

the Standards Board for England Confidence in local democracy

The Revised Code of Conduct

Training presentation for local authorities

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Introduction

- model Code of Conduct came into force on 3 May 2007
- available from the Standards Board for England's website www.standardsboard.gov.uk
- Code applies to all members and co-opted members of local authorities. Code does NOT apply to authorities as a whole or to officers or employees of authorities
- authorities had until 1 October 2007 to adopt the Code

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General obligations

- treat others with respect
- comply with equality and discrimination laws
- don't bully or intimidate
- don't compromise the impartiality of officers

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General obligations continued...

- don't prevent access to information
- members must not use their position improperly
- use resources for proper purposes only
- consider advice provided and give reasons

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Confidential information

Members must not disclose confidential information except where:

- they have the consent of the person authorised to give it
- they are required by law to do so
- the disclosure is reasonable and in the public interest and made in good faith and does not breach any reasonable requirements of the authority

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Disrepute and private capacity conduct

- the local government bill will reinstate pre-Collins position: the Code will once again apply to conduct in a private capacity
- the Code limits that to criminal conduct that has led to a conviction
- this includes an offence committed before taking office but which led to a conviction after taking office

Personal interests

A member has a personal interest where the matter:

- relates to an interest they must register
- affects the well-being or financial position of them, members of their family or their close associates, *more than it would affect the majority of people in the ward affected by the decision*
- if a member declares a personal interest they can remain in the meeting, speak and vote on the matter – unless the personal interest is also prejudicial

Exemption to the rule on declaring personal interests

An exemption to declaring a personal interest applies when the interest arises solely from a member's membership of or position of general control or management on:

- any other body to which they have been appointed or nominated by the authority
- any other body exercising functions of a public nature (e.g. another local authority)

Exemption to the rule on declaring personal interests continued...

- in these exceptional cases, provided the member does not have a prejudicial interest, they only need to declare their interest if they speak
- if the member does not want to speak to the meeting, they may still vote on the matter without making a declaration

Prejudicial interests

A personal interest is prejudicial if all of the following conditions are met:

- a member of the public who knows the relevant facts would reasonably think the personal interest is so significant that it is likely to prejudice the member's judgement of the public interest
- the matter does NOT fall within one of the exempt categories of decisions under paragraph 10(2)(c)

Prejudicial interests continued...

- the matter affects the member or a relevant person or body's financial affairs

and/or

- the matter relates to the determining of any approval, consent, licence, permission or registration that is brought by the member, a relevant person or body

Prejudicial interests and paragraph 12(2)

- A member with a prejudicial interest may make representations, answer questions and give evidence before leaving the room, provided that members of the public are allowed to attend for the same purpose

Why the change?

- increases opportunity to express support or objections
- members have same rights as members of the public
- improves transparency

What can a member do/not do when they have a prejudicial interest?

What a member cannot do:

- exercise executive functions in relation to that business
- seek to improperly influence a decision about that business
- stay in the room when the business is being discussed (after speaking if they have been allowed to)

What can a member do/not do when they have a prejudicial interest?

What a member can do:

- make written representations in their private capacity
- use a professional representative to act on their behalf
- get another member to represent the views of their constituents

Parish Councils and para 12(2) – optional slide

- parish councils not covered by 12(2) if they adopt Model Code
- members will not be able to speak when they have a prejudicial interest
- parish councils can adopt the Standards Board's Model Code for parishes which includes 12(2)

Gifts and hospitality

- members must register gifts and hospitality worth £25 or over that they receive
- the source of the gift must be registered
- the gift and source must be registered within 28 days of receiving it
- members have a personal interest in a matter that is likely to affect the source of their gift
- after 3 years the obligation to disclose the interest at meetings ceases

Resources on the revised Code

- Standards Board guidance at www.standardsboard.gov.uk
- The Code of Conduct: Guide for members
- Pocket guide to the Code of Conduct
- Training DVD
- Case Review 2007 – Code Q&A
- Standards Board's Model Code for parish and town councils also available on the website