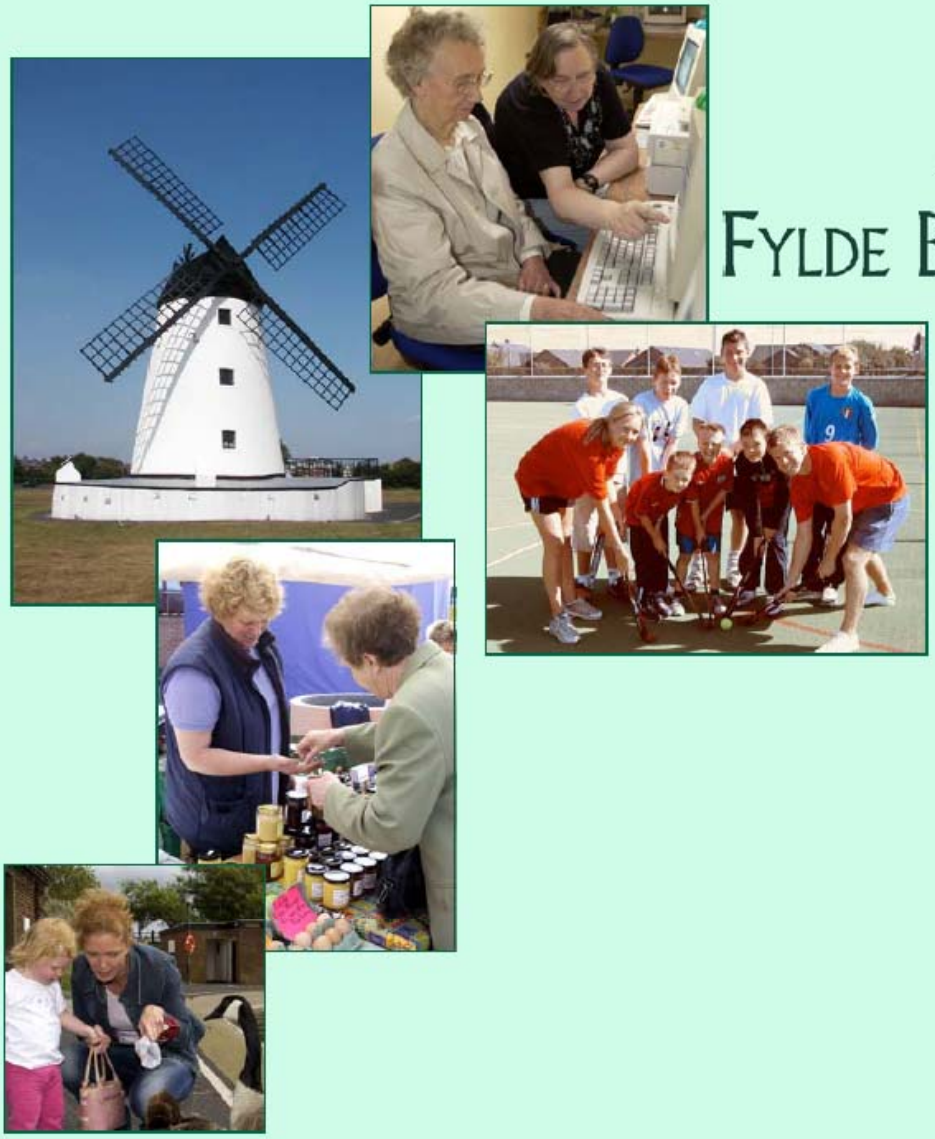

FYLDE BOROUGH COUNCIL

working together for excellence

Meeting Agenda

Meeting of Members of the Standards Committee

Reception Room, Town Hall
Tuesday 2 December 2008, 6:15pm

The maximum capacity for this meeting room is 60 persons – once this limit is reached no other person can be admitted.

STANDARDS COMMITTEE

MEMBERSHIP

CHAIRMAN - Mr D Birchall

VICE CHAIRMAN – Councillor Brenda Ackers

Councillor Paul Hayhurst

Councillor Howard Henshaw

Councillor Kevin Eastham

Roy Male

Richard Nulty

Mr H Butler

Linda Burn

Mr A Marsh

Glynn Driver

Contact: Peter Welsh, St. Annes (01253) 658502
Email: peterw@fylde.gov.uk

FYLDE BOROUGH COUNCIL

Our Vision

To establish Fylde Borough Council as a high performing local authority

Our Corporate Objectives

To improve the economic, social and environmental well-being of our communities through:

- The promotion and enhancement the natural and built environment
- Increasing the availability and access to good quality housing for all
- Maintaining healthy and safe communities and reduce the fear of crime
- Supporting and sustaining a strong and diverse Fylde coast economy to further enhance employment prospects

We will achieve this by:

Focusing on customer requirements

Clear community and organisational leadership

Delivering high quality, cost-effective services

Partnership working

FYLDE BOROUGH COUNCIL

working together for excellence

A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. **DECLARATIONS OF INTEREST:** *if a member requires advice on declarations of interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (for the assistance of members an extract from the councils code of conduct is attached).*	**4**
2. **SUBSTITUTE MEMBERS:** *details of any substitute members notified in accordance with council procedure rule 26.3*	**4**
3. **ANNUAL REPORT**	**7 – 14**
4. **COMPLIANT AGAINST A COUNCILLOR: FORMAL REPORT ON REFERRAL FOR OTHER ACTION**	**15 – 17**
5. **PROPOSED REVISION TO THE CODE OF CONDUCT: GOVERNMENT CONSULTATION**	**18 – 43**

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;

(i) any employment or business carried on by you;
(ii) any person or body who employs or has appointed you;
(iii) 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;
(iv) 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);
(v) 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);
(vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
(vii) any land in your authority's area in which you have a beneficial interest;
(viii) 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 other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(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(**d**).

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.

REPORT

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	2 DEC 2008	3

ANNUAL REPORT

Public Item

This item is for consideration in the public part of the meeting.

Summary

The committee's annual report is presented for adoption.

Recommendation

1. Adopt the draft annual report for submission to the full council and town and parish clerks.

Report

1. The work of the Standards Committee is not always widely known or understood, even by those bodies and individuals most closely affected by it. Producing a short annual report may increase awareness of the committee and, more importantly, the ethical agenda.

2. A draft annual report is attached and the committee is asked to agree it or make changes to it. The finalised report should be considered by Fylde's full council and sent to town and parish clerks.

IMPLICATIONS	
Finance	No financial implications
Legal	Production of an annual report is not a legal requirement, but represents good practice.

Continued....

Community Safety	None.
Human Rights and Equalities	None.
Sustainability	None.
Health & Safety and Risk Management	None.

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	24 November 2008	

List of Background Papers		
Name of document	Date	Where available for inspection
None		

Attached documents

1. Draft annual report.

FYLDE BOROUGH COUNCIL

STANDARDS COMMITTEE ANNUAL REPORT 2008

November 2008

1. Introduction

2008 was a year of significant change for standards committees and those who advise them across the country, and Fylde was no exception. The changes to the model code of conduct made in the previous year had scarcely had time to become bedded down when the Local Government and Public Involvement in Health Act 2007 made further major changes to the ethical framework. The most important change was the introduction of initial assessment, or filtering, at local level.

Since the introduction of local filtering, Fylde has seen a steady flow of complaints that have been dealt with by the local assessment mechanisms. There have also been two cases investigated by ethical standards officers. These are analysed later on in the report.

The composition of the Standards Committee has changed, with increased numbers of independent persons and parish members. Nevertheless, the committee presently needs another independent person and a another parish member.

Nothing has happened during the year to suggest to us that there are ingrained conduct issues at Fylde or any of its parish councils[1]. However, we felt it necessary to write a letter about conduct at full Fylde council meetings following the stormy budget meeting in March.

2. Local filtering

Until May this year, complaints about the conduct of councillors had to be made initially to the Standards Board for England. An Ethical Standards Officer of the board would then decide whether to refer the complaint for investigation by the Monitoring Officer of the authority concerned or by the Standards Board, or to take no further action.

From May 8, the responsibility for initial assessment or filtering passed to local standards committees. The legislation required each standards committee to set up three sub-committees: one to deal with the initial assessment of complaints by deciding whether to refer them for investigation, other action or to take no action; one to deal with reviews of the decision of the committee dealing with initial assessment; and one to deal with holding hearings following a completed investigation. The legislation required that each of the three sub-committees should be chaired by an independent person, should contain a parish representative when parish business was being discussed, and should contain at least three members in all.

Fylde's Standards Committee, like that of most other local authorities, chose to adopt a fluid model for its sub-committees, with members being chosen at random within certain parameters and subject to safeguards to avoid actual or perceived conflicts of interest. The composition of Fylde's Standards Committee and its sub-committees is explored further in section 6.

We adopted local assessment criteria to guide our decision-making on what complaints to refer for investigation. These criteria strongly reflect guidance from the Standards Board for England and allow, for example, the Assessment Sub-Committee to not refer a complaint for

[1] For convenience, the term "parish council" is used to refer as well to town councils.

investigation if it considers that the motivation for the complaint is malice, political point-scoring or retaliation.

3. The committee's work in 2008

During the first part of 2008, before the responsibility for local filtering of complaints passed to us, the Standards Board for England received five complaints about the conduct of members of Fylde Borough Council or its town and parish councils.

The table below sets out the findings on the complaints:

Not referred for investigation: no evidence of a potential breach of the code of conduct	1
Not referred for investigation: alleged conduct not serious enough to justify investigation	1
Referred to ethical standards officer for investigation: no failure to comply with code of conduct found	0
Referred to ethical standards officer for investigation: Referred to Adjudication Panel for hearing	1
Referred to ethical standards officer for investigation: Referred to Standards Committee for hearing	0
Referred to ethical standards officer for investigation: Failure to comply with code found but no further action necessary	2
Referred to monitoring officer for investigation	0

Since the responsibility for initial assessment passed to us on May 8, the Monitoring Officer has received 13 complaints about the conduct of members of Fylde Borough Council or its town and parish councils[2]. The table below sets out the Assessment Sub-Committee's decisions on these complaints:

Not referred for investigation: no evidence of a potential breach of the code of conduct	5
Not referred for investigation: alleged conduct not serious enough to justify investigation	0
Not referred for investigation: matter previously investigated	1
Referred to ethical standards officer for investigation	0
Referred to Monitoring Officer for investigation: Investigation not yet complete	2
Referred to Monitoring Officer for alternative action	2
Not yet determined by sub-committee	3

There was a full meeting of the Committee in May 2008. There have also been three meetings of the Assessment Sub-Committee.

[2] For the purposes of this report, a single communication making the same allegation against more than one councillor, or two or more separate communications making the same allegation against the same councillor are each counted as one complaint only, whereas a single communication making separate allegations about two different councillors is counted as two complaints and so forth.

4. Comparison between Fylde and national data

The Standards Board for England has compiled data from quarterly returns made from councils across England. So far, only data relating to the period May 8 to June 30 has been published. This is reproduced below, together with the data for Fylde for the same period:

	Fylde, including parishes	England
Not referred	50%	42%
Referred to Standards Board for investigation	0%	2%
Referred to Monitoring Officer for investigation	25%	39%
Referred to Monitoring Officer for alternative action	25%	18%

The Standards Board has also compiled data from the quarterly returns on the source of complaints. Again, this is reproduced along with Fylde's data for the same period.

	Fylde, including parishes	England
Member	0%	35%
Officer	25%	3%
Parish or Town Clerk	0%	2%
Member of the Public	75%	57%
Other	0%	3%

The average number of cases dealt with by a district council during the period 8 May to 30 June was 0.97, compared with four at Fylde.

5. Analysis and comment

Both statistical and anecdotal evidence suggest that Fylde has received a greater than average number of complaints since the new system was introduced in May. The volume of complaints does not necessarily show a corresponding volume of bad behaviour. The number of complaints generated can be influenced by such factors as awareness of the system for making complaints, the confidence of individuals to use the system and use of the mechanism to further particular agendas.

Of the thirteen complaints received since May 8, four were about the behaviour of councillors at the council meeting on March 3, when budget cuts, including the closure of the St Annes Swimming Pool were considered. Two of the complaints received by the Standards Board before May 8 also related to that meeting.

We considered the general conduct of that meeting at our meeting in May. While recognising that controversial and important questions were being discussed, and that passions ran high, we considered that the conduct of the meeting reflected badly on a number of councillors and on the reputation of the borough council as a whole. As a result, we asked our chairman to write to all group leaders and non-aligned members, as well as the chief executive of the council expressing our concern.

Subsequent meetings of the borough council, while not dealing with issues provoking such an intensity of feeling as the March 3 meeting, have been conducted in a much more businesslike and civil manner.

We are committed to carrying out the statutory obligations of the Standards Committee in an entirely impartial and objective way. Those obligations include giving formal consideration to all properly made complaints about the conduct of borough or parish councillors. There is no mechanism by which we can refuse to entertain complaints that may have been actuated by dissatisfaction with a decision made by a council rather than a genuine concern for high ethical standards. Nevertheless, the Assessment Sub-Committee will be alert to such considerations in deciding whether to refer complaints for investigation, as set out in our assessment criteria.

6. Composition of the Standards Committee

The Standards Committee has increased in size during 2008 to be able to accommodate the new work arising from local filtering and assessment. At the start of the year, the committee consisted of four members of the borough council, two independent persons and two parish representatives. It became clear that meeting the new requirement for separate sub-committees to deal with assessment, review of assessment and hearings would be extremely difficult with the existing number of members. The decision was therefore taken to seek two additional independent persons and an extra parish representative.

The parish representative was chosen by asking each of the parish councils in the borough to consider nominating one of their councillors to fill the vacancy. Six high quality nominations were submitted, and the successful candidate, Councillor Richard Nulty, was chosen after discussion at the District-Parish Liaison Meeting.

The new independent persons, Mr Glynn Driver and Mr Roy Male, were chosen from a number of applicants after an interview with the chairman of the committee (Mr D D E Birchall), Councillor Brenda Ackers and Councillor Elizabeth Oades.

All members of the committee have demonstrated their independent and detached approach to the matters that come before them. It is therefore particularly disappointing that it has not so far been possible to secure a common approach to the appointment of a fourth parish representative to the committee, which is necessary to enable a review of a particular assessment decision to take place. If the inability to agree a common approach is influenced by a fear that one likely appointee or another is likely to favour one faction or other of the membership of the borough or any of the parish councils, that is indicative of how much more work we have to do in educating members about the committee's work. To further the education process, the chairman has written to all borough and parish councillors.

Members of the Standards Committee during the year have been:

Mr D D E Birchall (Independent person), Chairman

Cllr Brenda Margaret Ackers Vice-Chairman

Cllr Linda Burn (Parish representative)

Cllr Harold Butler (Parish representative)

Mr Glynn Driver (Independent person) (since July 2008)

Cllr Richard Kevin Eastham

Cllr Paul Joseph Hayhurst

Cllr Howard Henshaw

Mr Roy Male (Independent person) (since July 2008)

Mr Alan Marsh (Independent person)

Cllr Richard Nulty (Parish representative) (since July 2008)

The Assessment Sub-Committee comprises five members of the committee, of whom at least one is to be an independent person, at least one is to be a parish representative and at least one is to be a borough councillor.

The Review Sub-Committee comprises three members of the committee, of whom one is to be an independent person, one is to be a parish representative and one is to be a borough councillor.

The Hearing Sub-Committee comprises three members of the committee, of whom one is to be an independent person, one is to be a parish representative and one is to be a borough councillor.

The individual members of the sub-committees are chosen at random by the Monitoring Officer in the presence of the Deputy Monitoring Officer, subject to the provisos that: the chairman of the committee (if not otherwise disqualified) is always invited to chair a sub-committee; that no member who has taken part in an assessment decision on a complaint can be part of a sub-committee reviewing that assessment; and that a parish councillor will not be invited to take part in any consideration of a complaint against a member of his or her parish council.

Members invited to sit on a sub-committee will be asked about their availability and any possible conflicts of interest before their invitations are confirmed.

The table below sets out attendance of members at committee and sub-committee meetings in 2008:

	Standards Committee		Assessment Sub-Committee		Review Sub-Committee		Hearing Sub-Committee		Total	
	Possible	Attended	Possible	Attended	Possible	Attended	Possible	Attended	Possible	Attended
Ackers	1	1	4	4	0	0	0	0	5	5
Birchall	1	1	4	4	0	0	0	0	5	5
Burn	1	1	1	1	0	0	0	0	2	2
Butler	1	1	3	2	0	0	0	0	4	3
Driver	0	0	0	0	0	0	0	0	0	0
Eastham	1	1	2	1	0	0	0	0	3	2
Hayhurst	1	1	0	0	0	0	0	0	1	1
Henshaw	1	1	0	0	0	0	0	0	1	1
Male	0	0	2	1	0	0	0	0	2	1
Marsh	1	1	2	2	0	0	0	0	3	3
Nulty	0	0	2	0	0	0	0	0	2	0

7. Conclusion

The Standards Committee has an important role to play in maintaining confidence in local democracy. That role has been enhanced with the introduction of local assessment. The most important requirement for the committee to be able to play that role is for it to continue to be seen as an independent arbiter. That means that committee members must, when acting as such, step aside from any political or other allegiances. Equally importantly it means that others who are not members of the committee must respect that neutrality. We are confident that this is largely the case, but all need to remain vigilant and committed to these principles.

Fylde and its parishes do not appear to have deep-seated problems of bad councillor behaviour. The requirements to register and declare interests are observed. Councillors ask for and follow advice from the monitoring officer and his deputy. Differing views are generally debated and expressed with vigour, but also with civility. That is how it should be. The Standards Committee is committed to playing its part in helping this to continue.

D D E Birchall

Chairman, on behalf of the Standards Committee.

REPORT

FYLDE BOROUGH COUNCIL

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	2 DEC 2008	4

COMPLIANT AGAINST A COUNCILLOR: FORMAL REPORT ON REFERRAL FOR OTHER ACTION

Public Item

This item is for consideration in the public part of the meeting.

Summary

This is a formal report under the relevant regulations of a referral to the Monitoring Officer for action other than an investigation.

Recommendation

1. .Notify the councillor concerned, the complainants and the relevant parish council that the committee is satisfied with the action set out in the report.

Report

Statutory context

1. Under the Standards Committee (England) Regulations 2008, an assessment sub-committee can, as an alternative to ordering that a complaint about the conduct of a member be investigated, refer the matter to the Monitoring Officer for him to take steps other than an investigation.

2. Under regulation 13(4)(c) of the regulations, the Monitoring Officer must, within the period of three months or as soon as is reasonably practicable thereafter submit a written report to the Standards Committee giving details of the action taken or proposed, to comply with the direction. This is that formal report.

Continued....

3. If the standards committee is satisfied with the action specified in the report, it must give written notice to that effect to the member; the complainants and any parish council concerned.

Formal report

4. On 20 August 2008, the Assessment Sub-Committee considered complaints concerning the alleged conduct of Paul Rigby, a member of Fylde Borough Council and Bryning-with-Warton Parish Council.

5. The complaint was that Councillor Rigby failed to comply with the Code of Conduct in that he used offensive language at a meeting of the borough council that was attended by members of the public on 3 March 2008.

6. The sub-committee decided to refer the allegation to the Monitoring Officer for him to require Councillor Rigby to make a personal statement at the next available meeting of Fylde Borough Council expressing his regret for his choice of language at the March meeting.

7. Councillor Rigby co-operated fully with the Monitoring Officer. At the council meeting on October 6, Councillor Rigby read out a written apology for the language that he had used, in terms that had been agreed with the Monitoring Officer.

IMPLICATIONS	
Finance	No financial implications
Legal	This report is required under the regulations. It does not provide an opportunity for the Standards Committee to revisit the original complaints.
Community Safety	None.
Human Rights and Equalities	None.
Sustainability	None.
Health & Safety and Risk Management	None.

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	24 November 2008	

List of Background Papers		
Name of document	Date	Where available for inspection

Summary of Assessment Sub-Committee decision	9 September 2008	Town Hall, St Annes

REPORT

FYLDE BOROUGH COUNCIL

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	2 DEC 2008	5

PROPOSED REVISION TO THE CODE OF CONDUCT: GOVERNMENT CONSULTATION

Public Item

This item is for consideration in the public part of the meeting.

Summary

The government is consulting on proposals to revise its model code of conduct. The committee is asked to respond to the consultation paper.

Recommendation

1. Respond to the consultation paper inasmuch as it relates to member conduct.

Report

1. The Department for Communities and Local Government ("DCLG") has issued a consultation paper on proposals for revising the model code of conduct for local authority members, principally to clarify its application to members' conduct in their non-official capacity. The 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.

2. Members will recall that the original model code of conduct issued in 2000 was revised only last year. DCLG considers that, broadly, the revised code is operating very well. However, as it has been in force for over a year, the department considers that it is now appropriate to review the code.

3. The consultation paper also contains proposals to introduce a model code of conduct for local authority employees. However, the conduct of employees is outside the remit of the Standards Committee.

Continued....

4. The consultation seeks sets out specific questions and seeks responses to them by December 24. The paper is reproduced below, omitting the parts that relate to the proposed employees' code of conduct. The committee is asked to formulate responses for submission to DCLG.

IMPLICATIONS	
Finance	None
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability	None
Health & Safety and Risk Management	None

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	14 November 2008	

List of Background Papers		
Name of document	Date	Where available for inspection
Communities in control: Real people, real power Codes of conduct for local authority members and employees: A consultation	October 2008	Town Hall, St Annes or www.communities.gov.uk/documents/localgovernment/doc/562D53.doc

Attached documents

1. Consultation paper, edited to remove references to the proposed employee code.

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. […]

About this consultation

1.3 The proposals in this consultation paper relate to relevant authorities in England […].

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 […].

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 [and] the general principles order[...].

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 [not reproduced].

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 – 1.26 […]

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 […]. 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 lead 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 an 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

[…]

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

[…]

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.

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