u> have a prejudicial interest in the business as it relates to the functions of my Council in respect of:		
(i)	Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.	<input type="checkbox"/>	<i>You may speak and vote</i>
(ii)	school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iii)	Statutory sick pay where I am in receipt or entitled to receipt of such pay.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iv)	An allowance, payment or indemnity given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(v)	Any ceremonial honour given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(vi)	Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a personal interest* and it is prejudicial because it affects my financial position or the financial position of a person or body described in 8 overleaf and 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 my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or any person or body described in 8 overleaf and 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 my judgement of the public interest	<input type="checkbox"/> <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i>

4.	I have a personal and prejudicial interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>
5.	A Standards Committee dispensation applies.	<input type="checkbox"/>	<i>See the terms of the dispensation</i>

* **“Personal Interest”** in the business of the Council means either it relates to or is likely to affect:

- 8(1)(a)(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

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 other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

“a relevant person” means

- (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 8(1)(a)(i) or (ii).

“body exercising functions of a public nature” means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13)(b) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

STANDARDS COMMITTEE

HELD: 22 JULY 2008
Start: 4.30pm
Finish: 5.20pm

PRESENT:

Independent Members: J Cailes (Chairman)
P Hanmer (Vice Chairman)
R Chester
P Hayman
R Patterson

Councillors: Rice
Whitby

Parish Councillors: Cheetham
Hammond
Kitson

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

10. APOLOGIES

Apologies for absence were received on behalf of Councillors Mrs Atherley and G M Roberts.

11. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no items of urgent business.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 12 June 2008 be approved as a correct record and signed by the Chairman.

14. COMPLAINTS TO STANDARDS BOARD 2002-2008

The Committee considered the statistics on complaints regarding district and parish councillors received by the Standards Board for England between 2002 and 8 May 2008.

The Committee was advised that from 8 May 2008 complaints would be dealt with by the Council and that to date none had been received.

RESOLVED: That the update be noted.

15. MONITORING OFFICER MEETING WITH PARISH CLERKS TO DISCUSS STANDARDS REGIME - JUNE 2008

The Council Secretary and Solicitor provided an update on the meeting she held with Parish Clerks to discuss the Standards regime in June 2008. She advised that a meeting with the Standards Committee and Parish Chairman would be held in due course.

RESOLVED: That the update from the Council Secretary and Solicitor be noted.

16. PROCEDURE FOR THE INTIAL ASSESSMENT OF WRITTEN COMPLAINTS OF BREACH OF THE CODE OF CONDUCT INCLUDING ASSESSMENT CRITERIA

The Committee considered the report of the Council Secretary and Solicitor as contained in the Book of Reports on pages 55 to 58(16), which set out the final version of the procedures to be followed in respect of written complaints of breach of the Code of Conduct received under Section 57A(1) of the Local Government Act (the Act) together with the Assessment Criteria.

RESOLVED: A. That the updated procedure to be followed in respect of written complaints of breach of the Code of Conduct received under Section 57A(1) of the Act be as attached at Appendix 1 to the report, and the assessment criteria and documentation contained therein be approved.

B. That these procedures be published as required by Regulation 10(3) by putting them on the Council's website and having copies available on request.

C. That the Council Secretary and Solicitor update and develop the standard documentation as required.

17. CODE OF CONDUCT - MEMBERS' TRAINING - MONITORING

The Committee considered the report of the Council Secretary and Solicitor as contained in the Book of Reports on pages 59 to 65, which proposed how members could be trained in the requirements of the Code of Conduct and evaluated the effectiveness of the training undertaken to date.

RESOLVED: A. That the training undertaken and the evaluation of it be noted.

B. That a Seminar/Workshop on the Code of Conduct, for all District and Parish Councillors, be held in November 2008. This to comprise a presentation followed by case studies in Workshop format, at a venue to be selected by the Council Secretary and Solicitor in consultation with the Chairman of the Committee.

C. That training is provided to Standards Committee Members on the initial assessment, review and hearing processes as and when complaints are received.

18. STANDARDS COMMITTEE VISITS TO DISTRICT AND PARISH COUNCIL MEETINGS - UPDATE

The Committee considered the report of the Council Secretary and Solicitor as contained in the Book of Reports on pages 67 to 72, which provided an update on visits being undertaken by Members of the Standards Committee to District and Parish Council meetings.

- RESOLVED: A. That the current position to visits to District and Parish Council meetings as set out in paragraph 4 in the report be noted.
- B. That Members of the Committee notify the Assistant Member Services Manager of any future meetings they are able to attend as soon as possible.

THE CHAIRMAN

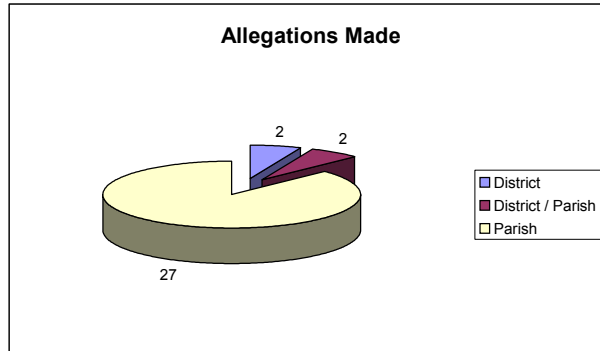
West Lancashire District Council

Complaints to the Standards Committee 2008/2009

As at 01/12/2008

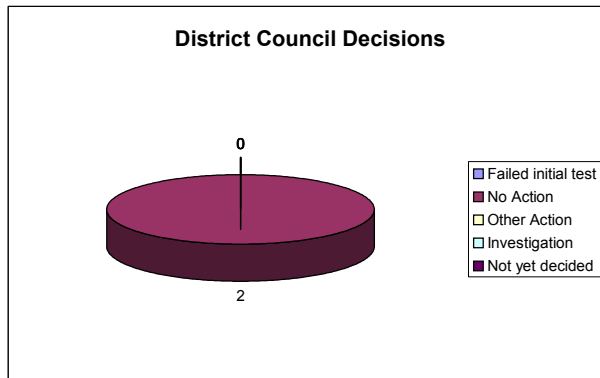
Allegations made

District	2
District / Parish	2
Parish	27
Total	31



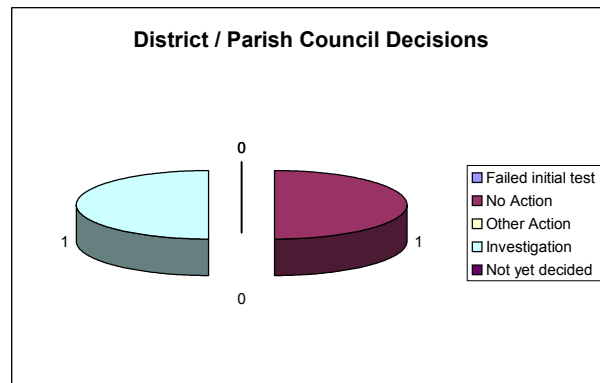
District Council Decisions

Failed initial test	0
No Action	2
Other Action	0
Investigation	0
Not yet decided	0
Total	2



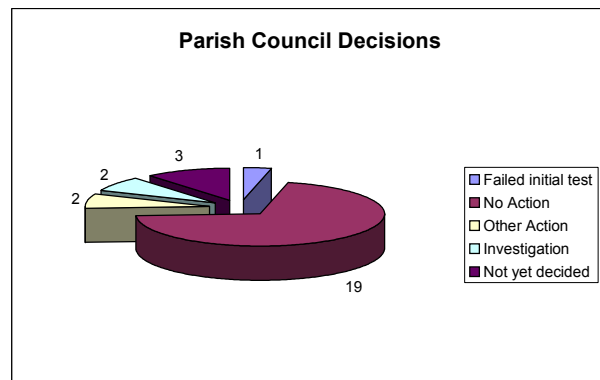
District / Parish Council Decisions

Failed initial test	0
No Action	1
Other Action	0
Investigation	1
Not yet decided	0
Total	2



Parish Council Decisions

Failed initial test	1
No Action	19
Other Action	2
Investigation	2
Not yet decided	3
Total	27





AGENDA ITEM: 7

**STANDARDS COMMITTEE:
10 DECEMBER 2008**

**COUNCIL:
17 DECEMBER 2008**

Report of: Council Secretary and Solicitor

**Contact: Mrs Jacky Denning (Extn. 5384)
(E-mail: jacky.denning@westlancsdc.gov.uk)**

**SUBJECT: CONSULTATION ON CODES OF CONDUCT FOR LOCAL AUTHORITY
MEMBERS AND EMPLOYEES**

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To consider the consultation paper from the Department for Communities and Local Government on revising the model code of conduct for local authority members, the general principles which govern the conduct of local authority members and on the introduction of a requirement for a code of conduct for employees.

2.0 RECOMMENDATIONS

2.1 That the response, attached at Appendix 2 be sent to the Department for Communities and Local Government by Wednesday, 24 December 2008.

3.0 THE CONSULTATION PAPER

3.1 The Department for Communities and Local Government (DCLG) has issued a Consultation Paper, which:

- Invites views on proposals for revising the model code of conduct for local authority members, to clarify its application to members's conduct in their non-official capacity.
- Invites views on proposals for changes to the Relevant Authorities (General Principles) Order 2001 which sets out the general principles which govern the conduct of local authority members.
- Seeks comments on proposals to introduce a requirement for authorities to incorporate a code of conduct for employees, based on a statutory model code of conduct, into the terms and conditions of employment of their employees.

3.2 Views are sought by 24 December 2008, with a view to implementation in time for the local elections in May/June 2009.

4.0 RESPONSE

4.1 A copy of a draft response to the specific questions, which Members might wish to submit to the DCLG, is attached as Appendix 2.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

5.1 There are no significant sustainability impacts associated with the report and no significant impacts on crime and disorder.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 There are no specific financial or resource implications arising from this report.

7.0 RISK ASSESSMENT

7.1 There are no risks with the Council's business associated with the report and the response will provide the Council with the opportunity to give its views on the consultation document.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

- (1) Communities In Control: Real People, Real Power – Codes of Conduct for Local Authority Members and Employees – A Consultation – Department for Communities and Local Government – October 2008
- (2) Response to the consultation paper.

Communities in control: Real people, real power
Codes of conduct for local authority members and
employees

A consultation



Communities in control: Real people, real power
Codes of conduct for local authority members and
employees

A consultation

October 2008

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Website: www.communities.gov.uk

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Chapter 1: The consultation and how to respond

Communities in control consultation papers

- 1.1 The White Paper, *Communities in control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 White Paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments. Future consultation papers include a consultation on proposals to revise the code of recommended practice on local authority publicity, which is due to be published at the end of October. This paper invites views on proposals for revising the model code of conduct for local authority members ("the members' code"), principally to clarify its application to members' conduct in their non-official capacity. This paper also invites views on proposals for associated changes to the Relevant Authorities (General Principles) Order 2001 which sets out the general principles which govern the conduct of local authority members. Finally, it seeks comments on proposals to introduce a requirement for authorities to incorporate a code of conduct for employees, based on a statutory model code of conduct, in to the terms and conditions of employment of their employees' ("the employees' code").

About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England and police authorities in Wales.
- 1.4 Following the local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, the Local Government and Public Involvement in Health Act 2007 established a more locally-based conduct regime for local authority members centred on local authority standards committees. Under the new devolved regime, the Standards Board for England has become a light-touch strategic regulator, responsible for monitoring the operation of the conduct regime and giving support and guidance to standards committees and monitoring officers in discharging their new functions.
- 1.5 As part of the changes to the conduct regime, a new model code of conduct for local authority members, the Local Authorities (Model Code of Conduct) Order 2007, was introduced with effect from May

2007, on the basis that the provisions of the members' code would be reviewed in light of early experience of its practical operation.

- 1.6 Chapter 2 of this paper seeks views on proposals to clarify the members' code in its application to members' conduct when acting in a non-official capacity. It also seeks views on the operation of, and proposed revisions to, the members' code, including reconfiguring the members' code into two distinct sections, the first dealing with members' conduct in their official capacity, the second dealing with members' conduct in their non-official capacity. Finally, it seeks views on associated amendments to the Relevant Authorities (General Principles) Order 2001 to clarify its application to members' conduct in their non-official capacity.
- 1.7 Chapter 3 of this paper seeks views on the proposed introduction of a model code of conduct for local government employees, which will become part of such employees' terms and conditions of employment.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in **Annex A**. In order to aid your consideration of the proposed amendments to the current members' code, the substance of the 2007 code is reproduced at **Annex B**.
- 1.9 We are minded, subject to responses to this consultation, to implement the proposals in this consultation paper, so that they come into effect in line with the local government elections 2009.

Who are we consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from local authority members, local authority monitoring officers, local government employees, national representative bodies, local government partners and trade unions. **The consultation period runs for 12 weeks to 24 December 2008.**

How to respond

- 1.11 Your response must be received by 24 December 2008 and may be sent by e-mail or post to:

Karl Holden
Conduct and Council Constitutions Team
Communities and Local Government
Zone 5/B2, Eland House
Bressenden Place
London
SW1E 5DU

e-mail: conductcode@communities.gsi.gov.uk

If you are replying by e-mail please title your response 'Response to Model Code consultation'.

It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on the legislation that will form the revised members' code, the general principles order and the new employees' code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at www.communities.gov.uk

Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.
- 1.15 If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.17 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The consultation criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see **Annex C** of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

Additional copies

- 1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: www.communities.gov.uk.

In context – previous consultations and relevant legislation

- 1.20 The local government White Paper, *Strong and Prosperous Communities*, issued in October 2006, set out the Government's proposals to put in place a clearer, simpler and more proportionate model code of conduct for members which would include changes to the rules on personal and prejudicial interests. This announcement followed a consultation by the Standards Board for England, *A Code for the future*, in February 2005 and the Discussion Paper *Conduct in English Local Government*, issued by the then Office for the Deputy Prime Minister in December 2005.
- 1.21 The policy proposals took form in the January 2007 consultation document, *Consultation on Amendments to the Model Code of Conduct for Local Authority Members*, which proposed the combination of the four different model codes of conduct that existed at the time (for local authorities, parish councils, national parks and police authorities) into a single consolidated model code.
- 1.22 The Local Authorities (Model Code of Conduct) Order 2007 came into force on 3 May 2007. With the members' code now in place for over a year, we believe this is an appropriate time to examine how well it has functioned in practice and consider any revisions that may be required. The proposed amendments to the members' code set out in this paper reflect discussions with the Standards Board and, in particular, their experience of the practical operation of the 2007 members' code over the last year.
- 1.23 Following the 2006 local government White Paper and the introduction of the 2007 members' code, the Local Government and Public Involvement in Health Act 2007 made provision clarifying the law in

relation to the application of the conduct regime to the conduct of members in their non- official capacity. This paper therefore also invites comments on proposals to revise the members' code and the general principles order to address the issue of the application of the conduct regime to the conduct of members in their non-official capacity.

Code of conduct for local government employees

- 1.24 In August 2004, the then Office of the Deputy Prime Minister issued the consultation paper, *A Model Code of Conduct for Local Government Employees*. The paper consulted on a draft code defining the minimum standards of conduct that employees of relevant authorities would be expected to observe on carrying out their duties. The 2004 consultation was followed by further inquiries and consultations on matters relating to the conduct regime for local government.
- 1.25 The Department restated its commitment to introduce a model employees' code, under Section 82 of the Local Government Act 2000, in the local government White Paper 2006. However, in light of the above inquiries and consultations, and the introduction of the 2007 members' code, it was decided that the implementation of an employees' code should be delayed until the Department had an opportunity to consider the employees' code in the context of the wider review of the conduct regime for local government and the lessons learned from the implementation of the new members' code.
- 1.26 With the implementation of the new devolved conduct regime and our proposals to amend the members' code, drawing on the experience of its first year of operation, we consider that the time is right to also consult on proposals to introduce a model employees' code.

Chapter 2: Code of conduct for local authority members

What is the code of conduct for?

- 2.1 The public has a right to expect high standards of conduct from their elected and co-opted members. The standards of conduct expected of local authority members are set out in the members' code, which is underpinned by the ten general principles. By signing up to the members' code, a member is actively taking on a formal obligation to abide by its requirements.
- 2.2 The members' code forms the bedrock of the conduct regime and aims to promote the public's trust and confidence in their members and faith in local democracy. It does this by providing a robust set of standards of behaviour for members to abide by and work within. In doing this, the code also protects members from unreasonable expectations of behaviour being put upon them. Since May 2008, allegations that a member has failed to comply with the provisions of the members' code are considered by local authority standards committees.
- 2.3 The current members' code is set out in the Local Authorities (Model Code of Conduct) Order 2007 which applies to members of relevant authorities in England and of police authorities in Wales. On its introduction, the Government gave an undertaking that the effectiveness of the code would be reviewed after it had been in operation for some time. We believe, drawing on the Standards Board's practical experience that the members' code is, broadly, operating very well. However, as it has been in force for over a year, we consider that it is now appropriate to review the code.
- 2.4 Most importantly, we propose that the members' code be restructured by revoking the existing Order and making a new one. We propose that the new members' code will be differently formatted to the existing code, making it easier to interpret and clearer in its application, for instance by dividing it into two sections: the first dealing with members' conduct when acting in an official capacity and reflecting what is in the current code, the second dealing with members' conduct in their non-official capacity.

Application of the code to members' conduct in their non-official capacity

- 2.5 Trust in our local authority members is one of the cornerstones of local democracy. Members should inspire trust and confidence from those who elected them, set an example of leadership for their communities and should be expected to act lawfully even when they are not acting in their role as members.
- 2.6 This view was supported by those who responded to the Standards Board for England's consultation on the members' code in 2005. Responses indicated a clear view that a member's conduct in a non-official capacity was an issue that they considered should be covered by the members' code, particularly where that conduct amounts to a criminal offence.
- 2.7 It has always been our intention for the members' code to apply to a limited extent to the conduct of members in a non-official capacity. We wish now to clarify which provisions of the members' code apply in a member's official capacity and to put beyond doubt which provisions apply to a member's conduct in a non-official capacity.
- 2.8 The need to clarify what conduct in a member's non-official capacity is covered by the members' code arose as a consequence of a court judgment in 2006. This cast doubt on the ability of the code to cover members' conduct not linked to the performance of their public duties. As was made clear by Ministers during the passage of the Local Government and Public Involvement in Health Act 2007, we consider that certain behaviour, even when there is no direct link to the member's official role, can have an adverse effect on the level of public trust in local authority members and local government as a whole.
- 2.9 We propose therefore that the new members' code should, in the section covering the conduct of members in their non-official capacity, contain the following provision prohibiting particular conduct where that conduct would constitute a criminal offence:

"Members must not bring their office or authority into disrepute by conduct which is a criminal offence".

Consultation Question 1:

Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

Definition of ‘criminal offence’ and ‘official capacity’

- 2.10 The Local Government and Public Involvement in Health Act 2007 gave the Secretary of State the power to define, for the purposes of the members’ code, what constitutes a ‘criminal offence’. We propose for the purpose of the members’ code, that ‘criminal offence’ be defined as any criminal offence for which the member has been convicted in a criminal court, but for which the member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction.
- 2.11 Our intention is that offences capable of attracting fixed penalty notices should be excluded from the remit of the conduct regime. We consider that this approach will ensure that the most minor criminal offences, for example minor motoring offences, parking offences and dropping litter as well as cautions and orders falling short of a criminal conviction by a court, will not be included in the remit of the members’ code. However, serious criminal offences which we consider should come under the remit of the members’ code, such as assault, harassment, fraud and offences relating to child pornography will be included in the remit of the code.
- 2.12 We propose that the Standards Board for England will issue guidance for local authority standards committees on how a criminal offence should be treated in its application to the conduct regime.

Consultation Question 2:

Do you agree with this definition of ‘criminal offence’ for the purpose of the members’ code? If not, what other definition would you support, for instance should it include police cautions? Please give details.

- 2.13 The Local Government and Public Involvement in Health Act 2007 also gave the Secretary of State power to define, for the purposes of the members’ code, what constitutes ‘official capacity’.
- 2.14 We propose that for the purposes of the members’ code, ‘official capacity’ be defined as being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority.

Consultation Question 3:

Do you agree with this definition of ‘official capacity’ for the purpose of the members’ code? If not, what other definition would you support? Please give details.

Offending abroad

2.15 We also propose that the members' code would engage with conduct committed in a foreign country, where that conduct constitutes a criminal offence in that country, but only where the conduct would also constitute a criminal offence if it was committed in the UK. However, the code would only apply if the individual was convicted in the country in which the offence was committed.

Consultation Question 4:

Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

What does this mean?

2.16 Our proposals would have the effect of providing that the only conduct in a member's non-official capacity which is engaged by the code, is conduct which constitutes a criminal offence, as defined in paragraph 2.10 above. The code may only then be applied to that conduct when the evidence that the member's conduct constituted a criminal offence is provided by the criminal conviction of the member in the courts.

2.17 This would mean, for example, that a member who was convicted of a criminal offence of assault or harassment could be held to have breached the code, even if the conduct, which led to the conviction took place entirely outside the member's official capacity.

Criminal conviction of a member

2.18 It should be noted that a criminal conviction resulting in a custodial sentence of more than three months without the option of paying a fine is already covered by section 80 of the Local Government Act 1972, with the member automatically disqualified from office for five years. We are not proposing any changes to this legislation.

The conduct regime

2.19 At present, investigations into alleged breaches of the members' code are triggered by a written allegation made to the standards committee of the local authority concerned. We propose that this continue to be the case when dealing with allegations of misconduct in relation to a member's conduct in their non-official capacity.

2.20 Where the allegation involves criminal activity that is, at the time of the allegation being made, being investigated by the police or prosecuted through the courts, we propose that the standards committee or the

Standards Board, as the case may be, would cease their investigation process until the criminal process had been completed. Any subsequent action under the conduct regime in respect of a member's private conduct would follow the conclusion of the criminal procedure. The member would not be suspended during the period of the criminal process.

- 2.21 For the purpose of the conduct regime, the criminal process will be considered to have been completed at the conclusion of any appeals process.

Consultation Question 5:

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Proposed revisions to the members' code

- 2.22 This consultation paper also seeks views on the following amendments which we propose to make to the provisions of the existing code. The proposed amendments reflect discussions with the Standards Board and, in particular, the Board's experience of the practical operation of the code over the last year.
- 2.23 In order to aid your consideration of our proposed amendments to the members' code, the substance of the present code is reproduced at **Annex B** to this paper. Guidance on the provisions of the members' code is available on the Standards Board for England's website at www.standardsboard.gov.uk

Parish councils

- 2.24 It has been suggested that article 2(5) of the Local Authorities (Model Code of Conduct) Order 2007 be amended to apply paragraph 12(2) to parish councils, to make it mandatory for parish councils that a member with a prejudicial interest may make representations at a meeting only if members of the public are able to attend that meeting for the same purpose. Currently, if a parish council wishes this provision to apply, it must make a conscious decision to adopt paragraph 12(2) into its code. This amendment would save unnecessary administration and ensure consistency across parish councils.

Membership of other bodies

- 2.25 It has been suggested that paragraphs 8(1)(a)(i) and (ii) of the current members' code be amended to clarify that the sections are referring to other bodies that you are a member of or which exercise functions of a public nature, putting it beyond doubt that this is not a reference to the authority itself.

Personal interests

2.26 It has been suggested that current wording of paragraph 8(1)(a) of the members' code could be amended to clarify that a member is required to register a gift or hospitality with an estimated value of at least £25 in his or her register of members' interests.

Prejudicial interests

2.27 It has been suggested that paragraph 10(2) of the code be amended to remove the double negative in the current drafting, to make it clear that a prejudicial interest exists where the business of your authority affects your financial position or the financial position of a person listed in paragraph 8 of the code or it relates to the determining of any approval, consent, licence, permission or registration in relation to you or those persons listed in paragraph 8 of the code.

2.28 It has been suggested that the meaning of 'determining' in paragraph 10(2)(b) could be clarified to include variation, attaching, removing or amending conditions, waiving or revoking applications.

2.29 It has also been suggested that paragraph 10(2)(c) could be amended to clarify that a member would not have a prejudicial interest in the business of the authority where that business related to giving evidence before a local authority standards committee hearing regarding an allegation that a member of the authority had failed to comply with the code.

Registration of members' interests

2.30 We propose that any new members' code would take into account any existing registration of members' interests. This will ensure that members who have already registered their interests in line with the 2007 model code do not have to repeat the process when the revised members' code is introduced.

Consultation Question 6:

Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

Consultation Question 7:

Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

Consultation Question 8:

Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

Legislative context

- 2.31 The current members' code is set out in the Schedule to the Local Authorities (Model Code of Conduct) Order 2007 made under powers conferred on the Secretary of State by section 50 of the Local Government Act 2000.
- 2.32 Section 183 of the Local Government and Public Involvement in Health Act 2007 inserted, into section 50 of the Local Government Act 2000, a requirement for the Secretary of State to specify which provisions of the members' code apply in relation to a member's conduct when acting in an official capacity and which provisions apply when not acting in an official capacity. A provision may only be specified to apply to members' conduct when not acting in an official capacity if the conduct it prohibits constitutes a criminal offence. The power in section 50 of the Local Government Act 2000 permits the Secretary of State to define for the purposes of the members' code what is meant by "criminal offence" and what is meant by "official capacity".
- 2.33 We propose that the existing Local Authorities (Model Code of Conduct) Order 2007 be revoked and a new, revised Order would be made to reflect our proposed amendments and that part of the code applies to a member's conduct in their official capacity and part of it would apply to a member's conduct in their non-official capacity.
- 2.34 Provision is also made in section 183 of the Local Government and Public Involvement in Health Act 2007 for members to give to their authority an undertaking to observe the new code within a period prescribed by the Secretary of State. We propose that members will have two months from the date their authority adopts the new code to give a written undertaking that they will observe their authority's code. Failure to do so will mean that they cease to be members of the authority.

Consultation Question 9:

Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?

Proposed amendments to the General Principles

What are the General Principles?

- 2.35 The ten General Principles, contained in the Relevant Authorities (General Principles) Order 2001, are based on the seven principles of public life set out by the Committee on Standards in Public Life. The principles underpin the provisions of the members' code, which must be consistent with these principles.
- 2.36 The ten general principles are reproduced below. The principles govern the conduct of members, and a failure to act in accordance with them may lead to a failure to comply with the members' code.

The General Principles

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in a 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

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. 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

5. 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

6. 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

7. 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

8. 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

9. 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

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

Proposed revisions

2.37 We propose that the Relevant Authorities (General Principles) Order 2001 be amended to make clear which principles govern the conduct of members when acting in an official capacity and which principles will apply to the conduct of members when acting in a non-official capacity, where the member's conduct would constitute a criminal offence.

2.38 We propose that the General Principles Order be amended by providing that the 10 existing principles apply to a member when acting in an official capacity and by adding a new principle which would be specified as applying to a member acting in a non-official capacity, where the member's conduct would constitute a criminal offence. We propose that the following be added to the Schedule of the Relevant Authorities (General Principles) Order 2001:

Duty to abide by the law

Members should not engage in conduct which constitutes a criminal offence.

Consultation Question 10:

Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

Definition of 'criminal offence' and 'official capacity'

2.39 Section 49 of the Local Government Act 2000 enables the Secretary of State to define what constitutes a 'criminal offence' and what constitutes 'official capacity' in the context of the General Principles Order. For the purposes of the revised General Principles Order, we propose that 'criminal offence' be defined as any conduct that has resulted in a criminal conviction.

Consultation Question 11:

Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?

2.40 We propose that for the purposes of the revised General Principles Order, 'official capacity' be defined as "being engaged in the business of your authority, including the business of the office to which you are elected or appointed, or acting, claiming to act or giving the impression that you are acting as a representative of your authority".

Consultation Question 12:

Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

Legislative Context

2.41 The Relevant Authorities (General Principles) Order 2001 was made under powers conferred on the Secretary of State in section 49 and 105 of the Local Government Act 2000. Section 183 of the Local Government and Public Involvement in Health Act 2007 modified section 49 of the 2000 Act and it is this modification that requires the Secretary of State to specify which general principles apply to a person when acting in an official capacity and when acting in an non-official capacity.

Chapter 3: Model code of conduct for local government employees

Is an employees' code needed?

- 3.1 A code of conduct for local government employees ("employees' code") should provide the staff of an authority with an effective ethical framework within which to work and it should give that authority's citizens confidence that an authority's staff are working on their behalf in an appropriate manner.

Consultation Question 13:

Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

The employees' code in context

- 3.2 In August 2004, the (then) Office of the Deputy Prime Minister consulted on a model code of conduct for local government employees. Responses indicated that the model code of conduct consulted on was not adequate, but also that the universal application of a code to all staff would be needlessly bureaucratic as all employees would be subject to the same code regardless of their position. There was support for following the model of the Welsh code of conduct, which only applies to a certain category of defined senior officer. Alternatively, the code could be restricted to those who exercise executive, regulatory or overview and scrutiny powers under the authority's scheme of delegation to officers.
- 3.3 Another view in response to the consultation paper was that certain aspects of the code (eg registration of interests), could be limited to senior officers while other more universal aspects should be applicable to all - for instance, it is beyond question that all employees should behave with honesty and integrity.
- 3.4 Many local authorities already have a code of conduct for employees in addition to, or part of, their standard terms and conditions of employment. These codes range from simple statements agreeing to act with propriety to comprehensive documents covering everything

from political neutrality to intellectual property matters. These codes of conduct are also integrated into the authority's discipline procedures.

- 3.5 It is not intended that the employees' code be a burden on authorities or employees. The code should not constrain an authority's ability to develop its own code reflecting local needs and conditions. We consider that authorities should be free to adopt supplementary provisions beyond the employees' code in order to provide their staff with an effective ethical framework within which to work.

Application of the employees' code

- 3.6 We propose that the employees' code would apply to all relevant authorities and police authorities in Wales, as defined in Section 49 of the Local Government Act 2000. We are proposing that a model employees' code - a model code that authorities may augment if they wish - be introduced, which will be incorporated into local government employees' terms and conditions of employment.
- 3.7 However, we do not propose to apply the employees' code where it is not needed, for instance to employees in professions that are covered by their own code of conduct; firefighters, teachers, community support officers, solicitors etc.

Consultation Question 14:

Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?

Consultation Question 15:

Are there any other categories of employee in respect of whom it is not necessary to apply the code?

- 3.8 We propose a two-tier model. The first tier, drawing on the Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001, will apply equally to all authority employees and will enshrine the core values that it is reasonably expected every authority employee would abide by. The second tier, drawing on the members' code, will apply to 'qualifying employees', that is; either senior officials or those officials carrying out delegated functions.
- 3.9 With the members' code in place, and members having to abide by that code, there is a reasonable expectation that officials undertaking functions delegated to them by members would have to abide by the same conduct regime as members when performing those functions.

Proposed core values

The model employees' code: core values for all employees

General principles

The public is entitled to expect the highest standards of conduct from all local government employees. The role of such employees is to serve their employing authority in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

Employees are accountable, and owe a duty to, their employing authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political neutrality

Employees, excluding political assistants, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

Relations with members, the public and other employees

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. Employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

Employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

Employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal interests

An employee must not allow their private interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

Employees should abide by the rules of their authority about the declaration of gifts offered to or received by them from any person or body seeking to

do business with the authority or which would benefit from a relationship with that authority. Employees should not accept benefits from a third party unless authorised to do so by their authority.

Whistleblowing

Where an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the model code of conduct for employees, the employee should report the matter, acting in accordance with the employees rights under the Public Interest Disclosure Act 1998 and with the authority's confidential reporting procedure or any other procedure designed for this purpose.

Treatment of Information

Openness in the dissemination of information and decision making should be the norm in authorities. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of staff

Employees of the authority, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, those employees must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

Investigations by monitoring officers

Where a monitoring officer is undertaking an investigation in accordance with Part III of the Local Government Act 2000 and associated regulations, employees must comply with any requirement made by that monitoring officer in connection with such an investigation.

Consultation Question 16:

Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

Beyond the core values

Who are the 'qualifying employees'?

- 3.10 There are two alternatives for selecting those 'qualifying employees' to which, in addition to the core values of the employees' code, some of the restrictions and expectations of the members' code should apply.
- 3.11 The first is based on the approach taken to determining which posts in an authority are 'politically restricted' under section 3 of the Local Government and Housing Act 1989, and assumes that certain posts are senior or influential enough to warrant controls placed on the activities of postholders. Certain posts would be designated as qualifying employees.
- 3.12 The second is the delegation model, which would see qualifying employees selected on the basis that they perform functions delegated to them by elected members under section 101 of the Local Government Act 1972.

Consultation Question 17:

Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?

The model employees' code: values for qualifying employees

Compromising the impartiality of officers of the authority

A qualifying employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. A qualifying employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

Using your position improperly

A qualifying employee must not use, or attempt to use, their position improperly either for their or anybody else's advantage or disadvantage.

Considering advice provided to you and giving reasons

If a qualifying employee seeks advice, or advice is offered to them, on aspects of how the employees' code applies, the qualifying employee must have regard to this advice.

Personal interest

Qualifying employees must register, within 28 days of taking up their appointment, any interests set out in the categories below. This record of interest must be in writing, to the authority's monitoring officer or, in the case of a parish council, through the parish clerk.

The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required.

These are:

- Your membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the company.
- Any contracts between the authority and any company you have an interest in, as above.
- Any land or property in the authority's area in which you have a beneficial interest.

A qualifying employee may seek to exempt their personal interests from the register of interests if they consider, for instance that having this information on record might put themselves or others at risk. In such cases, the qualifying employee should discuss the matter with their monitoring officer.

Consultation Question 18:

Should the code contain a requirement for qualifying employees to publicly register any interests?

Consultation Question 19:

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

Prejudicial interest

A prejudicial interest is considered to be a matter which affects the qualifying employee's financial interest or relates to a licensing or regulatory matter in which he or she has an interest and where a member of the public, who knows the relevant facts, would reasonably think that his or her personal interest is so significant that it is likely to prejudice his or her judgement of the public interest.

A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which the qualifying employee has a personal interest or will affect him or her personally.

Qualifying employees with a prejudicial interest should declare such an interest. Where possible, they should take steps to avoid influential involvement in the matter. Where this is not possible, their prejudicial interest should be made clear.

Consultation Question 20:

Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code. Have any been omitted?

Consultation Question 21:

Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

Contractors, partners and part time staff

3.13 Local authorities have an increasingly complex relationship with the private sector in its work with contractors, partners and part time staff. We consider that rather than attempt to determine centrally when and when not to apply the employees' code not just to local government employees, but those working on behalf of local government, it will be for local authorities themselves to decide, in agreeing contracts, partnership agreements or terms and conditions of employment, if and how the employees' code, in whole or in part, should apply.

Parish councils

3.14 The members' code applies to parish councillors as well as members of larger authorities, and it seems reasonable therefore for the ethical framework of the employees' code to apply to parish council employees. We recognise that the environment that parish councillors operate within is different to that of larger authorities and are conscious that what is consider to be a reasonable expectation in the employees' code for larger councils, may prove to be difficult for parish councils.

3.15 That being the case, we would welcome responses from parish councils on any particular aspect of the employees' code that might present difficulties and how those difficulties could be overcome.

Consultation Question 22:

Should the employees' code extend to employees of parish councils?

Legislative context

3.16 Section 82(7) of the Local Government Act 2000, provides that the provisions of a code made under section 82(1) of that Act will be deemed to be incorporated in employees' terms and conditions of employment.

Annex A: List of consultation questions

Chapter 2: Code of conduct for local authority members

- Question 1 Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?
- Question 2 Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.
- Question 3 Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.
- Question 4 Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?
- Question 5 Do you agree that an ethical investigation should not proceed until the criminal process has been completed?
- Question 6 Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?
- Question 7 Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?
- Question 8 Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.
- Question 9 Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?
- Question 10 Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

- Question 11 Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?
- Question 12 Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

Chapter 3 Model Code of Conduct for local authority employees

- Question 13 Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?
- Question 14 Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?
- Question 15 Are there any other categories of employee in respect of whom it is not necessary to apply the code?
- Question 16 Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?
- Question 17 Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?
- Question 18 Should the code contain a requirement for qualifying employees to publicly register any interests?
- Question 19 Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?
- Question 20 Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?
- Question 21 Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?
- Question 22 Should the employees' code extend to employees of parish councils?

Annex B

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.

(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);

(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.

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.

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.

Annex C: Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of
 - 12 weeks for written consultation at least once during the development of the policy
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - Ensure that your consultation is clear, concise and widely accessible.
 - Give feedback regarding the responses received and how the consultation process influenced the policy.
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- A.3 The full consultation code of practice may be viewed at:
www.bre.berr.gov.uk/regulation/consultation/code/index.asp.

A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator
Communities and Local Government
Zone 6/H10
Eland House
Bressenden Place
London
SW1E 5DU

email: consultationcoordinator@communities.gsi.gov.uk

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‘Codes of Conduct for Local Authority Members and Employees’

This paper is a response to the Consultation Paper issued by the Department for Communities and Local Government on “Codes of Conduct for Local Authority Members and Officers”.

The Consultation

Application of the code of members’ conduct in their non-official capacity

1. *“Do you agree that the members’ code should apply to a member’s conduct when acting in their non-official capacity?”*

Members of the public expect the very highest standards from elected members. Members should set an example of leadership for their communities inspiring trust and confidence in the authority they serve. We therefore believe that the Code should apply more widely to Members’ non official capacity. Criminal behaviour, even when there is no link to a member’s elected role, can have a damaging effect on the level of public trust in members generally and local administration as a whole. The proposals are therefore to be welcomed but could go further.

Definition of ‘criminal offence’ and ‘official capacity’

2. *“Do you agree with this definition of ‘criminal offence’ for the purpose of the members’ code? If not, what other definition would you support, for instance should it include police cautions? Please give details.”*

Yes, we agree with this definition of ‘criminal offence’ for the purpose of the members’ code being defined as “any criminal offence for which the member has been convicted in a criminal court, but for which the member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction”. It is right that minor offences are excluded from the definition. Although it is understood that there may be circumstances where relatively minor instances could directly relate to the member’s responsibilities, particularly Portfolio Holders, which could reflect on the credibility of that member or the local authority, it is important however that the definition is clear.

3. *“Do you agree with this definition of ‘official capacity’ for the purpose of the members’ code? If not, what other definition would you support?”*

‘Official Capacity ‘ should be clearly defined as ‘being engaged in the business of your authority, including the business of a body to which you are appointed to by your authority or circumstances where you are acting or claiming to act as a local authority member in your community leadership role.’ ‘Giving the impression’ would be a matter of opinion and would be difficult to prove should a case be put before a Standards Committee for Local Assessment. It is important that the definition is clear and not imprecise.

Offending abroad

4. “Do you agree that the members’ code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?”

Yes.

The Conduct Regime

5. “Do you agree that an ethical investigation should not proceed until the criminal process has been completed?”

If it is the intention that the code will only apply for ‘non official capacity’, where that conduct constitutes a criminal offence which is defined as any criminal offence convicted in a criminal court, then it would be inappropriate for the Standards Committee to consider whether there has been a breach of the code or not. Therefore, as soon as Monitoring Officers are aware of any criminal proceedings the Local Assessment procedure should stop and the complainant, subject member and Parish Clerk (if relevant) should be notified depending on confidentiality issues. Problems arise as to what details are given to the complainant, subject member and parish clerk as to why the local assessment procedure has been suspended and guidance would be needed in this respect. Problems also arise in relation to the fact that it may on occasions be appropriate to suspend during the criminal process.

Proposed Revision to the Members’ Code

6. Do you think that the amendments to the members’ code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you specify

A. Making 12(2) mandatory rather than adoptive for Parish Councils

Yes, this would save any unnecessary administration and ensure consistency across parish councils.

B. Membership of other bodies – paragraph 8(1)(a)(i) and (ii)

Yes, clarity that this is not the authority itself is helpful.

C. Registration of Gifts and Hospitality

Agree, it would be helpful to clarify the need to register gifts and hospitality over the value of at least £25 in section 8(1)(a).

D. Prejudicial Interests

Agree, removal of the double negative would be helpful. Also 10(b) to be reworded “it relates to determining of any application for approval, consent, licence, permission or registration made by you or those persons listed in paragraph 8 of the code.”

E. Registration of Interests

The amendment of paragraph 10(2)(c) to clarify that a member would not have a prejudicial interest in the business of the authority where that business related to giving evidence in a Standards Committee hearing regarding an allegation that a member of the authority had failed to comply with the code would be welcome.

7. Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

None.

8. Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

This is commented on above.

Legislative Context

9. Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date of the authority adopts the code, provide members with sufficient time to undertake to observe the code?

Yes

Proposed Amendments to the General Principles

10. Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

Yes, but we also feel that the Code should apply more widely to a Members' non-official capacity.

Definition of 'criminal offence' and 'official capacity'

11. Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?

Yes

12. Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?

Yes

Model Code of Conduct of Local Government Employees

Is an employees' code needed?

13. Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

Yes, but it should be an outline Code that can be adapted to suit local circumstances.

Application of the employees' code

14. Should we apply the employees' code to fire-fighters, teachers, community support officers, and solicitors?

Yes, it would seem appropriate to apply the code to these professional employees even if they have their own Code and there may be some aspects that overlap.

15. Are there any other categories of employee in respect of whom it is not necessary to apply the code?

No.

Proposed Core Values

16. Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

Relations with members, the public and other employees

The use of the word 'sympathetically' is open to interpretation.

Personal interests

The phrase 'personal interests' used here has a different meaning than the 'personal interests' referred to in the members code and could cause confusion.

Whistle blowing

The principle of this core value is acceptable, however it has been noted that this duty was removed from the Members' Code of Conduct in 2007.

Treatment of Information

This could be written more clearly, at the moment it is written in an unmethodical manner particularly when you compare it with the members code (paragraph 4).

Appointment of Staff

We agree with the principle, however with regard to 'an employee, or prospective employee, 'to whom they are related' could be defined to make it clearer. With regard to 'with whom they have a close personal relationship outside work' this may make things

difficult for recruitment etc. for existing employees, as it is natural that work colleagues will gather socially outside the work environment, in sports teams, celebrations, voluntary work etc.

Beyond the Core Values

17. Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?

As schemes of delegation vary from authority to authority it would be more simple to operate the 'qualifying employees' on the basis of a 'political restriction' style model, but the delegation model would tie in better with the Members Code in that decisions are made by those officers and so declarations more appropriate.

The Model Employees' Code: Values for Qualifying Employees

18. Should the code contain a requirement for qualifying employees to publicly register any interests?

Yes, this would make sense, however there are certain aspects that should not be open to public inspection eg personal information such as details of home address.

19. Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

Personal Interest

With regard to employees completing a register 'in the case of a parish council, through the parish clerk', the Parish Clerk is often the only officer, therefore it should be through the Chairman of the Parish Council .

20. Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code. Have any been omitted?

It is difficult to do a line-by-line comparison as the employees' code is written differently to that of the members, however participation in matters where employees may have a prejudicial interest in a matter does not seem to match with the Members' Code.

21 Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

Yes, in particular the appointment of staff detailed in question 16 above.

Parish Councils

22. Should the employees' code extend to employees of parish councils?

Yes, but as stated in question 19 above the Parish Clerk is often the only officer, therefore monitoring should be undertaken by the Chairman of the Parish Council.



AGENDA ITEM: 8

**STANDARDS COMMITTEE:
10 December 2008**

Report of: Council Secretary and Solicitor

**Contact: Mrs G L Rowe (Extn. 5004)
(E-mail: gill.rowe@westlancsdc.gov.uk)**

SUBJECT: CODE OF CONDUCT INVESTIGATION, DETERMINATION, PRE-HEARING AND HEARING PROCEDURES

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To enable the Committee to consider investigation, determination, pre-hearing and hearing procedures to apply where the Assessment Sub-Committee has referred a complaint of alleged breach of the Code of Conduct for investigation.

2.0 RECOMMENDATIONS

2.1 That the Committee approve the Investigation, Determination, Pre-hearing and Hearing Procedures appended to the report and authorise the Council Secretary and Solicitor in consultation with the Chairman of the Standards Committee to update them as required.

3.0 BACKGROUND

3.1 The Standards Committee has previously approved pre-hearing and hearing procedures based on guidance issued by the Standards Board. However, these procedures required updating in the light of the Standards Committee (England) (Regulations) 2008 and the Council Secretary and Solicitor has therefore prepared new investigation, consideration, pre-hearing and pre-hearing procedures, based on the Committee's existing practice, but updated to comply with the new Regulations.

4.0 PROPOSED DETAILS

4.1 The new procedures are appended to the report for consideration by the Committee.

4.2 Regulation 17 of the 2008 Regulations provides that where a Monitoring Officer refers a report to the Standards Committee under Regulation 14 or 15 (that is, following investigation locally or by an Ethical Standards Officer), the Standards Committee shall convene to consider the report and make one of the following findings:

- That it accepts the Monitoring Officer's finding of no failure to comply with the Code,
- That the matter should be considered at a hearing of the Standards Committee;
or
- That the matter should be referred to the Adjudication Panel for determination.

4.3 The Committee have decided that the full Committee less five appropriate Members will make the decision referred to at 4.2 above. With regard to the Hearings Sub-Committee, the procedures provide for a sub-committee of five.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

5.1 There are no sustainability/community strategy implications arising from this report.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 There are no specific financial and resource implications arising from this report but handling complaints takes substantial in-house time for Legal and Member Services Staff. The costs of preparing reports for the Assessment Sub-Committee and of carrying out reviews and investigations externally will be met from the Council's existing budget and where this is insufficient, due to the number of cases brought in a year, will be met from reserves.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

- Appendix 1 – Investigation Procedure
- Appendix 2 – Determination Procedure
- Appendix 3 – Pre-Hearing Procedure (*To follow*)
- Appendix 4 – Hearing Procedure (*To follow*)



INVESTIGATIONS PROCESS

CASES REFERRED TO THE MONITORING OFFICER FOR INVESTIGATION

1. The Monitoring Officer will appoint an Investigating Officer who may be an officer of the Council or an external investigating officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation, and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Member and the Complainant of the appointment in the Decision Notice and the Investigating Officer will then make contact with them. The appointment will set out the responsibilities delegated by the Monitoring Officer to the Investigating Officer. The Monitoring Officer will maintain the function of overseeing the investigation.
2. In carrying out the investigation, the Investigating Officer shall have regard to any relevant guidance issued by the Standards Board, and shall comply with any relevant direction given by the Standards Board.
3. The Investigating Officer may make such enquiries as he/she thinks necessary or expedient for the purposes of conducting the investigation. He/she may require any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation and to provide reasonable access to such documents, in the possession of that authority, as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.
4. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Member. The Subject Member will be advised that he/she may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish.

5. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.
6. Where during the course of the investigation
 - as a result of new evidence or information, the Investigating Officer forms an opinion that the matter is materially more serious or materially less serious than may have seemed apparent to the Assessment Sub-Committee, when it made its decision to refer the matter for investigation, and that it would have made a different decision had it been aware of the new evidence or information;
 - the Subject Member has died, is seriously ill or has resigned from the Authority concerned, and the Investigating Officer is of the opinion that in the circumstances it is no longer appropriate to continue with the investigation;then the matter shall be referred to a new Assessment Sub-Committee. The Assessment Sub-Committee shall consider the matter as if it were a new allegation.
7. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Member and the Complainant for review and comment, and will indicate that it does not necessarily represent the Investigating Officer's final finding. If the Investigating Officer issues a draft report, he/she will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report is issued.
8. The Standards Board recommend that most investigations are carried out, and a report on the investigation completed, within 6 months of the original complaint being assessed by the initial Assessment Sub-Committee.



STANDARDS COMMITTEE – DETERMINATIONS

1. MONITORING OFFICER INVESTIGATION

On completion of an investigation the Monitoring Officer must make one of the following findings:

- There has been a failure to comply with the Code.
- There has not been a failure to comply with the Code.

She must write an investigation report and send a copy of it to the subject member.

2. ETHICAL STANDARDS OFFICER INVESTIGATION

Where a Standards Board Ethical Standards Officer has completed an investigation and decided that a complaint should be determined by the Standards Committee they will refer their report to the Monitoring Officer. She must refer the report to the Standards Committee.

3. CONSIDERATION

- 3.1 The full Standards Committee less 5 appropriate Members will receive and consider a Monitoring Officer's investigation report or an investigation report compiled by an Ethical Standards Officer.
- 3.2 If the investigator's report finds no failure to comply with the Code, the Standards Committee must decide whether to accept that recommendation. The Committee must also decide, if appropriate, whether the Hearing Sub-Committee or the Adjudication Panel for England should hear the case. This preliminary decision must be formally made and recorded.
- 3.3 A meeting of the Standards Committee to consider the Monitoring Officer's investigation report must be convened under Regulation 17. Regulation 8(6) allows the consideration of any information presented for that purpose to be considered as exempt information.
- 3.4 As with all exempt information decisions, the Standards Committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. When advising on this

matter the Monitoring Officer should consider the effect of Regulation 17(4). This regulation allows the subject member to prohibit the publication of a notice, stating that the Standards Committee has found that there has been no failure to comply with the Code.

- 3.5 Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the meeting. In most cases, the public interest in transparent decision-making by the Standards Committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.
- 3.6 A member of the Standards Committee who considers and overturns a Monitoring Officer's finding that there has been no failure to comply with the Code may participate in a subsequent hearing.
- 3.7 This meeting to consider the Monitoring Officer's investigation report provides a useful opportunity for the Standards Committee to consider the potential issues which might arise during the pre-hearing process. This consideration meeting is separate to the meeting at which the hearing is conducted.
- 3.8 If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the Standards Committee decides that the matter should be referred to the Adjudication Panel for England for determination.

4. HEARINGS

- 4.1 Under Regulation 18, a Standards Committee must hear a complaint within three months of the date on which the Monitoring Officer's report was completed. If the investigation was carried out by an Ethical Standards Officer, the Standards Committee must hear the complaint within three months of the date that the Monitoring Officer received the Ethical Standards Officer's report. The Standards Committee has appointed a Hearings Sub-Committee to hold determination hearings.
- 4.2 **Membership of the Hearing Sub-Committee** – 5 members (at least 1 Independent Member - who will be appointed as the Chairman of the Sub-Committee, 1 elected member and at least 1 parish representative when considering parish matters).
- 4.3 **Purpose** – To decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take.
- 4.4 When the Hearing Sub-Committee is convened for a hearing under Regulation 18 it is also subject to Regulation 8(6). When assessing whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the Council Secretary and

Solicitor will consider the effect of Regulation 20(2). This allows the subject member to prohibit normal publication of the Committee's notice of the finding of no failure to comply with the Code of Conduct.

4.5 Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a hearing. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the hearing. In most cases, the public interest in transparent decision-making by the Standards Committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined. In most cases all parties will agree that the hearing should take place in public. It is sensible to seek the views of the relevant parties as early as possible to allow for legal advice to be sought if required.

4.6 A copy of the report will be given to:

- the subject member
- the clerk of any relevant Parish Council
- the Standards Committees of any other Authorities concerned.

4.7 The hearing must take place at least 14 days after the subject member receives a copy of the report from the Monitoring Officer. However, the hearing can be held sooner than 14 days after the member receives a copy of the report if the subject member agrees. The Hearing Sub-Committee may consider the report in the subject member's absence if the subject member does not go to the hearing. If the Standards Committee is satisfied with the subject member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

4.8 If the Hearing Sub-Committee does not hear the matter within three months of receiving the completed report, it must ensure that the matter is heard as soon as possible after that. Except in the most complicated cases, the Hearing Sub-Committee will aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. It is noted that late night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

5. PRE-HEARING PROCESS

The Standards Committee has a pre-hearing process to allow matters at the hearing to be dealt with fairly and economically. It alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.



PRE-HEARING PROCESS STANDARDS COMMITTEE

1. Pre-amble

The pre-hearing process will be used to:

- identify whether the subject member disagrees with any findings of fact in the investigation report
- identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- identify whether evidence about those disagreements will need to be heard during the hearing
- decide whether there are any parts of the hearing that are likely to be held in private; and
- decide whether any parts of the Investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material.

The pre-hearing process should usually be carried out in writing, although occasionally a meeting between the Sub-Committee, the relevant parties and their representatives may be necessary.

2. Procedure

2.1 The Council Secretary and Solicitor will give a copy of the Investigation report to the member who the allegation has been made about as soon as practicable.

(See Document 1)

2.2 Member Services, in consultation with the Chairman of the Local Determination/Investigation Hearings Sub-Committee, will:

- provide a copy of the Sub-Committee's pre-hearing and hearing procedures to the subject member
- outline the subject member's rights and responsibilities;

- propose a date for the hearing;
- ask for a written response from the subject member by a set time to find out whether they:
 - disagree with any of the findings of fact in the Investigation report, including the reasons for disagreement;
 - want to be represented at the hearing by a solicitor, barrister or any other person, noting that the Sub-Committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined;
 - want to give evidence to the Sub-Committee, either verbally or in writing;
 - want to call relevant witnesses to give evidence to the Sub-Committee;
 - can attend the hearing on the proposed date;
 - want any part of the hearing to be held in private
 - want any part of the Investigation report or other relevant documents to be withheld from the public

(See Document 2)

- send a copy of the subject member's response to the Investigator and invite the Investigator to say by a set time whether they want:
 - to be represented at the hearing;
 - to call relevant witnesses to give evidence to the Sub-Committee;
 - any part of the hearing to be held in private;
 - any part of the Investigation report or other relevant documents to be withheld from the public;
 - to invite any other witnesses the Sub-Committee feels are appropriate.

(See Document 3)

- 2.4 Member Services in consultation with the Chairman and the legal advisor will prepare and distribute to everyone involved at least two weeks before the proposed date of the hearing an agenda for the hearing meeting **(See Document 4)** which will
- confirm the date, time and place for the hearing;
 - contain the proposed procedure for the hearing;

- contain the Pre-Hearing Process Summary (See Document 4) which will include:
 - The name of the authority
 - The name of the subject member
 - The name of the complainant (unless there are good reasons to keep their identity confidential)
 - Case reference numbers of the principal authority or the Standards Board for England
 - The name of the Standards Committee member who will chair the hearing
 - The name of the investigator
 - The name of the Legal Adviser
 - The name of the administrative officer
 - The date the pre-hearing process summary was produced
 - A summary of the allegation
 - The relevant section or sections of the Code of Conduct
 - The findings of fact in the investigation report that are agreed
 - The findings of fact that are not agreed
 - Whether the subject member or the investigator will attend or be represented
 - The names of any witnesses who will be asked to give evidence



HEARING PROCEDURE – STANDARDS COMMITTEE

CHAIRMAN’S INTRODUCTION

The purpose of the Sub-Committee’s hearing is to decide whether or not (Parish) Councillor has failed to follow the Code of Conduct forCouncil and, if so, to decide whether or not any penalty should be applied and what form any penalty should take.

All of those present will introduce themselves.

The Chairman will advise that the hearing will be conducted using the Hearing Procedure enclosed with the agenda.

The Sub-Committee will run the hearing as set out in this document.

(If the subject member is not in attendance, the Sub-Committee can consider the Investigation report in their absence. If the Sub-Committee is satisfied with the subject member’s reason for not being able to attend, another date should be arranged for the hearing.)

The Chairman shall ask the Councillor, the Investigating Officer and the Legal Adviser to the Sub-Committee whether they wish to exclude the Press or public from all or any part of the hearing.

(If any of them so request, the Chairman shall ask them to put forward reasons for doing so and ask for responses from the others and the Sub-Committee shall then determine whether to exclude press and public from all or any part of the hearing.

Where the Sub-Committee does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall be made available to the press and public.)

Preliminary Procedural Issues

Any issues or disagreements about how the hearing should continue should be resolved at this stage.

Stage 1 – Findings of fact

1. The Chairman will refer to the pre-hearing process summary to see if there are any significant disagreements with the facts contained in the Investigator's report?

If no, move to Stage 2.

If yes,

the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. (If the subject member disagrees with most of the facts, it may make sense for the investigator to start by making representation on all the relevant facts, instead of discussing each fact individually.)

2. With the Sub-Committee's permission, the investigator may call any necessary supporting witnesses to give evidence.
3. The Sub-Committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.
4. The subject member will then make representations to support their version of the facts and, with the Sub-Committee's permission, call any necessary witnesses to give evidence.

(At any time, the Sub-Committee may question any of the people involved or any of the witnesses and may allow the investigator to challenge any evidence put forward by witnesses called by the member)

5. If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the sub-committee will consider whether it would be in the public interest to continue in their absence.
6. After considering the member's explanation for not raising the issue at an earlier stage, the sub-committee may then:
 - (a) continue with the hearing, relying on the information in the Investigator's report;
 - (b) allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary;
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.
7. The sub-committee, the Member Services officer and the Legal Adviser will move to another room to consider the representations and evidence in private.
8. On their return, the Chairman will announce the Sub-Committee's findings of fact.

(Note: During the course of a hearing, the Sub-Committee may at any stage prior to the conclusion of the hearing, adjourn the hearing and require the Council Secretary and Solicitor to obtain further information or undertake further investigation on any point specified by it. It can make this request only once per case in accordance with Paragraph 18(8) of the Standards Committee (England) Regulations 2008

Stage 2

Did the member fail to follow the Code?

1. The Chairman will advise that the Sub-Committee needs to consider whether, based on the facts it has found, the subject member has failed to follow the Code of Conduct.
2. The subject member will be invited to give relevant reasons why the Sub-Committee should decide that they have not failed to follow the Code.
3. The Sub-Committee will then consider any verbal or written representations from the investigator.

(The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.)

4. The subject member will be invited to make any final relevant points.
5. The Sub-Committee, the Member Services officer and the Legal Advisor will then move to another room to consider the representations.
6. On their return, the Chairman will announce the Sub-Committee's decision as to whether the subject member has failed to follow the Code of Conduct.

Stage 3

1. If the subject member has not failed to follow the Code of Conduct

If the sub-committee decides that the subject member has not failed to follow the Code of Conduct: the Sub-Committee can move on to consider whether it should make any recommendations to the authority.

The subject member can at this stage ask to prohibit the publication of a notice, stating that the Sub-Committee has found that there has been no failure to comply with the Code. If the subject member does not do so then this information will be published.

2. If the subject member has failed to follow the Code of Conduct

- 2.1 the Sub-Committee will consider any verbal or written representations first from the investigator and then from the subject member as to:
 - (a) whether the Sub-Committee should apply a sanction
 - (b) what form any sanction should take.

(The Sub-Committee may question the investigator and the member, and take legal advice, to make sure they have the information they need in order to make an informed decision.)

2.2 The Sub-Committee, Member Services officer and Legal Adviser will then leave the room to deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

2.3 **If the Sub-Committee decides that the member has failed to follow the Code of Conduct and that the member should be sanctioned, it may do any one or a combination of the following:**

- Censure the member (This is the only sanction available when dealing with a person who is no longer a member of the authority.)
- Restrict the Member's access to the premises of the authority or the use of resources of the relevant authority for up to six months, provided that those restrictions:
 - (i) are reasonable and proportionate to the nature of the breach; and
 - (ii) do not unduly restrict the person's ability to perform the functions of a member.
- suspend, or partially suspend, the Member for up to six months;
- require the member to submit a written apology in a form specified by the Sub-Committee.
- require the member to undertake training specified by the Sub-Committee.
- require the member to participate in any conciliation specified by the Sub-Committee.
- suspend, or partially suspend, the Member for up to six months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any conciliation that the sub-committee orders them to. Conciliation involves an independent person helping the relevant people to try to reach an agreement on the matter set out by the sub-committee.

(Notes:

- (i) Sanctions may start immediately or up to six months after the hearing, if the sub-committee wishes.)*
- (ii) Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.*

- (iii) *The regulations do not provide any powers for the Sub-Committee to award costs.*
- (iv) **Reference back to the Standards Board for England** - *If, at any time before the Sub-Committee has determined upon any sanction, the Sub-Committee considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Sub-Committee, the Sub-Committee may instruct the Council Secretary and Solicitor to request the Standards Board for England, to take responsibility for the conduct of the matter, and may adjourn the hearing until the Council Secretary and Solicitor advises the Sub-Committee of the Standards Board's response to such request.)*

Stage 4 - The Decision

1. On their return, the Chairman will announce the Sub-Committee's decision.
2. The Sub-Committee will consider any verbal or written representations from the investigator, as to whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members, which the sub-committee will consider and make a decision.
3. The Chairman will then repeat the decision in respect of the member including the decision in respect of any recommendations to the authority.
4. The Chairman will then advise the attendees
 - (a) that Member Services will provide a short written decision at the end of the day and then produce the sub-committee's full written decision within two weeks of the date of the hearing.
 - (b) that a summary of the Sub-Committee's findings, reasons for its findings and any penalty set, will be published in one or more newspapers that are independent of the authorities concerned and circulated in the area.
 - (c) that the Member who is the subject of a Sub-Committee's finding has the right to apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding within 21 days of receiving the full written decision notice from Member Services.

(NOTE: Interpretation

1. *'Subject Member' means the member of the authority who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.*
2. *'Investigator' means the Monitoring Officer or Ethical Standards Officer and includes their nominated representative.*
3. *'Sub-Committee' is the Local Determination/Investigation Hearings Sub-Committee given delegated authority to conduct hearings rather than the main Standards Committee.*

4. *'Legal adviser' means the officer responsible for providing legal advice to the Standards Committee/Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.*

(The Sub-Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Sub-Committee should be shared with the subject member and the Investigator if they are present.)

PRESENT:

Members: Independent Member Mr J Cailes (Chairman for the meeting)
Councillor Whitby
Parish Councillor Hammond

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr J Cailes be appointed Chairman for the meeting.

2. APOLOGIES

There were no apologies for absence.

3. MEMBERSHIP OF THE SUB-COMMITTEE

There were no changes to the membership of the sub-committee

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. ASSESSMENT SUB-COMMITTEE PROCEDURE

The procedure for the initial assessment of written complaints of breach of the Code of Conduct received under Section 57A(1) of the Local Government Act 2000 was submitted for information.

RESOLVED: That the procedure be noted.

6. MEMBERS' CODE OF CONDUCT - DISTRICT COUNCIL

The District Council Members' Code of Conduct was submitted for information.

RESOLVED: That the Code be noted.

7. MEMBERS' CODE OF CONDUCT - PARISH COUNCIL

The Parish Council Members' Code of Conduct was submitted for information.

RESOLVED: That the Code be noted.

8. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/1

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject member.

9. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/2

RESOLVED: That the complaint be considered at the next meeting of the Sub-Committee scheduled on Wednesday, 17 September 2008.

10. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/3

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That the request by the complainant that her identity be withheld be refused.

C. That a written summary of the allegation be provided to the subject member.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 17 SEPTEMBER 2008
Start: 9.30am
Finish: 10.30am

PRESENT:

Members: Independent Member Mr J Cailes (Chairman for the meeting)
Councillor Whitby
Parish Councillor Hammond

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

11. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr J Cailes be appointed Chairman for the meeting.

12. APOLOGIES

There were no apologies for absence.

13. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

14. DECLARATIONS OF INTEREST

There were no declarations of interest.

15. ASSESSMENT SUB-COMMITTEE PROCEDURE

The procedure for initial assessment of written complaints of breach of the Code of Conduct received under Section 57A(1) of the Local Government Act 2000 was submitted for information.

RESOLVED: That the procedure be noted.

16. MEMBERS' CODE OF CONDUCT - DISTRICT COUNCIL

The District Council Members' Code of Conduct was submitted for information.

RESOLVED: That the Code be noted.

17. MEMBERS' CODE OF CONDUCT - PARISH COUNCIL

The Parish Council Members' Code of Conduct was submitted for information.

RESOLVED: That the Code be noted.

18. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/4

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED:
- A. That the decision notice now agreed be issued.
 - B. That the request by the complainant that her identity be withheld be refused.
 - C. That a written summary of the allegation be provided to the subject member.

19. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/5

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED:
- A. That the decision notice now agreed be issued.
 - B. That a written summary of the allegation be provided to the subject member.

20. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/6

RESOLVED: That the complaint be considered at the next meeting of the Sub-Committee scheduled for Thursday, 2 October 2008.

21. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/7

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED:
- A. That the decision notice now agreed be issued.
 - B. That a written summary of the allegation be provided to the subject member.

22. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/2

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 2 OCTOBER 2008
Start: 2.30pm
Finish: 3.30pm

PRESENT:

Members: Independent Member Mr J Cailles (Chairman for the meeting)
Councillor Whitby
Parish Councillor Hammond

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

23. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr J Cailles be appointed Chairman for the meeting.

24. APOLOGIES

There were no apologies for absence.

25. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

26. DECLARATIONS OF INTEREST

There were no declarations of interest.

27. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/6

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject member.

28. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/9

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

29. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/9

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 9 OCTOBER 2008
Start: 11.00pm
Finish: 12.45pm

PRESENT:

Members: Independent Member Mr J Cailles (Chairman for the meeting)
Councillor Whitby
Parish Councillor Hammond

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

30. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr J Cailles be appointed Chairman for the meeting.

31. APOLOGIES

There were no apologies for absence.

32. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

33. DECLARATIONS OF INTEREST

There were no declarations of interest.

34. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/10

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject member.

35. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/11

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

36. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/12

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

37. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/13

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

38. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/14

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject member.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 5 NOVEMBER 2008
Start: 2.00pm
Finish: 3.30pm

PRESENT:

Members: Independent Member Mr J Cailles (Chairman for the meeting)
Councillor Whitby
Parish Councillor Hammond

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

39. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr J Cailles be appointed Chairman for the meeting.

40. APOLOGIES

There were no apologies for absence.

41. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

42. DECLARATIONS OF INTEREST

There were no declarations of interest.

43. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/15

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject member.

44. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/16

The Council Secretary and Solicitor advised the Sub-Committee of a complaint she had received which had failed the initial test as the complaint was not in relation to a District or Parish Councillor.

RESOLVED: That the decision of the Council Secretary and Solicitor to reject the complaint on the basis that it failed the initial test be endorsed.

45. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/17

RESOLVED: That the complaint be considered at the next meeting of the Sub-Committee.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 1 DECEMBER 2008
Start: 11.00am
Finish: 11.35am

PRESENT:

Members: Independent Member Prof. R Chester (Chairman for the meeting)
Councillor Rice
Parish Councillor Kitson

Officers: Council Secretary and Solicitor
Assistant Member Services Manager

Also in attendance: Assistant Legal Services Manager

46. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Prof. R Chester be appointed Chairman for the meeting.

47. APOLOGIES

There were no apologies for absence.

48. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

49. DECLARATIONS OF INTEREST

There were no declarations of interest.

50. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/20-29

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject members.

51. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/31&32

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 1 DECEMBER 2008

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

- RESOLVED: A. That the decision notice now agreed be issued.
- B. That a written summary of the allegation be provided to the subject members.

PRESENT

Members Independent Member Mr. P. Hanmer (Chairman for the meeting)
Councillor Rice
Parish Councillor Cheetham

Officers: Legal Services Manager
Senior Member Services Officer (SG)

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member, Mr. Paul Hanmer, be appointed Chairman for the meeting.

2. APOLOGIES

There were no apologies for absence.

3. MEMBERSHIP OF THE SUB-COMMITTEE

There were no changes to membership of the Sub-Committee.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/1

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 15 September 2008 when no findings of fact were made.

The Sub-Committee considered the review report at Appendix 5 and the recommendations contained therein.

RESOLVED: That the original decision of the Assessment Sub-Committee in relation to allegations (a) and (b) be upheld.

PRESENT:

Members: Independent Member Mr P Hanmer (Chairman for the meeting)
Councillor Rice
Parish Councillor A Cheetham

Officers: Legal Services Manager
Member Services Manager

6. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member, Mr P Hanmer, be appointed Chairman for the meeting.

7. APOLOGIES

There were no apologies for absence.

8. MEMBERSHIP OF THE SUB-COMMITTEE

There were no changes to membership of the Sub-Committee.

9. DECLARATIONS OF INTEREST

There were no declarations of interest.

10. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/6

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 2 October 2008 when no findings of fact were made.

The Sub-Committee considered the review report at Appendix 5 and the recommendations therein.

RESOLVED: A. That the original decision of the Assessment Sub-Committee in relation to allegations 1, 3, 4, 5 and 7 be upheld.

B. That the Review Decision Notice now agreed be issued.

11. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/9

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 2 October 2008 when no findings of fact were made.

The Sub-Committee considered the review report at Appendix 5 and the recommendations therein.

RESOLVED: That the original decision of the Assessment Sub-Committee be upheld.

12. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/11

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 9 October 2008 when no findings of fact were made.

The Sub-Committee considered the review report at Appendix 5 and the recommendations therein.

RESOLVED: That the Review Decision Notice now agreed be issued.

13. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/12

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 9 October 2008 when no findings of fact were made.

The Sub-Committee considered the review report at Appendix 5 and the recommendations therein.

RESOLVED: That the Review Decision Notice now agreed be issued.

Standards Committee Work Programme 2009/10 – 10 December 2008

	Timescale	Progress
1 Lessons to be learned from reported complaints/monitoring of compliance with the Code	As and when required	On going
2 New/Revised Protocols	As and when required	On going
3 Annual Monitoring of Training Report	Summer 2009	On target
4 Code of Conduct Seminar for Officers, District and Parish Councillors (Press Release to be issued – Details on website)	Autumn 2008	On target - Seminar held on 20 November 2008 at Edge Hill Press release drafted
5 Report on Annual Standards Board Conference (Para for 7 Days)	December 2008	To be circulated to members via e-mail/letter
6 Update on visits by individual Members to District and Parish Council Meetings (Press Release to be issued and put on website)	Autumn 2008	On target – Report on the agenda for the Standards Committee 10 December 2008
7 Update on Whistleblowing Code	Summer 2009	
8 Hearings and Investigations	As and when required	On going
9 Consideration of applications for dispensations	As and when required	On going
10 Monitoring Officer meeting with Parish Clerks to discuss Standards regime	Summer 2008	Target met – Meeting held June 2008. Reported to the meeting of the Standards Committee in July 2008

	Timescale	Progress
11 Standards Committee annual meeting inviting Parish Clerks and Parish Chairman to discuss Code (Press Release to be issued)	Summer 2009	
12 Standards Committee – Annual Report	Summer 2009	
13 Annual Meeting Standards Committee and the Chief Executive and Leaders of 2 Political Groups to discuss importance of ethical governance and Annual Report (Press Release to be issued and Para for 7 Days and on website explaining how much the Chief Executive and Leader support and encourage high ethical standards)	Autumn 2009	
14 Consider involvement of the Standards Committee in the Officer Code and Political Restrictions	Autumn 2008	On target – Consultation Document – Report on agenda for December 2008 meeting
15 Consider use of the ethical governance toolkit	Summer 2009	
16 Look at conducting Peoples Panel research in relation to opinions of conduct in West Lancashire	Summer 2009	
17 Look at the potential involvement of the Standards Committee in complaints handling and review of Ombudsman decisions	Autumn 2009	
18 Local Filter - implementation	Summer 2008	On target