

Central Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



please ask for Martha Clampitt
direct line 0300 300 4032
date 17 February 2010

NOTICE OF MEETING

STANDARDS COMMITTEE

Date & Time

Friday, 26 February 2010 9.30 a.m.

Venue at

Council Chamber, Priory House, Monks Walk, Shefford

Richard Carr
Chief Executive

To: The Chairman and Members of the STANDARDS COMMITTEE :-

Councillors:	P Rawcliffe(Vice-Chairman), Mrs J G Lawrence, A A J Rogers, J Street and G Summerfield,
Independent Persons:	Mr K Ford(Chairman), Mr J Dann, Mr K Frazer, Mr M Jones and Miss D C Maggs
Town and Parish Representatives:	Mr B Collier, Dr W J Eilbeck, Ms J Hughes, Mr J Lewis and Mr B Saunders

Other Members of the Council – as requested.

All other Members of the Council - on request

**MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS
MEETING**

AGENDA

1. **Apologies for Absence**

Apologies for absence and notification of substitute members.

2. **Minutes**

To approve as a correct record, the Minutes of the meeting of the Standards Committee held on 6 November 2009.

(previously circulated)

3. **Members' Interests**

To receive from Members declarations and the **nature** thereof in relation to:-

- (a) Personal Interests in any Agenda item
- (b) Personal and Prejudicial Interests in any Agenda item

4. **Public Participation**

To deal with general questions and statements from members of the public in accordance with the scheme of public participation set out in Appendix 1 to Part A4 of the Constitution.

5. **Petitions**

To receive Petitions in accordance with the scheme of public participation set out in Annex 2 to Part A4 of the Constitution.

REPORTS

Item	Subject	Page Nos.
6	Presentation from the Chief Executive To receive a presentation from the Chief Executive.	*
7	Verbal report from Independent Members' attendance at Committees & Town and Parish Meetings To receive a verbal report from Independent Members of the Committee who have recently attended Central Bedfordshire Committee meetings and Town & Parish Council meetings.	*
8	Gifts and Hospitality Audit To advise Members of the outcome of a Gifts and Hospitality Audit for Members' and Officers' declarations.	* 5 - 10
9	Notifications of Gifts and Hospitality declared by Central Bedfordshire Members To update the Committee on gifts and hospitality declared by Central Bedfordshire Council Members from October 2009 to February 2010.	* 11 - 14
10	Update on Current Standards Matters To advise Members on the latest position relating to Assessments, Reviews and Hearings. (Appendices A & B to follow)	* 15 - 16
11	Standard Board Bulletin No. 46 To draw to Members' attention the latest Bulletin issued by the Standards for England.	* 17 - 30
12	Guidance Notes issued by Standards for England To draw Members' attention to Guidance Notes issued by Standards for England.	* 31 - 66
13	Changes to the Adjudication Panel for England To draw Members' attention to the changes to the Adjudication Panel for England.	* 67 - 70

14 **Planning Code Review**

* 71 - 96

To inform the Committee of proposed amendments to the Members' Planning Code of Good Practice.

Meeting: Standards Committee

Date: 26 February 2010

Subject: Gifts and Hospitality Audit

Report of: Monitoring Officer

Summary: To advise members of the outcome of a Gifts and Hospitality Audit for Members' and Officers' declarations

Contact Officer: Mrs Barbara Morris, Assistant Director Legal & Democratic Monitoring Officer
Tel: 01462 611024

Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency (if appropriate) N/A

RECOMMENDATION:

That the Committee note the report and recommendations contained therein.

1. Members are asked to note that a Gifts and Hospitality Audit was undertaken by Internal Audit last year in respect of declarations by Members and Officers of gifts and hospitality received.
2. Attached at Appendix "A" is a summary of the reports findings for you to note. The recommendations picked up a number of issues with the declaration process particularly in respect of Officers' declarations. The recommendations are now being implemented.
3. Audit Committee will also see details of the Audit report and monitor compliance with the recommendations.

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

N/A

Legal:

To ensure high ethical conduct within the Council in accordance with the requirements of the Ethical Framework as set out in the Local Government Act 2000.

Risk Management:

N/A

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

Community Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands

APPENDIX "A"

**SUMMARY OF REPORT'S FINDINGS IN RESPECT
OF GIFTS AND HOSPITALITY AUDIT**

Ref.	Findings	Recommendations
A0218	The Members' register records gifts and hospitality received following the 4 June 2009 election. The register from April to June 2009 is not currently available.	The Assistant Director Legal and Democratic Services should ensure that the Members' gifts and hospitality register for April to June 2009 is located and secured. Priority: Medium
A0226	The Members' register of Financial and Other Interests was not available on the internet during the audit review, however the Councillors' declarations of gifts and hospitality are now available on the internet following the update of the website in November 2009. They were previously available on request.	The Assistant Director Legal and Democratic Services should ensure that Members' completed declarations of Financial and Other Interests are published on the internet. Priority: Low

Recommendations pertaining to both Members' and Officers' Register of Interests.

Ref.	Risk Associated with Finding	Recommendations
A0219	Appropriate details of declarations by Members' and Officers may be omitted.	(i) The Council's guidance and procedures should be expanded to include the completion of a gifts and hospitality form for each declaration by Members. Priority: Low (ii) The Assistant Director Legal and Democratic Services should liaise with the Acting AD HR & OD to ensure that the Council's guidance and procedures are expanded to include the completion of a gifts and hospitality form for each declaration by Officers. Priority: Low

Ref.	Risk Associated with Finding	Recommendations
A0225	The Members' and Officers' registers may not be available for inspection resulting in reputational damage to the Council.	<p>(i) An electronic version of entries in the Members' register should be maintained to ensure that there is adequate maintenance and security of the register content.</p> <p style="text-align: center;">Priority: High</p> <p>(ii) The Assistant Director Legal and Democratic Services should liaise with the Acting AD HR & OD to ensure that an electronic version of entries in the Officers' register is maintained and that this is noted in the guidance.</p> <p style="text-align: center;">Priority: High</p>

Recommendations pertaining to the Officers' Register of Gifts and Hospitality

Ref.	Risk Associated with Finding	Recommendations
A0217	<p>Unclear guidance could lead to some gifts and hospitality not being declared by Officers appropriately, and the procedures would not adequately support any disciplinary processes.</p> <p>Officers could accept inappropriate hospitality or gifts, resulting in reputational damage to the Authority and allegations of undue influence.</p>	<p>The Assistant Director Legal and Democratic Services should liaise with the Acting AD HR & OD to ensure that:</p> <ul style="list-style-type: none"> • amendments in the Code of Conduct for Officers are reflected in the CBC Conditions of Service and that they are clarified to explain whether offers can be accepted and which Senior Management should approve acceptance • a register of gifts and hospitality for officers is maintained by each Director for their service area • officers are reminded of the existing guidance on registering gifts and hospitality • officers are made aware of the requirement for gifts and hospitality to be approved by the appropriate officer prior to acceptance • guidance on receiving promotional materials and gifts in the post is included in the Council's policies. <p style="text-align: center;">Priority: High</p>

Ref.	Risk Associated with Finding	Recommendations
A0243	Declarations of hospitality and gifts received may not be recorded appropriately, potentially leading to a lack of declarations and management being unaware of undue influence on officers.	See Finding A0217
A0220	Officers may not be aware of guidance for declaring gifts and hospitality, potentially resulting in gifts and hospitality not being declared and therefore the register being incomplete.	See Finding A0217
A0221	There may be inadequate scrutiny of offers of gifts or hospitality by the Designated Officers leading to a lack of awareness of potential influence.	See Finding A0217
A0222	Promotional material may be received and not declared and may unduly influence an officer, and Designated Officers may be unaware of this potential influence.	See Finding A0217
A0227	Gifts received in the post may not be declared which may result in the register being incomplete and a risk of undue influence on Council Officers.	See Finding A0217

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Meeting: Standards Committee

Date: 26 February 2010

Subject: Notifications of Gifts and Hospitality declared by Central Bedfordshire Members

Report of: Monitoring Officer

Summary: To update the Committee on gifts and hospitality declared by Central Bedfordshire Council's Members from 2009 to December 2010

Contact Officer: Mrs Barbara Morris, Assistant Director, Legal & Democratic/Monitoring Officer

Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency (if appropriate) N/A

RECOMMENDATION(S):

- 1. That the Committee notes the declarations of gifts and hospitality received by Central Bedfordshire Members as set out at Appendix "A" to this report.**

1. Attached at Appendix "A" to this report Members will find a summary of gifts and hospitality declared by Central Bedfordshire Council Members as requested by the Committee at their last meeting.
2. Members are aware that their declarations are held in the public domain and their interests declarations are a requirement of the Code of Conduct.

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance.

Financial:

N/A

Legal:

To ensure declarations are made in accordance with the Code of Conduct are maintained and disclosed in accordance with the Local Government Act 2000 and Local Government and Public Involvement in health Act 2007.

Risk Management:

N/A

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

Community Development/Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands

Appendix "A"

**Declarations notified to the Monitoring Officer
in respect of Gifts and Hospitality received by
Central Bedfordshire Members**

Date of gift or hospitality	Description of gift. hospitality	Date notified to Monitoring Officer
2 November 2009	Dinner	25 November 2009
7 November 2009	Twickenham Rugby Match	25 November 2009

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Meeting: Standards Committee

Date: 26 February 2010

Subject: Update on Current Standard Matters

Report of: Monitoring Officer

Summary: To advise members on the latest position relating Assessment, Reviews and Hearings

Contact Officer: Mrs Barbara Morris, Assistant Director, Legal & Democratic/Monitoring Officer
Tel: 01462 611028

Public/Exempt: Public

Wards Affected: All

Function of: Non-Executive

Reason for
urgency
(if appropriate)

RECOMMENDATION(S):

That the Committee receive and note the report.

1. Further to the meeting held on 17 July 2009, the report set out at Appendix "A" shows the current position relating to code of conduct cases, together with information about any further complaints received by the Standards Committee.
2. Members are requested to receive and note this report.
3. Additionally, at Appendix "B", as requested by Members at their last meeting, a table setting out the numbers of matters dealt with by individual Members is attached for information.
4. Appendices "A" and "B" will be tabled at the meeting.

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

N/A

Legal:

To ensure high ethical conduct within the Council in accordance with the requirements of the Ethical Framework as set out in the Local Government Act 2000

Risk Management:

N/A

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

Community Safety:

N/A

Sustainability:

N.A

Location of papers: Priory House, Chicksands

Meeting: Standards Committee

Date: 26 February 2010

Subject: Standard Board Bulletin No. 46

Report of: Monitoring Officer

Summary: To draw Members' attention the latest Bulletin issued by the Standards for England.

Contact Officer: Mrs Barbara Morris, Assistant Director Legal & Democratic/Monitoring Officer
Tel: 01462 611028

Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency
(if appropriate) N/A

RECOMMENDATION(S):

That the Committee note the Standards for England Bulletin No. 46.

Standards Board Bulletin

1. As Members are aware, the Standards for England regularly issue bulletins and updates for the Standards Committees to note. Attached at Appendix "A" to the report is a copy of the latest Bulletin No. 46.
2. Members are requested to note the Bulletin and bring to the attention of the Committee any issues that they wish to discuss.
3. Members will also be aware that the Monitoring Officer arranges for copies of these Bulletins to go to all Town and Parish Council and relevant officers within the Authority.

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

N/A

Legal:

To ensure that continued training and development is offered to ensure high ethical standards are maintained in accordance with the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007

Risk Management:

N/A

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

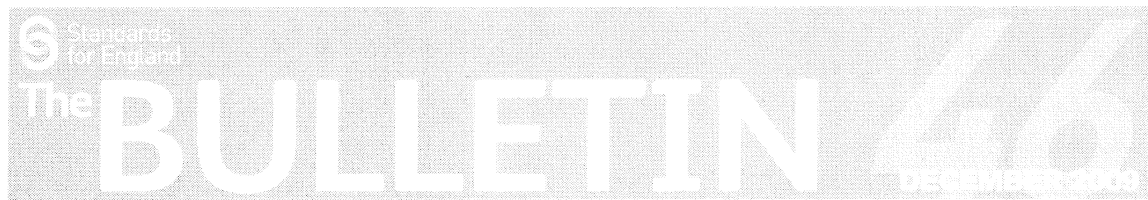
Community Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands



Standards and Ethics Award

The closing date for entries to the 2010 Local Government Chronicle (LGC) awards was Friday 20 November. Around 20 authorities entered the Standards and Ethics Award, which is supported by Standards for England. Our judges, Dr Robert Chilton, Dr Michael Macaulay and Nick Raynsford MP have reviewed the entries and shortlisted six authorities who will be announced on 17 December. The judges will then meet in London to choose a winner which will be announced on 24 March 2010.

More information on the shortlisted authorities will be available on our website in January.

Bias, Predetermination and the Code

At this year's Annual Assembly we ran a session called 'Understanding Predetermination and Bias'. It looked at the relationship between bias, predetermination and the Code of Conduct (the Code). The session proved to be hugely successful in providing information that all standards committees and monitoring officers should be aware of, particularly as it drew on recent and relevant case law in this area. This article attempts to draw out some of the key messages from the session that make understanding predetermination and the Code easier.

Predetermination is a more accurate term than 'bias' used to describe a state of mind which is capable of breaching both the law and the Code. This is not to be confused with predisposition where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly.

There are two types of predetermination; actual and apparent:

- **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.
- **Apparent predetermination** is where the fair minded and well-informed observer, looking objectively at all the circumstances, considers that there is a real risk that one or more of the decision makers has refused even to consider a relevant argument or would refuse to consider a new argument.

Recent case law has provided some clarity on how to establish whether predetermination might have occurred by using a two stage test:

- **Stage one** - all the circumstances which have a bearing on the suggestion that the decision was undermined by actual or apparent predetermination must be established.
- **Stage two** - the questions to be asked are:
 - a) was there actual predetermination or
 - b) were the circumstances such as would lead a fair minded and informed observer to conclude that there was 'real risk' that one of the decision makers had predetermined the outcome?

It is important to note that apparent predetermination is to be assessed having regard to all the circumstances which are apparent upon investigation. This extends beyond the circumstances available to the 'hypothetical observer.'

This could include information on any other relevant facts affecting the decision, for example, council procedures. It does not include evidence from the member concerned as to their state of mind or evidence from the complainant as to why they believed the subject member's mind was closed.

The test is objectively looking at what view the facts give rise to. The courts have decided that the fair minded and informed observer has: access to all the facts, is neither complacent nor unduly sensitive or suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be given to the facts and is aware of the practicalities of local government.

The courts have accepted that these practicalities mean that the **fair minded and informed observer** accepts that:

- a) Manifesto commitments and policy statements which are consistent with a preparedness to consider and weigh relevant factors when reaching the final decision, are examples of legitimate predisposition not predetermination.
- b) The fact that the member concerned has received relevant training and has agreed to be bound by a Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination.
- c) Previously expressed views on matters which arise for decision in the ordinary run of events are routine and councillors can be trusted, whatever their previously expressed views, to approach decision making with an open mind.

d) To suspect predetermination because all members of a single political group have voted for it is an unwarranted interference with the democratic process.

e) Councillors are likely to have and are entitled to have, a disposition in favour of particular decisions. An open mind is not an empty mind but it is ajar.

What has become evident is that **the threshold**, in the context of administrative decisions, on the test of apparent predetermination is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision is unlikely to be sufficient to establish predetermination.

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 Code breach. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraph 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

For more information on the relationship between predetermination and the Code, what the practicalities of local government have been held to be and case details please see [Day One](#) on the events page of our Annual Assembly website.

For further information on determination please see our [Online Guide on Predetermination and Bias](#).

Local Assessment: sharing lessons learnt

One of the breakout sessions at our Annual Assembly in October was entitled *Local Assessment, sharing lessons learnt*. This session took the form of a discussion forum giving delegates the opportunity to share their experiences of the local assessment process since its introduction in May 2008.

Sessions were held in tandem for monitoring officers and standards committee members respectively. This gave each group the opportunity to share with their peers the challenges that had arisen in their authority and the solutions they had developed to meet these challenges. In addition, delegates

suggested a number of changes to the local standards framework. We value these suggestions but, clearly, many need further evaluation before a decision could be taken whether to make any changes.

A full breakdown of feedback from the sessions can be found on our dedicated [Assembly website](#), but we thought you might be interested in hearing what some of the main issues discussed were.

Top five issues discussed

1. Vexatious or Persistent Complainants

This topic was raised in all four sessions that took place. Potential solutions suggested by delegates included:

- asking for further Standards for England guidance on the definition of what a vexatious complaint is
- change legislation to allow monitoring officers to filter out such complaints and allow committees to refuse complaints from vexatious complainants
- having robust assessment criteria to filter out such complaints at assessment
- to write warning letters to complainants deemed vexatious by the council procedures
- to deliver targeted training
- to publish the average cost of assessing and investigating a complaint.

We are aware that persistent vexatious complainants are causing problems for a number of authorities. This is one area where we intend to provide further guidance for standards committees early in 2010, although we recognise that guidance alone is unlikely to solve this issue.

2. The role of the monitoring officer

Delegates questioned what role, if any, a monitoring officer should have in filtering out complaints before formal assessment by the standards committee. A variety of suggestions were made including that:

- Standards for England should produce further guidance on what steps monitoring officers can take before assessment
- monitoring officers should be given the power to filter complaints before assessment in consultation with the standards committee chair
- monitoring officers should make the initial assessment decision with any review undertaken by the assessment sub-committee

- monitoring officers should make the initial assessment decision for parish complaints
- there should be discretion to halt the formal process if a local solution is reached.

3. Informing the subject member that a complaint has been made

Currently monitoring officers can take the administrative step of informing a member that a complaint has been made about them. However, the current regulations do not allow them to disclose any details of the complaint. Many delegates felt that this puts monitoring officers in a difficult position, especially in circumstances where the complainant has spoken to the press.

Delegates suggested a number of solutions and changes that they would like to see including:

- asking members in advance whether they would like to be told if a complaint is made about them, and make them aware they cannot be told any details until after the assessment
- giving monitoring officers the discretion to reveal some details of a complaint to the subject member depending on the circumstances, in consultation with the standards committee chair
- requesting guidance from Standards for England on what the subject member should be told prior to assessment
- requesting guidance from Standards for England on what the subject member should be told prior to an investigation.

4. Resources

A number of delegates highlighted problems with finding resources to deal with processing complaints. There were some suggestions that monitoring officers could use the Local Government and Housing Act 1989 to ensure they had adequate resources to perform their functions.

Another suggestion was that parishes should either be asked to contribute or alternatively they should be charged for processing complaints about parish members. Currently parish councils cannot be charged for any costs incurred during the assessment or investigation of a complaint about a parish member.

5. Quality of complaint information

Delegates stated that poorly written complaints and lack of information from the complainant could make it difficult to make an assessment decision.

Delegates suggested that:

- a model complaint form from Standards for England would be helpful (we have already published a complaints form – [click here to download](#)).
- complainants should be encouraged to use, or that it should be mandatory to complete, an official form
- monitoring officers should request further information from the complainant if there is insufficient information to make an assessment decision
- the complainant should be asked what they would like the outcome of the process to be.

We are currently undertaking a review of the local standards framework and information gathered from the sessions will feed into this review process. However, some of the changes to the standards framework suggested would be difficult to implement as they would require primary legislation to be amended.

A number of requests were made during the sessions for further guidance from Standards for England. We will consider these requests and use the feedback to inform future guidance updates.

Annual return 2010

In April 2009 we collected annual information returns from the 438 local authorities that we work with, covering the period 8 May 2008 to 30 March 2009.

It is important for us to collect information from monitoring officers and standards committees on how they are helping to maintain high standards of ethical conduct in their authorities. This assists us in ensuring the effectiveness of local standards arrangements.

Last year's return was an opportunity for monitoring officers and standards committees to tell us in detail about the particular achievements, successes and difficulties they had in supporting and promoting the ethical framework. We used the returns to build up a bank of notable practice examples to share across the standards community. Many of these can be found on a dedicated [notable practice](#) section of our website and in our [annual review of 2008-9](#).

We will be continuing to collect examples of notable practice in the annual return 2009-10. The information we gather will allow us to cultivate a national overview of the local operation of the standards framework. We will use this to identify strengths and weaknesses of the framework, prompting where we should be producing guidance or seeking policy changes in response to emerging national trends.

The questions in the annual return are currently being developed. Some will stay the same as last year so that we can report on progress, but many of them will change.

Our reasons

We are aiming to have a shorter questionnaire which will use tick boxes where possible to capture practices that are common across many authorities. This should mean that less time is required completing responses; unless there are exceptional circumstances or innovative activities to tell us about. We only expect authorities to provide lengthy responses where they think that a narrative will help others in the standards community who may find themselves in a similar position.

We appreciate that the timing of the annual return is not ideal. April marks the start of the new financial year and is inevitably a busy time for all concerned. However, we want to be able to relay the messages from the year as soon as possible. Therefore, like last year, we will be asking for annual returns to be completed during April and May.

To help authorities complete this task during a busy time, we will be publishing the questions earlier. We hope to communicate the questions to monitoring officers in January 2010. This is so authorities have more time to plan and consult with their standards committee and other key figures, such as the council leader and chief executive, when preparing their responses.

Governance Toolkit for Parish and Town Councils

The second edition of the Governance Toolkit for Parish and Town Councils was well-regarded, winning a *Municipal Journal* Legal Achievement of the Year Award in 2007. The third edition of this valuable resource was finalised in April and is now available to download.

This edition has been revised, updated and produced in partnership between the National Association of Local Councils, the Society of Local Council Clerks, Standards for England and the Association of Council Secretaries and Solicitors. It is also endorsed by the Local Government Association. Milton Keynes Council, a fully parished part urban and part rural authority, is recognised as having been at the forefront of parish council initiatives for many years, and undertook the editing and production of this edition of the toolkit.

This new edition toolkit is a comprehensive, practical reference guide. The topics covered include governing documents, public engagement and managing information, creation of new town and parish councils and elections.

The toolkit will be most useful for

- town/parish clerks and councillors
- those interested in becoming a parish councillor

- principal councils wanting to establish parish councils in their areas
- monitoring officers.

If you would like to download a copy, you can find it in the [Resource Library](#) on our website under 'toolkits'.

Assessment Made Clear DVD

Copies of our new DVD – '*Assessment Made Clear*' have now been distributed to local authorities. We are keen to hear your feedback and so with each DVD there is a freepost feedback postcard, which should be quick and easy to complete and return to us. If you prefer to provide feedback online there is now an [online form](#) on our website.

So far we have been pleased with the response you've given to its approach in dealing with different assessment scenarios. However, some monitoring officers have expressed disappointment that it is not possible to freely copy the DVD as was the case with our previous DVD.

We have not envisaged a need for authorities to consider widespread distribution of this particular DVD. Our view is that this DVD is targeted at standards committee members serving on assessment sub committees and is best watched in a training situation, where group discussion supports the learning points set out in the DVD.

While it may be considered informative for a wider community of local councillors and appropriate officers, for such audiences we believe the context of the DVD, and discussion around it, are best moderated within a group training setting.

We do appreciate there may be cases where exceptions are to be made - so we have taken the decision to make further copies of the DVD available from us for £12.50.

Using the DVD

Alongside the usual features, the DVD includes 'pause and discuss' slides to allow you to pause after each case study and, as a group or as individuals, discuss or think through what you would do in that situation.

Subtitles are provided as an extra and scene selection allows you to revisit easily the sections that are of most interest to you. A pdf of the learning points is also available when viewing the DVD on your PC.

You can [view a trailer](#) of the DVD on Standards for England's website.

To order further copies please contact publications@standardsforengland.gov.uk or call our reception number – 0161 817 5300.

Police authorities and joint standards committees

In the *Joint standards committee guidance* we state that a police authority is unable to enter into joint arrangements with another police authority because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities.

After receiving a large number of queries about this from police authorities we consulted again with Communities and Local Government. As a result of this liaison we now believe that our original interpretation of the legislation was incorrect. It is now understood that the 1972 Act does not prevent police authorities from forming joint standards committees with each other in line with the [Standards Committee \(Further Provision\) \(England\) Regulations 2009](#).

We would like to take this opportunity to apologise for the confusion. Our guidance will be modified shortly to reflect our updated position.

Review of the standards framework

We have all been operating the new standards framework for 18 months. As such, now is a good time for Standards for England, as the strategic regulator responsible for making sure it works effectively, to carry out a review of its effectiveness and proportionality. Where necessary we want to make recommendations to Communities and Local Government (CLG) for improvement.

We already have much of the information we need gathered from our research among various stakeholder groups (to which many of you have contributed - thank you), and from our own experience of monitoring and working with the standards framework. Soon we will be consulting with various bodies representing key local government and standards interests on what they think and about any recommendations we want to make. Our intention is to send these recommendations to CLG in March of next year.

We will keep you informed on the progress of the review through future bulletins and on our website. If, in the meantime, you have any queries then please contact Dr Gary Hickey on 0161 8175416 or gary.hickey@standardsforengland.gov.uk

Share your experiences of local standards

You can discuss anything you find topical in this Bulletin with fellow monitoring officers or standards committee members by using our new online forum. The Standards Forum, launched in October, provides a place for you to network, ask questions, share good practice, make recommendations and discuss any topics relating to the local standards framework.

All monitoring officers were automatically registered for the Forum and asked to send us the details of any members of their standards committees who wanted to join along with one other nominated officer. We have had a positive response and registered an additional 300 users, with more requests for membership being received daily. We intend to open membership up further by granting a further two officer registrations for each authority once we have registered this first wave of users. This is likely to happen early in the new year.

There are currently over 30 different subjects being discussed on the Forum. Popular topics include recommendations for external investigators and trainers; debates about protocols including the notification of subject members and the publication of decision summaries; and advice on the recruitment of parish members.

To find out more please access the [forum](#).

If you have any questions please contact forum@standardsforengland.gov.uk

Reminder: the importance of completing information returns

Within part 10 (Ethical Standards) of the Local Government and Public Involvement in Health Act 2007 it states that local authorities must send a periodic information return to us when we request one.

The periods we have specified, in the interest of not placing an unnecessary burden on local authorities, are the financial year quarters. In addition, we request a further return on an annual basis, meaning that there are five information returns required per year.

The information returns are extremely important. We need them to keep us up-to-date with how the local framework is functioning. They allow us to identify individual authorities that are not complying with the local standards framework or who are facing difficulties in implementing it.

So far authorities have been responsive in providing us with information on their experience, and the average percentage of returns completed for each quarter of the year is 99%. Over the 6 quarters for which we have requested returns, there have been just **13** instances where authorities have not provided a response. This is not bad when you consider there are over 400 authorities that we send requests to.

However, it often takes a significant effort to collect all of the returns. Roughly 75% of authorities complete their return by our deadline which is 10 working days after the close of each quarter. But the remaining authorities, who number more than 100, require multiple e-mail reminders and telephone calls before they complete their return. This is unacceptable, as it means it takes us longer than we would like to pull together all of the data and report on our findings.

Ultimately, we expect the authority's monitoring officer to complete our information returns. However, they can delegate this task to a colleague if they wish. For consistency we will always send our email correspondence directly to the monitoring officer, but if they know that they are not going to be available when a return is due they should delegate the task to somebody who is.

For more information on Standards for England's information returns please contact our monitoring team on 0161 817 5300.

Update on the transfer of the Adjudication Panel for England into the unified Tribunal structure

On 1 September, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. The work of the Adjudication Panel for England will be transferred into the GRC in January 2010.

Legislative process

A 'Transfer of Tribunal Functions Order', transferring the functions of the Adjudication Panel into the GRC, has now been laid in Parliament. The order requires Parliamentary approval. Debates on the order will take place before the end of the year. The order contains amendments to the Local Government Act 2000, to the Standards Committee Regulations and to the Case Tribunal Regulations. Once Parliamentary approval has been obtained an amended version of each of those provisions will be available on the [Tribunals Service website](#).

The Order abolishes the Adjudication Panel for England, whose functions will then be undertaken by the First-tier Tribunal and will be known as the First-tier Tribunal (Local Government Standards, England). The President and members of the Adjudication Panel will be transferring as either judges or members of the First-tier Tribunal assigned to work in the General Regulatory Chamber of that Tribunal. The President will also be a deputy judge in the Upper Tribunal.

Impact on users

References and appeals made to the President of the Adjudication Panel are determined by Case Tribunals and Appeals Tribunals. The people who sit on those Tribunals will be the same people who determine these kinds of matters in the name of the First-tier Tribunal (Local Government Standards, England). The associated administrative work will also be undertaken by the same people as currently do this. Such work will continue to be based at the Tribunals Services offices in Leeds.

Since it was established, the Adjudication Panel has operated without any formal rules. That situation will change as a result of the transfer of work into the First-tier Tribunal. The procedure rules give more explicit powers of

direction to the First-tier Tribunal than were available to the Adjudication Panel, including power to summon witnesses.

All proceedings taking place after the transfer order comes into effect will be conducted in accordance with the rules of the First-tier Tribunal unless, in the case of proceedings which have already started, it would be unfair to apply particular provisions of those rules.

You can view regular updates on the [GRC page](#) of the Tribunals Service website.

Meeting: Standards Committee

Date: 26 February 2010

Subject: Guidance Notes issued by Standards for England

Report of: Monitoring Officer

Summary: To draw Members' attention to Guidance Notes issued by Standards for England

Contact Officer: Mrs Barbara Morris, Assistant Director Legal & Democratic Monitoring Officer
Tel: 01462 611028

Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency (if appropriate) N/A

RECOMMENDATION:

That Members note the Guidance Notes issued by Standards for England.

1. Members will be aware that from time to time Standards for England issue Guidance Notes to assist. On 19 January 2010 the Authority received notification that a number of guidance notes had been issued in relation to the following areas:-
 - (i) Charitable Trustees and Declarations of Interests under the Code.
 - (ii) The role and appointment of Town and Parish Council representatives to the Standards Committee and the Standards Committee (England) Regulations 2008 (the 2008 Regulations)
 - (iii) Personal and Prejudicial Interest

- (iv) Notification to Town and Parish Councils concerning complaints about their Members and the Standards Committee (England) Regulations 2008 (the 2008 Regulations)
- (v) Lobbying
- (vi) Independent Members
- (vii) Gifts and Hospitality
- (viii) Freemasons and the Code of Conduct
- (ix) Disclosing Confidential Information
- (x) Bullying and the Code of Conduct
- (xi) Predisposition, Predetermination or Bias and the Code

3. Members will find these useful Guidance Notes attached at Appendix "A" to this report for note.

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

N/A

Legal:

To ensure that continued training and development is offered to ensure high ethical standards are maintained in accordance with the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007

Risk Management:

N/A

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

Community Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands

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Charitable Trustees and declarations of interest under the Code

Introduction

This guide is aimed at councillors who are trustees of charitable organisations. It explains the different types of charities that you may be involved in. It also aims to provide you with a better understanding of your role so that you know when to register and declare your interest under the Code of Conduct.

Any mention of a charitable organisation in this guide refers to a registered charity or an unregistered body which is directed to charitable purposes.

Understanding your charity

There are two main types of charities, incorporated charities and unincorporated charities.

An **incorporated charity** is a corporate body which has a legal existence that is separate from the individual persons that form it.

Most incorporated charities are limited companies registered with Companies House and the Charities Commission.

An **unincorporated charity** may be a 'trust' or 'association'.

An unincorporated charity cannot itself 'hold' the legal title to land or other forms of investment because it has no separate legal status. For this reason, its land or investments will be held on its behalf by:

- individuals or an incorporated body known as a custodian trustee
- a holding trustee or
- a nominee.

Appointment

A charity's governing document sets out your charity's purposes and how it is to be administered. It will also, usually, set out how trustees are to be appointed which can vary according to the individual charity.

The governing document may be:

- a trust deed
- a constitution
- memorandum and articles of association or
- another document.

A trustee can be appointed directly by a charitable organisation or nominated by their local authority. He or she may be appointed to manage the charity or to only hold the title to the charity's land or investments. It is important to understand your role as a trustee in order to understand if you have an interest to register.

Charity trustees

Charity trustees serve on the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members, or they may be referred to by some other title. For example, some charity trustees are known as 'officers' and have special responsibilities such as chair, treasurer or ex-officio trustee. An 'ex-officio trustee' is a type of charity trustee who is in that position because of their office, such as the mayor of a town or the head teacher of a school.

Whatever their title the principles and main duties of a charity trustee are the same. Charity trustees have and must accept ultimate responsibility for directing the affairs of a charity. They must ensure that it is solvent, well-run, and delivers the charitable outcomes for which it has been set up, for the benefit of the public. To act outside of their powers is a breach of trust.

Nominated trustee

Sometimes an individual is nominated by an organisation to be a charity trustee. For instance, a local authority may nominate its councillors onto the governing body of a charity that operates in its area and for which it has provided funding. Despite being appointed in a different way, nominated trustees (sometimes known as representative) have the same legal duties and responsibilities as any other charity trustee.

Other types of Trustee

There are three types of trustees who only hold the charity's land or investment; a custodian trustee, a holding trustee and a nominee.

A **custodian trustee** is a corporation, such as the treasury solicitor, limited companies, health authorities, local authorities or other types of organisations, whose main function is to hold the legal title to all investments and property on behalf of the charity. Note that an individual can never be one.

A **holding trustee** and a **nominee** can either be an **individual** or a **corporation**. They too hold the legal title to a charity's property or investments on behalf of the charity.

Corporate trustees

A corporate trustee is a corporation such as a local authority which has itself been appointed to act as a trustee of a charity. It may be appointed as a charity trustee or custodian trustee (holding trustee or a nominee) or both.

A local authority may act as the custodian trustee only if the charity is for the benefit of the people living in the whole or part of its area, and not an ecclesiastical charity or a local charity for the relief of poverty. For example, parish councils are often appointed custodian trustees of charitable village halls, recreation grounds and youth clubs.

If the corporation is appointed as a charity trustee it may be a "trustee for all purposes" acting on its own (a

sole trustee) or one of a number on a body of charity trustees (a joint trustee). A corporation does not itself need to be charitable to be a trustee of the charity.

Many local authorities act as sole trustees of local charities – especially charities for recreational or educational purposes. This means the local authority as a corporate body both holds the property and oversees its application as a charity trustee.

If a local authority is itself the charity trustee, it decides within the scope of local government law, what structures should be used to reach decisions in its name as a charity trustee. For example, it may decide all the decisions are to be reached by the council or it may decide to delegate the decisions to a separate management committee. Whatever the structure employed, the individual councillors concerned are not themselves charity trustees and are not required to register their role in relation to the charity in their register of interests. When making charity decisions at the council or management committee meetings, they must only act in the best interests of the charity and independently of their local authority interests.

What personal interests should I register?

The Code of Conduct says you have a personal interest in any business of your authority where it relates to or is likely to affect an interest that you must register.

You must register your membership or position of control or management in:

- any body to which you are appointed or nominated by your authority
- any body directed to charitable purposes

If you are a charity trustee, you must always register your interest in the charity whether you are appointed directly by the charity or nominated by your local authority. This is because you are a member and in a position of management over the charity.

An example of this would be paying the charity's employees or making decisions on the organisation direction.

Are there circumstances when I do not have to register a personal interest?

Yes there are. A holding trustee or nominee who only holds the charity's land or investment will not have a personal interest and will not need to register an interest. This is because he or she will not be a member of the charity nor in a position of general control or management. This type of trustee can only act on the lawful instructions of the charity trustees and in accordance with any provisions contained in the governing document.

Please note: Holding the legal title to a charity's property is usually all that holding trustees do. However, occasionally a charity's governing document may confer additional powers and responsibilities on a holding trustee. If you are a holding trustee who has any decision-making powers in the way the affairs of the charity are managed – either solely or together with other trustees you will be acting as a charity trustee and must register your interest as explained above.

If you do not have any of these decision-making powers, then you will not need to register your interest as an individual holding trustee.

Personal interests that affect your well-being or financial position

It is important to remember that even when your role does not give rise to an interest that needs to be registered it may still be a personal interest that you need to declare. This is because a decision in relation to the business of your authority which relates or affects the charity might reasonably be regarded as affecting your well-being or financial position more than it would affect the majority of inhabitants of the ward or electoral division or authority's area affected by the decision.

For example, you might have a personal interest if you are on a local authority's management committee, a trustee of a non-charitable trust, or a holding trustee or nominee.

Case Example


Haven Parish Council ("council") is the custodian trustee of Haven Village Hall. Councillor Jones is a parish council member and has been appointed by the Council to the governing body of the Village Hall Trust ("Charity Trustee"). The village hall is in need of repairs and the Charity Trustee applies for a council grant for the repairs. The council meets to consider the surveyors report and agree the funding. Does Councillor Jones need to declare any interest at the meeting?

- As a custodian trustee the council holds the legal title to the Haven Village Hall. The council will be able to act as a custodian trustee if the charity is for the benefit of the people living in the whole or part of its area. However the council can only act on the lawful instructions of the charity trustees of the Village Hall Trust. The council itself is not a charity trustee.
- Councillor Jones has been nominated on to the governing body of the Village Hall Trust by the council. Whether appointed directly by the trust or nominated by the council, Councillor Jones is a charity trustee. He must register this interest because he is a member and in a position of general control or management of a body to which he has been nominated by the council and also as it is a body which is directed to charitable purposes.
- When the matter relating to the grant application comes before the council, Councillor Jones will have a personal interest which he has registered and he must declare this interest at the meeting.
- As the matter affects the financial position of the trust, Councillor Jones may also need to declare a prejudicial interest and withdraw from the room if in his view an objective person would consider his interest as so significant that it is likely to prejudice his judgment of the public interest.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 4th January 2010.

 Print this page

The role and appointment of parish and town council representatives to the standards committee and the Standards Committee (England) Regulations 2008 (the 2008 Regulations)

Paragraph 4(2) of the 2008 Regulations states that, 'where an authority is a responsible authority, it must ensure that at least two members of the standards committee are members of parish councils for which it is responsible, who are not also members of the responsible authority.'

Paragraph 7(4) of the 2008 Regulations states that, 'where a meeting of a standards committee, or sub-committee of a standards committee, is convened to discharge any function specified... relating to a member or former member of a parish council, no decision may be taken unless at least one member of a parish council for which the authority is the responsible authority, is present when such matters are being considered.'

The role of parish representatives

Parish representatives can be involved in any case being considered by the standards committee. However, the 2008 Regulations make it a requirement that any sub-committee or standards committee meeting that makes any decision on a case concerning a parish councillor has to have a parish representative.

Having a parish representative on cases about parish or town councillors ensures that the standards committee has a member with experience and understanding of local councils. They also bring with them knowledge about local issues which is helpful when assessing parish cases.

The best structure for a responsible authority's standards committee

Although the legislation states that a standards committee of a responsible authority must have at least two members that are parish councillors, Standards for England recommends they have three and that at least two are from different parish councils.

Why is it important to have three parish representatives?

Having three parish representatives on the standards committee of an authority will ensure that cases concerning parishes can be considered and dealt with in a timely manner. It ensures there are sufficient parish representatives to hear a case at all stages; even in the instance where one of the representatives is conflicted out, sick, on leave or otherwise unavailable.

In cases where a standards committee only has one parish representative who is conflicted out of dealing with a case, the authority will have to appoint a new parish representative before continuing with the case. The 2008 Regulations do not make it possible to borrow a parish representative in the way they do independent members.

Appointment of parish representative

Your authority must decide how to recruit and appoint parish or town council representatives. Your parish and town council representative should have the trust of town and parish councils in your area, so you should involve them in the selection procedure.

If you are finding it difficult to find a parish or town council representative, your local county association of local councils may be able to help you. For example, the county association may be able to give you a list of possible candidates. They may also be prepared to conduct an election process for you.


This process should receive the support of the parish and town councils in the area and show that you want to appoint standards committee members in a fair and open way.

Note: Not every parish or town council in a district area has to have an appointed standards committee member.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 4th January 2010.

 Print this page

Personal and prejudicial interests

Personal and prejudicial interests are covered by paragraphs 8-13 of the Code of Conduct.

What is a personal interest?

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- 1) An interest that you must register.
- 2) An interest that is not on your register but where the well-being or financial position of you, members of your family, or people or bodies with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral divisions affected by the decision (in the case of authorities with wards or electoral divisions)
 - inhabitants of the assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases).

What should I do if I have a personal interest?

You must declare that you have a personal interest and the nature of the interest as soon as it becomes apparent to you in all formal meetings before the matter is discussed.

However, where an interest arises solely from membership of, position of control or management on:

- any other body to which you were appointed or nominated by the authority
- any other body exercising functions of a public nature, for example if you have been appointed as a school governor
- you will only need to declare your interest if and when you speak on a matter, provided that you do not have a prejudicial interest.

What is a prejudicial interest?

Your personal interest will also be a prejudicial interest if it meets all of the following conditions:

- a) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2) (c), for example setting the council tax.
- b) The matter affects your interests financially or is about a licensing, planning or other regulatory matter that might affect your interests.
- c) A member of the public, who knows the relevant facts, would reasonably think your personal interest so

significant that it is likely to prejudice your judgement of the public interest.

What should I do if I have a prejudicial interest?

You must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent.

You should leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If this is the case, you can also attend the meeting for that purpose.

You must leave the room immediately once you have finished speaking, or when the meeting decides that you have finished (if that is earlier).


If your authority does not provide members of the public with any right to speak, you would need to leave the meeting room after declaring the nature and extent of your interest. However, you can:

- Make written representations in your private capacity. These should be addressed to officers rather than members of the authority.
- Use a professional representative to make an application, for example a planning application, on your behalf.
- Arrange for another member of the authority to represent the views of your constituents.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 27 October 2009.

 Print this page

Notifications to parish and town councils concerning complaints about their members and the Standards Committee (England) Regulations 2008 (the 2008 Regulations)

The 2008 Regulations make it clear that parish and town councils must be given notification that a complaint concerning one of their members has been assessed. After that, unless the initial assessment sub-committee decides to take no action on the complaint, the parish or town council must then be informed of certain significant subsequent steps taken in dealing with that complaint.

What information should be received?

Where a sub-committee of a standards committee meets to assess an allegation or to review a decision it must send in writing to the parish or town council concerned the main points considered, its conclusions, the reasons for its decision and may name the member unless to do so is not in the public interest or would prejudice an investigation. The decisions are whether to investigate the allegation, or whether to take some other action in relation to the alleged behaviour.

A parish or town council should also receive notification after a standards committee meets to consider the report into an investigation and whether to accept a finding about whether a councillor has breached the code of conduct or not. They should also receive notification of the outcome of a hearing and reasons for it, if one is held.

When should notifications be sent?

The duty to give notifications has no specific time frame. The general rule is that notification should be given as soon as is reasonably practicable. However, Standards for England recommend that notification be sent out within five working days of the decision being made for most decisions and within two weeks of any hearing being concluded.

The purpose of notifications

As a parish or town council you will be given these notifications to inform you of a case against one of your members and to keep you informed of significant events as the case progresses. This is important so that you have time to prepare or preserve evidence relevant to the complaint. You will also be able to make appropriate arrangements between the member and an employee where the complaint has been made by the employee. The rationale of the notification is to facilitate the standards committee's action, not to start new action within the parish or town council.

What to do when you get a notification

Each council needs to consider what it can lawfully do with the notifications it receives. Parish or town councils should consider putting in place protocols that deal with:

- access to information
- sharing of information
- how various legal obligations are met including those under the general law of confidentiality, the Freedom of Information Act and the Data Protection Act.

Notification procedures

Standards for England recommend that each parish or town council adopt procedures about how to deal with notifications. The clerk should then notify the monitoring officer of these procedures once they have been implemented so that the monitoring officer knows who to send the notifications to. The rules should clearly set out the limits on what information each member, employee and the public are able to receive about each complaint.

They should:

- Ensure that if the council is to be informed of a notification it is normally done by sending out an information item for members, rather than including the notification on the agenda of a council meeting.
- Choose a nominated employee (usually the clerk) and select a council committee to deal with and be informed of such notifications when they are received.
- The nominated employee and the committee should, if required to discuss the notification at a council meeting:
 - draft the summonses and agendas so the identity and subject matter of the complaint are not disclosed
 - ensure that any background papers are not made public
 - ensure that the public and press are excluded from meetings where appropriate
 - ensure that the minutes of meetings are written so as to preserve confidentiality
 - make appropriate arrangements, where the complainant is an employee, between the employee and the subject member.
- Take into account who will deal with providing further evidence or information needed by the standards committee about a complaint, be it the nominated employee or a member of the selected council committee.


By having appropriate arrangements in place your parish or town council will ensure that the rights of all concerned in a complaint will be considered. They will also ensure that complaints are dealt with lawfully, effectively and fairly, and will identify only those who need to know or are entitled to know certain information at the various stages of a complaint.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 4th January 2010.

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Lobbying

Lobbying is covered by paragraphs 8 to 12 of the Code of Conduct.

What is Lobbying?

Lobbying and campaigning is the practice of influencing decisions made by government at a national or local level. Many local councillors are involved in a number of groups or campaigns either as a member of a particular interest group or as an individual.

What should I do?

1) Register your interest

Membership of lobby or campaign groups should be included on your register of interests, as these are bodies "whose principal purposes include the influence of public opinion or policy".

Even if your lobby group does not keep a formal membership list, the Code of Conduct still applies to you. If you are acting as a member of the group – perhaps attending meetings or participating in group activities – you should still register your membership of the group and declare interests, where appropriate.

2) Declare your interest

If you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority you are required to declare a personal interest.

You will not normally have a personal interest in the related discussion or decision of your authority if you merely campaigned on an issue as an individual, perhaps during an election campaign, but you are not a member of or in a position of general control or management of a lobby group campaigning on the same issue.

You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your decisions.

You can continue to participate unless the interest is also prejudicial.

3) Consider whether to withdraw from the meeting

Under the Code of Conduct, you only have to withdraw from a meeting where your personal interest is also prejudicial.

You cannot have a prejudicial interest in a matter if:

- The matter falls within one of the exempt categories of decisions under paragraph 10(2) (c). A full list of exempt categories can be found in the Standards Board's Code of Conduct guidance, which is available on our website - www.standardsforengland.gov.uk
- The matter does not affect your financial interests or does not relate to a licensing or regulatory matter brought by you or a person or body in which you have a personal interest.

For example, you will not have a prejudicial interest in a developer's planning proposal which you and any groups you are a member of have campaigned against, if you, any person, or any body you have a personal interest in is not financially affected by the proposal.

If your personal interest in a matter falls outside the exempt categories mentioned above, and does affect your financial or regulatory interests, you will then have to consider the following general test for prejudicial interests:


- Would a member of the public, who knows the relevant facts, reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest?

If the answer is 'yes' then you would have a prejudicial interest.

If a prejudicial interest arose, you would still be allowed to address the meeting on the issue in order to answer questions or make representations, provided that same right was available to members of the public.

Find out more

- The Code of Conduct: Guide for members May 2007 offers more guidance on the Code and can be downloaded [here](#).
- Call our enquiries line on **0845 078 8181**
- Email us at enquiries@standardsforengland.gov.uk

 Print this page

Independent members

Who is an independent member?

Independent members are members of standards committees with no link to the authority they are overseeing. They are important in helping increase public confidence in the local standards framework. They provide a clear signal that the standards committee is acting fairly and impartially. Independent members also bring a wider perspective from their outside experiences. A person can only be an independent member if they:

- have not been a member or employee of the authority for the previous five years, or
- are not a member or officer of that or any other relevant authority, or
- are not a relative or close friend of a member or employee of your authority.

Attributes and skills of an independent member

Coming from outside the authority gives the independent member a different perspective and gives balance to the standards committee. Some of the attributes and skills expected of an independent member are:

- a keen interest in standards in public life
- a wish to serve the local community and uphold local democracy
- high standards of personal integrity
- the ability to be objective, independent and impartial
- sound decision-making skills
- questioning skills
- leadership qualities
- the ability to chair meetings.

The process of selecting an independent member

The position of independent member will be published in at least one local newspaper and in other similar publications or websites.

Each authority will have slightly different procedures for the recruitment of independent members but all will have an application and interview process. The appointment of an independent member has to be approved by a majority of the members of the council.

Each authority decides how to select independent members and how long an independent member should sit on the committee. This period of time should be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that independence is lost.

Independent members on multiple standards committees

An independent member can be a member of several standards committees, for example on county and district committees. Independent members may also be temporarily appointed to another standards committee to consider a particular assessment, review or hearing or for a particular period of time. For example, an independent member can be appointed to a neighbouring standards committee for a short period in situations where a permanent member is unwell or if there is a conflict of interest.

Reappointment of independent members


Standards for England recommend independent members should serve no longer than two four year terms, but this is at the discretion of each authority.

Independent members cannot be automatically reappointed, and must go through a recruitment process.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 4th January 2010.

 Print this page

Gifts and hospitality

Gifts and hospitality are covered by paragraphs 8 and 13 of the Code.

What do I have to do?

- You must register any gifts or hospitality worth £25 or over.
- You must also register the donor (for example, the person, company or body) of the gift or hospitality.
- You only have to register gifts that you receive in connection with your official duties as a member. You do not have to register other gifts and hospitality, such as birthday gifts from family.
- Ask yourself "Have I been given this because I am a member?" If the answer is "yes" then you must register the item.
- You should register an accumulation of small gifts you receive from the same donor over a short period that add up to £25 or more.
- You must register the gift or hospitality and its donor within 28 days of receiving it, and if an accumulation, when it gets to £25.

What are the implications?

- You will have a **personal interest** in a matter if it relates to, or is likely to affect, the donor of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the donor and how the business under consideration relates to that donor. You must then decide whether that interest is also a prejudicial interest.
- If more than three years have passed since you registered the gift or hospitality, you will no longer have to declare a personal interest in a matter that relates to or is likely to affect the donor.

For further information on interests see our factsheet on personal and prejudicial interests.

What happens if I do not know the value of the gift?

- We suggest you register it anyway as a matter of good practice.

Do I have to register gifts or hospitality I do not accept?

- No, but you may wish to do so as a matter of good practice.

What does “hospitality” mean under the Code?

- Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

Do I have to register the interests of the donor of the gifts or hospitality?

- No. We believe the Code only requires you to register the gift or hospitality worth £25 or over, received in connection with your official duties, and the donor of that gift or hospitality.

Do I have to register gifts or hospitality from council-owned companies?

- Yes. Wholly-owned companies are separate bodies from the authority.


What about official gifts or hospitality given to the civic mayor or chair of a council?

- There are no special rules for those who serve as mayor or chair of an authority.
- Gifts that are clearly made to the authority do not need to be registered.
- Gifts made directly to a mayor or chair’s charity appeal also do not need to be registered.
- We take the view that there is no requirement under the Code to register hospitality, if that hospitality has been extended to the office holder for the time being rather than the individual.

Find out more

- The Code of Conduct: Guide for members May 2007 offers more guidance on the Code and can be downloaded [here](#).
- Call our enquiries line on **0845 078 8181**
- Email us at enquiries@standardsforengland.gov.uk

Published on 15 October 2009.

 Print this page

Freemasons and the Code of Conduct

What is a Freemason?

Freemasonry is one of the world's oldest secular, fraternal and charitable societies. The United Grand Lodge of England administers Lodges of Freemasons in England and Wales. When freemasons pay their annual subscription fee to their respective Lodges, part of the fee goes automatically to the Freemasons' Grand Charity. The United Grand Lodge distributes charitable grants to individuals and groups through the Grand Charity.

Why do I need to declare my membership?

Personal and prejudicial interests are covered by paragraphs 8-13 of the Code of Conduct.

You have a personal interest in any business of your authority where either it relates to or is likely to affect any body directed to charitable purposes.

Overall, freemasons are not singled out by the Code. The Code applies to membership of any body that is directed to charitable purposes.

Under paragraph 8(1)(a) (ii) (bb) of the Code, freemasons who are members of the Grand Charity must register membership of the Grand Charity in their register of members' interests and, where appropriate, declare their membership of the Grand Charity as a personal or prejudicial interest before or during council meetings. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.


Councillors who are freemasons will also need to declare membership of their lodge as a personal interest in a matter to be discussed if that matter would affect the member to a greater extent than the majority of other people in the area affected by the decision. The member will also need to consider whether that interest is prejudicial. For example, if the councillor's own lodge was making a planning application it would be necessary to declare a personal and prejudicial interest when that matter is considered.

The recent government decision that freemasons will no longer need to declare their membership when applying for positions on the judiciary does not affect the need to register membership as an interest under the Code.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 4th January 2010.

 Print this page

Disclosing Confidential Information

Confidential information is covered by paragraph 4(a) of the Code

Paragraph 4(a) of the Code says you must not disclose information given to you in confidence by anyone. You must also not disclose information which you believe, or ought reasonably to be aware, is of a confidential nature – except where certain exceptions apply.

What is 'confidential information'?

Information is a broad term. It includes facts, advice and opinions. It also covers written materials, including tapes, videos, CDs, DVDs and other electronic media.

Information is confidential:

- if it is about something serious and not trivial
- if the nature of the information is sensitive or personal, for example it is a business secret
- if it is information that you would expect people would want to be private
- if it was divulged in a way which implied it should be kept confidential
- if disclosing the information would be detrimental to the person who wishes to keep it confidential

If the council, the executive or a committee of the council has voted to treat the information as exempt, then you should maintain it as confidential.

When can confidential information be disclosed?

You are able to disclose confidential information when:

- the person authorised to give it has given you the consent to disclose it
- you are required by law to do so
- the disclosure is made to a third party in order to obtain professional advice, for example a lawyer
- the disclosure is in the public interest.

Justification for disclosure in the public interest

Disclosing confidential information in the public interest can only be justified when **all** of the following points are met:

- **the disclosure must be reasonable** – this is a matter of judgment. However, when making this decision, you should consider carefully why you want to disclose the information, whether it is true, how serious the

issue is and who to tell

- **the disclosure must be in the public interest** – information is in the public interest if:
 - a criminal offence is committed
 - the authority fails to comply with its legal obligations
 - a miscarriage of justice occurs
 - the health and safety of an individual is in danger
 - the environment is likely to be damaged
 - information about any of the issues above is deliberately concealed
- **the disclosure must be made in good faith** – the disclosure will not be justified if it is being made to promote your interests or is for political gain
- **the disclosure must be made in compliance with any reasonable requirements of your authority** – you must first raise your concerns through the appropriate channels set out in your authority's policies and procedures. For example, policies on whistle-blowing or member-officer relationships should be followed before making a disclosure.


When would a public interest disclosure not be justified?

If the disclosure would amount to a criminal offence or when information is protected by legal professional privilege, it is unlikely that its release could be justified as being in the public interest.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at enquiries@standardsforengland.gov.uk

Published on 8 October 2009.

 Print this page

Bullying and the Code of Conduct

Paragraph 3(2)(b) of the Code of Conduct says 'you must not bully any person'. This includes other members, officers and members of the public.

What is 'bullying'?

We characterise bullying as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, (but within the scope of the Code of Conduct).

It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

What are the consequences of bullying?

When officers are bullied, it can affect the authority's ability to provide services. This is because bullying can create a working environment with an atmosphere of mistrust, insecurity and fear.

In some cases, bullied officers require long periods of leave because of ill-health or stress which can damage the running of an authority. This can particularly be the case in parish and town councils, where there may only be a small team of employees. Quite often, officers feel unable to return to their role.

What about criticism of officers?

Criticism of officers will not in itself constitute bullying. Members are allowed to express disagreement with officers, and question officer performance, so long as it is done in an appropriate and private way. A personal attack, or criticism that is offensive, is likely to cross the line of what is acceptable behaviour.

Complaining about bullying

If you believe you have been the victim of bullying by a member you can complain to the local standards committee. Information about making a complaint to a local standards committee can be found [here](#).

Anyone alleging bullying should:

provide examples of the words or actions used provide clear, objective evidence of bullying try to describe the specific behaviour they are concerned about, providing dates, times and locations. This is because it is more


difficult to judge bullying from general remarks.

Find out more

Please read our Code of Conduct: Guidance for members 2007

Call our enquiries line on 0845 078 8181

Email us at enquiries@standardsforengland.gov.uk

 Print this page

Predisposition, Predetermination or Bias, and the Code

Both predetermination and bias have proved to be difficult and controversial issues for many councillors and monitoring officers. Although they are judge-made, common law issues, and not part of the Code of Conduct, Standards for England is publishing this up-dated guide to help clarify the issues.

We originally published a paper on this issue in August 2007. It was based on advice from leading treasury counsel Philip Sales QC, which can also be found on our website.

This new version of the paper aims to clarify the issues involved. It includes examples of where councillors are predisposed, and so can take part in a debate and vote, and where they are predetermined and their participation in a decision would risk it being ruled as invalid.

This area of law is constantly developing which is why the paper has been revised. However, members should refer to their monitoring officers for the most up-to-date position.

What is predisposition?

It is not a problem for councillors to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. They may even have been elected specifically because of their views on this particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission.

However, the councillor must be open to the possibility that, however unlikely, they will hear arguments during the debate about the issue that will change their mind about how they intend to vote. As long as they are willing to keep an open mind about the issue they are entitled to take part in any vote on it.

What is predetermination or bias?

Predetermination is where a councillor's mind is closed to the merits of any arguments which differ from their own about a particular issue on which they are making a decision, such as an application for planning permission. The councillor makes a decision on the issue without taking them all into account.

If councillors are involved in making a decision they should avoid giving the appearance that they have conclusively decided how they will vote at the meeting, such that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation on its own, such as a national charity, amount to apparent bias. This is unless the organisation has a particular vested interest in the outcome of a specific decision that a councillor is involved in making, or the decision is quasi-judicial in nature.

Making the decision

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed

observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome as long as they are prepared to consider all the arguments and points made about the specific issue under consideration.

Also the importance of appearances is generally more limited when the context of the decision-making is not judicial or similar to judicial. Planning decisions are not similar to judicial decisions, they are administrative. Therefore councillors can appear strongly predisposed for or against a particular planning decision.

How can predetermination or bias arise?

The following are some of the potential situations in which predetermination or bias could arise.

Connection with someone affected by a decision

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

Example:

a) A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

b) The complaint about the officer described above is made by the local office of a national charity of which the councillor is an ordinary member and has no involvement with the local office. The councillor should be able to participate in this situation because the matter is not concerned with the promotion of the interests of the charity.

Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

Example:

A local authority receives an application to modify the Definitive Map of public rights of way.

A panel of councillors is given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

Example:

A councillor of a local highway authority, who is also a member of a parish council that has been consulted about a road closure, could take part in the discussion at both councils. The important thing is that the councillor must be prepared to reconsider the matter at county level in the light of the information and evidence presented there.

Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

If the councillor is merely seeking to lobby a public meeting at which the decision is taking place, but will not themselves be involved in making the decision, then they are not prevented by the principles of predetermination or bias from doing so. Unlike private lobbying, there is no particular reason why the fact that councillors can address a public meeting in the same way as the public should lead to successful legal challenges.

Example 1:

A council appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the council's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

Example 2:

A developer has entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator has already been granted. Following local elections there is a change in the composition and political control of the council. After pressure from new councillors who have campaigned against the incinerator and a full debate, the council's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The council's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

Predetermination or Bias, and the Code

There is a difference between breaching the Code and being predetermined or biased. It is perfectly possible to act within the Code and still cause a decision you were involved in to be bad for predetermination or bias.

Example:

Under the Code, a councillor may take part in considering whether or not to grant a planning application which is recommended for refusal by planning officers and made by a colleague with whom they do not share a "close association". Nevertheless, because the councillor is the Chair of the planning committee, uses his casting vote to decide in favour of his colleague, and regularly shares a car with that colleague when coming to council meetings, this gives rise to an appearance of bias.

Conclusion

When making administrative decisions like whether or not to grant planning permission, councillors are entitled to have and express their own views. However, this is as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.


Relationship to the Code of Conduct

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 **Code breach**. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraphs 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

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Published on December 2009.

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For more information on the issue of predetermination or bias, councillors should talk to their monitoring officers or their political group.

Published on December 2009.

 Print this page

Meeting: Standards Committee

Date: 26 February 2010

Subject: Changes to the Adjudication Panel for England

Report of: Monitoring Officer

Summary: To draw Members' attention to the changes to the Adjudication Panel for England

Contact Officer: Mrs Barbara Morris, Assistant Director Legal & Democratic/Monitoring Officer
Tel: 01462 611028

Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency
(if appropriate) N/A

RECOMMENDATION(S):

That Members note the contents of this report.

1. Members are requested to note that as from 18 January 2010, the work of the Adjudication Panel for England has transferred to the unified Tribunal Structure and into the new General Regulatory Chamber (GRC) within the First-tier Tribunal.
2. The relevant Transfer Order has made various amendments to the Local Government Act 2000, the Case Tribunal Regulations and the Standards Committee Regulations to reflect the abolition of the Adjudication Panel for England.
3. The Adjudication Panel for England operated without any formal rules. This situation has now changed as a result. The GRC Procedure Rules will now apply. These Rules give explicit powers for directions and including amongst others, power, to summon witnesses and aware costs.

4. All proceedings taking place after 18 January 2010 will be conducted in accordance with Rules of the First-tier Tribunal unless in the case of proceedings which have already started, it would be unfair to apply particular provisions of these Rules.
5. The President and members of the Adjudication Panel will be the same people and have transferred as either Judges or members of the First-tier Tribunal. The President will now be the Principal Judge overseeing the work.
6. On a practical note, Members need to be aware that Decision Notices from Standards Committee issued to Members following a determination by a Standard Committee will need to reflect the amendments to the Standards Committee Regulations on the right of appeal. References to the Adjudication Panel for England will need to reflect the name change to "First-tier Tribunal (Local Government Standards in England).

Onward Appeals

7. Any party can now apply for permission to appeal against a decision of the First-tier Tribunal. Such appeals will now be to the Upper Tier Tribunal, but permission needs first to be sought from the First-tier Tribunal. Guidance on the new procedure is available on the Tribunal's website at <http://www.adjudicationpanel.tribunals.gov.uk>

CORPORATE IMPLICATIONS:

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

N/A

Legal:

To ensure high ethical standards are maintained in accordance with the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007

Risk Management:

N/a

Staffing (including Trade Unions):

N/A

Equalities / Human Rights:

None

Community Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands

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Meeting: Standards Committee

Date: 26 February 2010

Subject: Revision of Members' Planning Code of Good Practice

Report of: Director of Corporate Resources

Summary: To inform the Committee of proposed amendments to the Members' Planning Code of Good Practice

Contact Officer: Andrew Emerton, Managing Solicitor, Planning, Highways, Transportation and Property

Public/Exempt: Public

Wards Affected: All

Function of: Council

CORPORATE IMPLICATIONS:

Council Priorities:

(How do the recommendations contribute to achieving CBC's policy aims and objectives?)

Financial:

None

Legal:

To ensure that planning decisions are as robust as possible.

Risk Management:

To avoid as far as possible the successful challenge to the validity of planning decisions.

Staffing (including Trade Unions):

None

Equalities / Human Rights:

None

Community Safety:

None

Sustainability:

None

RECOMMENDATION(S):

1. That, subject to any comments and amendments the changes to the Members' Planning Code of Good Practice and Code of Practice for the Conduct of Site Inspections as set out in Appendix "A" be endorsed.
2. That Council be recommended to amend and adopt the Members' Planning Code of Good Practice of the Constitution set out in Appendix "A".

Introduction

1. This report informs Members of recommended proposed changes to the Planning Code of Good Practice and the Code for Site Visits. The Local Government Association recently revised its advice on these areas in its publication "Probity in Planning" and officers have revisited the Council's Constitution in so far as it is affected by the advice.
2. Existing local guidance is contained in Part 2 of the Central Bedfordshire Ethical Handbook and was based on the previous codes operated by the three legacy authorities. The intention is to provide clear simple and proportionate guidance for Members dealing with planning issues.

Changes

3. Attached at Appendix "A" to this report are the Codes which detail the suggested amendments in italic text.
4. In summary the changes reflect the LGA advice which adds more flexibility for Members to become involved in pre-application discussions.
5. The proposed changes were considered by Development Management Committee on 20 January which resolved to refer the amended Code to Standards Committee for consideration and adoption by Council.

Conclusion and Next Steps

6. Subject to Standards Committee accepting the proposed changes the Code will be recommended to Council for adoption.

Appendices:

Appendix "A" – Amended Members' Planning Code of Good Practice and Code of Practice for the Conduct of Site Inspections.

Background Papers:

Local Government Association "Probity in Planning".

Location of papers: Priory House, Chicksands

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Meeting: Development Management Committee
Date: 20 January 2010
Subject: REVISION TO MEMBERS PLANNING CODE OF GOOD PRACTICE
Report of: Director of Corporate Resources
Summary: The report refers to amendments and additions to the Members Planning Code of Good Practice (contained in the Ethical Framework of the Council's Constitution) considered necessary following the recent publication of revised LGA guidance.

Contact Officer: Andrew Emerton. Managing Solicitor. Planning, Transportation, Highways and Property
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Financial:

None

Legal:

As contained in Report

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Safety:

None

Sustainability:

None

RECOMMENDATION(S):

1. That the Committee refers the amended Planning Code of Good Practice to Standards Committee for consideration and adoption by Council.

Planning Code of Good Practice

1. The Council's Constitution contains as part of the Ethical Framework a planning code of good practice for Members when they are involved in planning and development control related matters. The present Code was drafted using the codes of the former legacy authorities and previous Local Government Association (LGA) good practice advice. The LGA has recently published revised guidance "Probity in Planning" which builds on and in some areas amends previous advice. One such area is in relation to Members involvement in pre-application discussions and meetings.
2. Previous guidance had deterred Members from becoming too closely involved in pre-application discussions and meetings but with the change of emphasis on members being champions of their local communities there is now encouragement for them to be become more involved in pre-application matters. Provided the necessary safeguards are built in to the system there are benefits for Members, developers and communities from a greater dialogue at the pre-application stage.

Amendments to Code

3. Attached at Appendix A is the existing Code with the suggested amendments /additions shown in italics. In addition to amendments concerning pre-application matters there is an amendment to the Site Visit guidance concerning inspections on third party land. This amendment is suggested following a recent Ombudsman comment on the matter.

Conclusion and Next Steps

4. The amended Code will be considered by Standards Committee. Any changes to the draft Code attached will be taken in to account by the Standards Committee prior to the reference to Council.

Appendices:

Appendix A – Members Planning Code of Good Practice – Amended

Background Papers: (open to public inspection)
Local Government Association – "Probity in Planning".

Location of papers: Priory House, Chicksands.

Central Bedfordshire Council
 Ethical Handbook

Part 2	Members' Planning Code of Good Practice	7
1.	Background	7
2.	Introduction	7
3.	Relationship to the Code of Conduct for Councillors	8
4.	Development Proposals and Interests under the Code of Conduct for Councillors	8
5.	Fettering Discretion in the Planning Process	9
6.	Contact with Applicants, Developers and Objectors	12
7.	Presentations by Applicants/Developers	12
8.	Lobbying of Councillors	13
9.	Lobbying by Councillors	14
10.	Site Visits	15
11.	Public Participation at Meetings	16
12.	Officers	17
13.	Decision Making Process and Decisions contrary to Officer Recommendation	18
14.	Training	19
App A	Code of Practice for Conduct of Site Inspections	20

Part 2: Members' Planning Code of Good Practice

1. Background

- 1.1 This Code of Good Practice has been prepared in *the context of* the introduction of the new ethical framework and the Local Government Association's *Guidance Note "Probity in Planning"*. It is based on the Model Code produced by the Association of Council Secretaries and Solicitors *and the codes operated by the Legacy Authorities which were drafted* in consultation with the District Audit Service, the Local Government Ombudsman and Standards for England.
- 1.2 *Planning has a positive and proactive role to play at the heart of local government. It helps the Council achieve the ambitions of our communities. Good planning stimulates growth and promotes innovation. The planning system works best when the roles and responsibilities of all those involved in the process are clearly understood. It is vital that members and officers understand their roles and the context and constraints in which they operate.*
- 1.3 *Planning decisions involve balancing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartiality in decision making on what can be highly controversial proposals.*
- 1.4 *The LGA Guidelines provides refreshed advice on achieving this balance. It also better reflects the local authority role as a place shaper and the enhanced role of members as champions of their local communities. It recognises members ability to participate in discussions prior to the receipt of a planning application on behalf of their communities and engage in spatial planning*

2. Introduction

- 2.1 **The aim of this Code of Good Practice:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.2 **The key purpose of Planning:** To control development in the public interest.
- 2.3 **Your role as a Member of the Planning Authority:** To make planning decisions openly, impartially, with sound judgement and for justifiable reason.

- 2.4 **When the Code of Good Practice applies:** This Code applies to members at all times when they are involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to Planning Enforcement matters or site specific policy issues as it does to planning applications.
- 2.5 The Code does not only apply to members of the Council's Development Management Committee. Some aspects of the Code apply generally to members in whatever capacity they may be acting. Other aspects may apply to members acting as Ward/Local Members. Some provisions apply specifically to members when they are involved in the planning process in a personal capacity, for instance when they or organisations to which they belong submit planning applications to the Council.
- 2.6 **If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his/her staff, and preferably well before any meeting takes place.**
- 2.7 **At certain points the Code refers to "the Planning Authority", to "the Development Management Committee" and to "the Committee". In each case, these references are to the Council or a committee of the Council exercising the Council's functions as local planning authority.**

3. Relationship to the Code of Conduct for Councillors

- 3.1 **Do** apply the rules in the Members' Code of Conduct first which must always be complied with.
- 3.2 **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct.

If you do not abide by this Code of Good Practice, you may put:-

- 3.2.1 The Council at risk of proceedings on the legality or maladministration of the related decision; and
- 3.2.2 Yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made *against you*.

4. Development Proposals and Interests under the Code of Conduct for Councillors

4.1 *The Local Government Act 2000 and the Members Code of Conduct place requirements on Members to register and declare interests. The requirements must be followed scrupulously and Members should review their position regularly. Planning proposals (be they planning applications or development plan proposals) submitted by Members to the Council can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted. However it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.*

4.2 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. If possible disclose your interest at the beginning of the meeting at the relevant time when the Agenda deals with interests and not just at the commencement of discussion on that particular matter.

4.3 **Where your interest is personal and prejudicial:-**

4.3.1 **Do not** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

4.3.2 **Do not** try to represent ward/local views, get another ward/local member to do so instead.

4.3.3 **Do not** get involved in the processing of the application.

4.3.4 **Do not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

- 4.3.5 **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal. You may make use of the Public Participation Scheme to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the matter. You may not remain to observe the meeting's considerations on the matter from the public gallery.
- 4.3.6 **Do** notify the Monitoring Officer in writing of your own applications and note that:-
- 4.3.6.1 Notification to the Monitoring Officer should be made no later than submission of the application;
- 4.3.6.2 The application will always be reported to the committee as a main item and not dealt with by officers under Delegated Powers; and
- 4.3.6.3 It is advisable that you employ an Agent to act on your behalf on the application in dealing with officers and any public speaking at committee.

5. Fettering Discretion in the Planning Process

5.1 When you are involved in determining a planning application:

- 5.1.1 **Do not** fetter your discretion and therefore your ability to participate in planning decision making processes by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

5.1.2 **Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

5.1.3 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. Through your personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.

5.1.4 **Do** also be aware that, whilst the Code of Conduct for Councillors provides generally for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise much greater caution when you are taking part in a meeting of the planning authority that is determining any approval or consent. In such cases, where:-

5.1.4.1 You have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:-

5.1.4.1.1 Another local or public authority (including a town or parish council) of which you are a Member; or

5.1.4.1.2 A body to which you have been appointed or nominated by the Council as its representative; or

5.1.4.2 You are a Trustee or Company Director of the body submitting the proposal and were appointed by the Council;

You should always disclose a personal and prejudicial interest and withdraw from the meeting.

5.1.5 **Do** consider yourself able to take part in the debate on a proposal when acting as a member of a consultee body (for example, where you are also a member of a parish council,), provided:-

- 5.1.5.1 That the proposal does not substantially affect the well being or financial standing of the consultee body; and
- 5.1.5.2 You make it clear to the consultee body that:-
 - 5.1.5.2.1 Your views are expressed on the limited information before you only;
 - 5.1.5.2.2 You must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the planning authority and you have considered all of the relevant information; and
 - 5.1.5.2.3 You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- 5.1.5.3 You disclose a personal interest regarding your membership of the consultee body or role when the planning authority comes to consider the proposal.
- 5.1.6 **Do not** speak and vote on a proposal where you have fettered your discretion. You are recommended to withdraw from the meeting.
- 5.1.7 **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the Minutes.
- 5.1.8 **Do** take the opportunity to exercise your separate speaking rights as a ward/local member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:-

- 5.1.8.1 Advise the Proper Officer or chairman that you wish to speak in this capacity before commencement of the item;
- 5.1.8.2 Remove yourself from the Member seating area for the duration of that item ; and
- 5.1.8.3 Ensure that your actions are recorded in the minutes of the meeting.

6. Contact with Applicants, Developers and Objectors

- 6.1 *Discussions between potential applicants and the Council prior to submission of an application can be of considerable benefit to both parties and are encouraged. However it would be easy for such discussions to become or to be seen by objectors to become part of a lobbying process on the part of the applicant. With the recognition of the need to allow and encourage members to be champions of their local communities' there is a realisation that member engagement in pre-application discussions on major developments may be necessary to allow members to fulfill this role. In this context member involvement in pre-application discussions can be beneficial provided it is done within carefully established limits to protect the Council and its members.*
- 6.2 **Do** refer those who approach you for planning, procedural or technical advice to officers
- 6.3 **Do not** agree to any formal meeting with applicants, developers or groups of objectors where you *consider it inappropriate to meet.* . Where you feel that a formal meeting would be useful in clarifying the issues, you should *not* seek to arrange that meeting yourself but should request the Assistant Director of Development Management to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the planning authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the committee.
- 6.4 **Do not** give separate advice on the development plan or material considerations unless you are aware of all the issues at an early stage. Do not become drawn into any negotiations. These should be dealt with by officers to ensure the Council's position is coordinated.
- 6.5 **Do otherwise:-**
 - 6.5.1 Follow the rules on lobbying (see paragraph 8 below);

- 6.5.2 Consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- 6.5.3 Report to the Assistant Director of Development Management any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

7. Presentations by Applicants/Developers

- 7.1 Do not attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.2 Do ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 7.3 Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate committee of the planning authority.
- 7.4 Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other members might vote.

8. Lobbying of Councillors

- 8.1 *Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected member or to a member of the Development Management Committee. However lobbying can lead to the impartiality and integrity of a member being called into question unless care and common sense is exercised by all the parties involved. When being lobbied members should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before being exposed to all the evidence and arguments.*
- 8.2 *Members of the Development Management Committee in particular need to avoid bias and predetermination and take account of the public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this members taking the decision will take account of all the evidence presented to it before arriving at a decision and will avoid committing themselves one way or another before hearing all the arguments. To do otherwise makes them vulnerable to an accusation of partiality bias or the appearance of bias.*

8.3 When you are or may be involved in determining a planning application:-

8.3.1 Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the planning authority's determination of the matter for you to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

8.3.2 Do remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

8.3.3 Do not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is £25 or more in accordance with the authority's rules on gifts and hospitality.

8.3.4 Do copy or pass on any lobbying correspondence you receive to the Assistant Director of Development Management at the earliest opportunity.

8.3.5 Do promptly refer to the Assistant Director of Development Management any offers made to you of planning gain or constraint of development, through a proposed Section 106 Planning Obligation or otherwise.

8.3.6 Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

8.3.7 Do note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:-

8.3.7.1 Listening or receiving viewpoints from residents or other interested parties;

- 8.3.7.2 Making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- 8.3.7.3 Seeking information through appropriate channels; or
- 8.3.7.4 Being a vehicle for the expression of opinion or speaking at the meeting as a ward/local member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

8.4 *Do not vote on a matter where there is a real risk of perceived bias such as where you have decided to "go public" in support of a particular outcome.*

9. Lobbying by Councillors

- 9.1 **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest. You will only be entitled to make use of the Public Participation Scheme to address the meeting on a proposal in the same manner that would apply to a member of the public, after which you must leave the room whilst the meeting considers the proposal.
- 9.2 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local Civic Society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 9.3 **Do not** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

- 9.4 **Do not** decide or discuss how to vote on any application at any sort of political group meeting, or approach any other member to do so. Political Group meetings should never dictate how members should vote on a planning issue.

10. Site Visits

The advice contained in this section has particular relevance to members of the planning authority who are or may be involved in determining an application for planning permission.

- 10.1 It is often desirable before determining a planning application that members of the planning authority visit an application site to view it in its surroundings and have relevant features drawn to their attention. The Council has adopted a Code of Practice for such inspections with which it will comply. This is attached at Appendix "A" to this Code. Debate and decisions on applications must take place in a committee meeting, therefore any discussion that does take place during these site visits should not lead into a debate on the merits of the application.

10.2 Remember

- 10.2.1 **Do not** request a site visit if you have a personal and prejudicial interest in the matter. For the avoidance of doubt the principles in paragraph 4 of this Planning Code of Good Practice shall apply.

- 10.2.2 **Do not** attend a site visit where you have a personal and prejudicial interest in the site or the matter in hand.

- 10.2.3 **Do not** request a site visit unless you feel it is strictly necessary because:-

- 10.2.3.1 Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or

- 10.2.3.2 There are significant policy or precedent implications and specific site factors need to be carefully addressed.

- 10.2.4 **Do** attend site visits organised by the Council, where possible, where you are an appointed member of the site visit team, or the ward/local member for the area where the site is.
- 10.2.5 **Do** ensure that any information which you gained from the site visit is reported back to the planning authority, so that all members have the same information.
- 10.2.6 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 10.2.7 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 10.2.8 **Do not** hear representations from any other party with the exception of the ward/local member(s) whose comments must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 10.2.9 **Do not** express opinions or views to anyone.
- 10.2.10 **Do not** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:-
 - 10.2.10.1 You feel it is essential for you to visit the site other than through attending the official site visit;
 - 10.2.10.2 You have first spoken to the Assistant Director of Development Management about your intention to do so and why (which will be recorded on the file); and
 - 10.2.10.3 You can ensure you will comply with these good practice rules on site visits.

11. Public Participation at Meetings

11.1 The Council recognises that it can make better decisions and respond to people's aspirations if it involves others in its decision making process. It has therefore developed a scheme which provides the opportunity for those involved in any particular planning application to address the meeting(s) at which the proposal is being considered. This scheme seeks to balance the needs of expedition in the administration of the system with the aspirations of objectors, applicants/supporters, local councils and the Council. The scheme is attached at Annex 4 to Appendix A of Part A4 of the Council's constitution. A leaflet explaining the scheme is supplied to all applicants and is also available on request.

11.2 Remember

Where you are involved in determining a planning application:-

11.2.1 **Do not** allow members of the public to communicate with you during the committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

11.2.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

12. Officers

12.1 **Do not** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Assistant Director of Development Management, which may be incorporated into any committee report).

12.2 **Do** recognise that officers are part of a management structure and you should only discuss a proposal, outside of any arranged meeting, with a Director or an officer who is authorised by his/her Director to deal with the proposal at a member level.

- 12.3 Do recognise and respect the fact that officers involved in the processing and determination of planning applications must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, Planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the committee or its members.

13. Decision Making Process and Decisions Contrary to Officer Recommendation

- 13.1 Prior to the consideration of any planning application the Assistant Director of Development Management will tell the committee of any relevant information received since his/her report was prepared. If the Council has circulated letters or other information at or shortly before the meeting to councillors those will be referred to by the Assistant Director of Development Management or by the chairman. If members are aware of any other letters or information which they believe have been circulated to all councillors and which have not been referred to, they should disclose that fact to the meeting in order that all are aware of relevant information and on which information any decision may be made. Any information to be considered by the committee should be presented to officers by midday 3 working days prior to the meeting, to allow for the information to be considered. No new information will be allowed to be presented later than this or during the meeting.
- 13.2 The Development Management Committee has full delegated powers to approve applications.
- 13.3 The Council is required by law to state clearly and precisely its full reasons for refusing any application or imposing conditions to which a planning permission is subject thus allowing all interested persons to understand the reasons for the decision. A disappointed applicant will therefore know why his/her application was refused.
- 13.4 In order to explain the Council's decision when approving an application contrary to advice, the reasons for that decision should be clear and carefully recorded.
- 13.5 **Remember when acting as a member of the Planning Authority:-**

- 13.5.1 **Do** ensure that, if you request a proposal to go before the committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the committee.
- 13.5.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 13.5.3 **Do** make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 13.5.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 13.5.5 **Do not** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 13.5.6 **Do** have recorded the reasons for committee's decision to defer any proposal.
- 13.5.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- 13.5.8 **Do** give *the officer an opportunity to explain the implications of a decision and* be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

14. Training

- 14.1 **Do not** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

- 14.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

- 14.3 **Do** participate in the annual review of a sample of planning decisions to ensure that members' judgements have been based on proper planning considerations.

APPENDIX A

Code of Practice for Conduct of Site Inspections

1. A site inspection will only be carried out in the circumstances set out below:-

- (a) *Prior to Consideration by Committee*

Any member of the Council may request that an item contained in the draft index of applications to be considered at the next meeting of the committee, should be the subject of a site inspection prior to that meeting.

Such requests must be submitted to the Assistant Director of Legal and Democratic Services by the date and time specified in the draft index.

The Assistant Director of Legal and Democratic Services will notify the Assistant Director of Development Management and the chairman of the committee of the request. The request may be refused if the Assistant Director of Development Management, following consultation with the chairman, does not consider that a site inspection is justified in respect of the application.

A member with a Personal and Prejudicial Interest in the site or the matter in hand should not request a site visit. Do not try to represent ward/local views, but ask another ward/local member to do so instead. Always act in accordance with paragraph 10 of the Planning Code of Good Practice.

- (b) *Following Consideration at Committee*

Where the Development Management Committee wishes to address site specific issues, it may determine to hold a site inspection, the purpose of which will be to familiarise members with the site.

2. A member with a Personal and Prejudicial Interest in the site or the matter in hand must not attend the site visit.
3. No lobbying or debate on issues relating to determination of the application shall take place during the site visit (any such discussion could be regarded as prejudicial to the committee's decision on the matter).

4. The timing and arrangements for the conduct of site inspections shall be agreed by the Assistant Director of Legal and Democratic Services and the Assistant Director of Development Management, in consultation with the chairman of the committee. *Site visits will normally be undertaken from public vantage points and the land and premises the subject of the application. Only in exceptional circumstances will the visit take place on private third party land. If it is considered exceptional circumstances exist the site visit request must include a specific reference to the third party land and the reasons why it is necessary to visit that land.*
5. The number of members to conduct site inspections will normally be limited to:-
 - 5.1 The chairman and vice-chairman of the committee or their nominees; plus
 - 5.2 No more than three other members of the committee; plus
 - 5.3 The representative(s) of the ward in which the site is located.
6. Where necessary and, after consultation with the Chairman or Vice-Chairman, the Assistant Director of Legal and Democratic Services shall be authorised to appoint substitute members to conduct the site inspections.
7. Members of the Development Management Committee conducting the site inspection are encouraged to share transport wherever possible, as long as drivers who provide shared transport hold adequate insurance cover.
8. (a) No person other than officers of the Council, ~~representatives of the Highway Authority~~ or invited representatives of consultee bodies, shall accompany members during an inspection;
- (b) If a person with an interest in land to be inspected or his/her representative accompanies members to enable access or ensure safety, no lobbying or discussion with that person will be permitted.
9. Provision will be made in the committee agenda to enable the separate consideration of any matter which has been the subject of a site inspection.