

Document 2.1

STANDING ORDERS

These Standing Orders provide procedures and controls for the management of Council business. Basic arrangements are contained in Schedule 12 of the Local Government Act 1972. Standing Orders should be seen as an aid to proper and effective governance. Over regulation can be an impediment.

References to the Chairman/Mayor in these Standing Orders include the Deputy Chairman/Deputy Mayor and any other Councillor when acting as Chairman/Mayor.

Adopted on 8th July 2008

Introduction

These Standing Orders contain three major sections.

Section 1 sets out the Council's formal Standing Orders. These are based on the model produced by the National Association of Local Councils in 2002. Some of the Standing Orders are compulsory as they are laid down in Acts of Parliament and the text is printed in bold type. Those Standing Orders cannot be altered.

It is, of course, recognised that local councillors and staff can be male or female. Therefore, wherever the masculine gender is used, this should be interpreted as also meaning the feminine gender, where appropriate.

References to “Chairman” should be interpreted as a referring to the Town Mayor or whoever is presiding at a meeting.

By contrast, Section 2 contains guidance notes for those presiding at meetings and a source to which to refer when there is a procedural difficulty during a meeting.

Finally, Section 3 includes the Statutory Code of Conduct that all Members are obliged to follow.

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SECTION 1 – THE FORMAL STANDING ORDERS

1. Meetings

- 1.1 Meetings of the Council shall be held at 7pm unless the Council otherwise decides at a previous meeting.

2. The Annual Council Meeting

- 2.1 **In an election year the Annual Town Council Meeting shall be held on or within 14 days following the day on which the councillors elected take office and**
- 2.2 **in a year which is not an election year the Annual Town Council Meeting shall be held on such day in May as the Council may direct.**

3. Other Council Meetings

- 3.1 **In addition to the Statutory Annual Town Council Meeting at least three other statutory meetings shall be held in each year on such dates and times and at such place as the Council may direct.**

4. Chairman of the Meeting

- 4.1 **The person presiding at a meeting may exercise all the powers and duties of the Chairman in relation to the conduct of the meeting.**

5. Proper Officer

- 5.1 Where a statute, regulation or order confers function or duties on the proper officer of the Council in the following cases, he shall be the clerk or nominated officer:

To receive declarations of acceptance of office.
To receive and record notices disclosing interests at meetings.
To receive and retain plans and documents.
To sign notices or other documents on behalf of the Council.
To receive copies of bylaws made by another local authority.
To certify copies of bylaws made by the Council.
To sign and issue the summons to attend meetings of the Council.
To keep proper records for all Council meetings.

6. Quorum of the Council

- 6.1 **Five members shall constitute a quorum at meetings of the Council.**

6.2 If a quorum is not present or if during a meeting the number of councillors present (not counting those debarred by reason of a declared interest) falls below the required quorum, the meeting shall be adjourned and business not transacted shall be transacted at the next meeting or on such other day as the Chairman may fix.

- 6.2 For a quorum relating to a committee, please refer to Standing Order 25.4.

7. Voting

- 7.1 Members shall vote by show of hands.

- 7.2 If a member so requires, the Clerk shall record the names of the members who voted on any question so as to show whether they voted for or against it. Such a request must be made before moving on to the next business.
- 7.3 Subject to 7.4 and 7.5 below the Chairman may give an original vote on any matter put to the vote, and in any case of an equality of votes may give a casting vote whether or not he gave an original vote.
- 7.4 If the person presiding at the annual meeting would have ceased to be a member of the council but for the statutory provisions which preserve the membership of the Chairman and Vice-Chairman until the end of their term of office he may not give an original vote in an election for Chairman.
- 7.5 The person presiding must give a casting vote whenever there is an equality of votes in an election for Chairman.

8 Order of Business – Annual Council Meeting

8.1 At each Annual Town Council Meeting the first business shall be:

- a) To elect a Town Mayor
- b) To receive the Town Mayor's declaration of acceptance of office or, if not then received, to decide when it shall be received
- c) In the ordinary year of election of the Council to fill any vacancies left unfilled at the election by reason of insufficient nominations
- d) To decide when any declarations of acceptance of office which have not been received as provided by law shall be received
- e) To elect a Deputy Town Mayor
- f) To receive the Deputy Town Mayor's declaration of acceptance of office or, if not then received, to decide when it shall be received
- g) To appoint representatives to outside bodies
- h) To appoint committees

and shall thereafter follow the order set out in the Standing Order 9

9 Order of Business – Other Council Meetings

- 9.1 At every meeting other than the Annual Town Council Meeting the first business shall be to appoint a Chairman if the Town Mayor and Deputy Town Mayor be absent and to receive such declarations of acceptance of office (if any) and undertaking to observe the Council's code of conduct as are required by law to be made or, if not then received, to decide when they shall be received.
- 9.2 After the first business has been completed, the order of business, unless the Council otherwise decides on the ground of urgency, shall be as follows:
- a) To receive the Town Mayor's announcements

- b) To read and consider the Minutes provided that if a copy has been circulated to each member not later than the day of issue of the summons to attend the meeting, the Minutes may be taken as read.
- c) After consideration to approve the signature of the Minutes by the person presiding as a correct record.**
- d) To deal with business expressly required by statute to be done.**
- e) To dispose of business, if any, remaining from the last meeting.
- f) To answer questions from Councillors on matters arising from the previous minutes.
- g) To receive and consider reports and minutes of committees.
- h) To receive and consider reports from Officers of the Council and representatives on outside bodies
- i) To receive and consider resolutions or recommendations in the order in which they have been notified.
- j) To receive such communications as the person presiding may wish to lay before the Council.
- k) To authorise the sealing of documents.
- l) If necessary, to authorise the signing of orders for payment.
- m) To consider any other items specified on the Agenda.
- n) There may be a period, not exceeding 20 minutes during each Full Council meeting, when members of the public may ask questions and make observations to the Town Council.
- o) In every year, not later than the meeting at which the estimates for next year are settled, the Council shall review the pay and conditions of service of existing employees. Standing Order 21 must be read in conjunction with this requirement.

10 Urgent Business

10.1 A motion to vary the order of business on the ground of urgency:

- a) May be proposed by the Chairman or by any member and, if proposed by the Chairman, may be put to the vote without being seconded, and
- b) Shall be put to the vote without discussion.

11 Resolutions Moved On Notice

11.1 Except as provided by these Standing Orders, no resolution may be moved unless the business to which it relates has been put on the Agenda by the Clerk or the mover has given notice in writing of its terms and has delivered the notice to the Clerk at least 7 clear days before the next meeting of the Council.

- 11.2 The Clerk shall date every notice of resolution or recommendation when received by him, shall number each notice in the order in which it was received and shall enter it in a book which shall be open to the inspection of every member of the Council.
- 11.3 The Clerk shall insert in the summons for every meeting all notices of motion or recommendation properly given in the order in which they have been received unless the member giving a notice of motion has stated in writing that he intends to move at some later meeting or that he withdraws it.
- 11.4 If a resolution or recommendation specified in the summons is not moved either by the member who gave notice of it or by any other member, it shall, unless postponed by the Council, be treated as withdrawn and shall not be moved without fresh notice.
- 11.5 If the subject matter of a resolution comes within the province of a committee of the Council, it shall, upon being moved and seconded, stand referred without discussion to such committee or to such other committee as the Council may determine for report; provided that the Chairman, if he considers it to be a matter of urgency, may allow it to be dealt with at the meeting at which it was moved.
- 11.6 Every resolution or recommendation shall be relevant to some subject over which the Council has power or duties or which affects its area.

12 Resolutions Moved Without Notice

- 12.1 Resolutions dealing with the following matters may be moved without notice:

- a) To appoint a Chairman of the meeting.
- b) To correct the Minutes.
- c) To approve the Minutes.
- d) To alter the order of business.
- e) To proceed to the next business.
- f) To close or adjourn the debate.
- g) To refer a matter to a committee.
- h) To appoint a committee or any members thereof.
- i) To adopt a report.
- j) To authorise the sealing of documents.
- k) To amend a motion.
- l) To give leave to withdraw a resolution or amendment.
- m) To extend the time limit for speeches.
- n) To exclude the press and public. (see Order 36 below)
- o) To silence or eject from the meeting a member named for misconduct. (see order 33 below)
- p) To give the consent of the Council where such consent is required by these Standing Orders.
- q) To suspend any Standing Order. (see Order 42 below)
- r) To adjourn the meeting.

13 Formal Questions

- 13.1 A member may ask the Chairman or the Clerk any question concerning the business of the Council, provided 7 clear days notice of the question has been given to the person to whom it is addressed.

13.2 No questions that are not connected with the business under discussion shall be asked except during the part of the meeting set aside for questions.

13.3 Every question shall be put and answered without discussion.

13.4 A person to whom a question has been put may decline to answer.

14 Rules of Debate

14.1 No discussion of the Minutes shall take place except upon their accuracy. Corrections to the Minutes shall be made by resolution and must be initialled by the Chairman.

14.2 A resolution or amendment shall not be discussed unless it has been proposed and seconded, and, unless proper notice has already been given, it shall, if required by the Chairman, be reduced to writing and handed to him before it is further discussed or put to the meeting.

14.3 A member when seconding a resolution or amendment may, if he then declares his intention to do so, reserve his speech until a later period of the debate.

14.4 A member shall direct his speech to the question under discussion or to a personal explanation or to a question of order.

14.5 No speech by a mover of a resolution shall exceed 5 minutes and no other speech shall exceed 5 minutes except by consent of the Council.

14.6 An amendment shall be either:

- a) To leave out words.
- b) To leave out words and insert others
- c) To insert or add words.

14.7 An amendment shall not have the effect of negating the resolution before the Council.

14.8 If an amendment be carried, the resolution, as amended, shall take the place of the original resolution and shall become the resolution upon which any further amendment may be moved.

14.9 A further amendment shall not be moved until the Council has disposed of every amendment previously moved.

14.10 The mover of a resolution or of an amendment shall have a right of reply, not exceeding 5 minutes.

14.11 A member, other than the mover of a resolution, shall not, without leave of the Council, speak more than once on any resolution except to move an amendment or further amendment, or on an amendment, or on a point of order, or in personal explanation, or to move a closure.

14.12 A member may speak on a point of order or a personal explanation. A member speaking for these purposes shall be heard forthwith. A personal explanation shall be confined to some material part of a former speech by him which may have been misunderstood.

- 14.13 A motion or amendment may be withdrawn by the proposer with the consent of the Council, which shall be signified without discussion, and no member may speak upon it after permission has been asked for its withdrawal unless such permission has been refused.
- 14.14 When a resolution is under debate no other resolution shall be moved except the following:
- a) To amend the resolution.
 - b) To proceed to the next business.
 - c) To adjourn the debate.
 - d) That the question be now put.
 - e) That a member named be not further heard.
 - f) That a member named leaves the meeting.
 - g) That the resolution be referred to a committee.
 - h) To exclude the public and press.
 - i) To adjourn the meeting.
- 14.15 A member shall stand when speaking unless permitted by the Chairman to sit.
- 14.16 the ruling of the Chairman on a point of order or on the admissibility of a personal explanation shall not be discussed.
- 14.17 Members shall address the Chairman. If two or more members wish to speak, the Chairman shall decide who to call upon.
- 14.18 Whenever the Chairman speaks during a debate all other members shall be silent.

15 Closure

- 15.1 At the end of any speech a member may, without comment, move “that the question be now put”, “that the debate be now adjourned” or “that the Council do now adjourn”. If such motion is seconded, the Chairman shall put the motion but, in the case of a motion “that the question be now put”, only if he is of the opinion that the question before the Council has been sufficiently debated. If the motion “that the question be now put” is carried, he shall call upon the mover to exercise or waive his right of reply and shall put the question immediately after that right has been exercised or waived. The adjournment of a debate or of the Council shall not prejudice the mover’s right of reply at the resumption.

16 Disorderly Conduct

- 16.1 **All members must observe the Code of Conduct which was adopted by the council on 26th June 2007** a copy of which is set out in Section 3. (Note: Paragraph 12.2 of the Code was adopted at that time.)
- 16.2 No member shall at a meeting persistently disregard the ruling of the Chairman, wilfully obstruct business, or behave irregularly, offensively, improperly or in such a manner as to bring the Council into disrepute.
- 16.3 If, in the opinion of the Chairman, a member has broken the provisions of paragraph 16.2, the Chairman shall express that opinion to the Council and thereafter any member may move that the member named be no longer heard or that the member named do leave the meeting, and the motion, if seconded, shall be put forthwith and without discussion. **If a member reasonably believes another member is in breach of the code of conduct, that member is under a duty to report the breach to the Standards Board.**

- 16.4 If either of the motions mentioned in paragraph c is disobeyed, the Chairman may adjourn the meeting or take such further steps as may reasonably be necessary to enforce them.

17 Right of Reply

- 17.1 The mover of a resolution shall have a right to reply immediately before the resolution is put to the vote. If an amendment is proposed the mover of the amendment shall be entitled to reply immediately before the amendment is put to the vote. A member exercising a right of reply shall not introduce a new matter. After the right of reply has been exercised or waived, a vote shall be taken without further discussion.

18 Alteration of Resolution

- 18.1 A member may, with the consent of his seconder, move amendments to his own resolution.

19 Rescission of Previous Resolution

- 19.1 A decision (whether affirmative or negative) of the Council shall not be reversed within six months except either by a special resolution, the written notice whereof bears the names of at least 5 members of the Council.
- 19.2 When a special resolution or any other resolution moved under the provisions of paragraph 19.1 has been disposed of, no similar resolution may be moved within a further six months.
- 19.3 This Standing Order shall not apply to resolutions moved in pursuance of the report or recommendation of a Committee

20 Voting On Appointments

- 20.1 Where more than two persons have been nominated for any position to be filled by the Council and of the votes given there is not an absolute majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken, and so on until a majority of votes is given in favour of one person.

21 Discussions and Resolutions Affecting Employees of the Council

- 21.1 If at a meeting there arises any question relating to the appointment, conduct, promotion, dismissal, salary or conditions of service, of any person employed by the Council, it shall not be considered until the Council or committee (as the case may be) has decided whether or not the press and public shall be excluded. (See Standing Order No. 36)

22 Resolutions on Expenditure

- 22.1 Any resolution (which is moved otherwise than in pursuance of a recommendation of the Policy and Resources Committee) and which, if carried, would, in the opinion of the Town Mayor, substantially increase the expenditure upon any service which is under the management of or reduce the revenue at the disposal of any committee, or which would involve capital expenditure, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, and any

committee affected by it shall consider whether it desires to report thereon (and the Policy and Resources Committee shall report on the financial aspect of the matter).

23 Orders for Payment

23.1 Orders for the payment of money shall be authorised by resolution of the Council and signed by two members.

24 Sealing of Documents

24.1 A document shall not be sealed on behalf of the Council unless its sealing has been authorised by a resolution.

24.2 The Council's Common seal shall alone be used for sealing documents. It shall be applied by the proper officer in the presence of two members who shall sign the document as witnesses.

25 Committees

25.1 The Council may at its Annual Meeting appoint standing committees and may at any other time appoint such other committees as are necessary, but subject to any statutory provision in that behalf:

a) Shall not appoint any member of a committee so as to hold office later than the next Annual Meeting., and

b) may subject to the provisions of Standing Order 19 above at any time dissolve or alter the membership of committee.

25.2 The Town Mayor and Deputy Town Mayor shall be voting members of every committee.

25.3 Every committee shall at its first meeting before proceeding to any other business, elect a Chairman and a Vice-Chairman who shall hold office until the next Annual Meeting of the council, and shall settle its programme of meetings for the year.

25.4 Except where ordered by the Council, the quorum of a committee or sub-committee shall be one-half of its members.

26 Special Meetings

26.1 The Chairman of a committee or the Town Mayor may summon an additional meeting of that committee at any time. An additional meeting shall also be summoned on the requisition in writing of not less than a quarter of the members of the committee. The summons shall set out the business to be considered at the special meeting and no other business shall be transacted at that meeting.

27 Working Groups

27.1 Every committee may appoint working groups for purposes to be specified by the committee.

27.2 The Chairman and Vice-Chairman of the committee shall be members of every sub-committee appointed by it unless they signify that they do not wish to serve.

27.3 Each working group shall submit a written report of its activities to the next appropriate meeting of its parent committee.

28 Voting in Committees

28.1 Members of committees entitled to vote, shall vote by show of hands

28.2 **Chairmen of committees shall in the case of an equality of votes have a second or casting vote.**

29 Presence of Non-Members of Committees at Committee Meetings

29.1 A member who has proposed a resolution, which has been referred to any committee of which he is not a member, may explain his resolution to the committee but shall not vote.

30 Accounts and Financial Statement

30.1 Except as provided in paragraph 30.2 or by statute, all accounts for payment and claims upon the Council shall be laid before the Council.

a. Where it is necessary to make a payment before it has been authorised by the Council, such payment shall be certified as to its correctness and urgency by the appropriate officer. Such payment shall be authorised by the committee, if any, having charge of the business to which it relates, or by the proper officer for payment with the approval of the Town Mayor or Deputy Mayor.

30.3 All payments ratified under sub-paragraph 30.2 shall be separately included in the next schedule of payments before the Council.

30.4 The Responsible Financial Officer shall supply to each member as soon as practicable after 31 March in each year a statement of the receipts and payments of the Council for the completed financial year. A Financial Statement prepared on the appropriate accounting basis (receipts and payments, or income and expenditure) for a year to 31 March shall be presented to each member before the end of June. The Statement of Accounts of the Council (which is subject to external audit) shall be presented to Council for formal approval before the end of September.

31 Estimates & Precepts

31.1 The council shall approve written estimates for the coming financial year at its meeting before the end of the month of January

31.2 Any committee desiring to incur expenditure shall give the Clerk a written estimate of the expenditure recommended for the coming year no later than 31 December.

32 Interests

32.1 **If a member has a personal interest as defined by the Code of Conduct adopted by the Council on 26th June 2007 then he shall declare such interest as soon as it becomes apparent, disclosing the existence and nature of that interest as required.**

32.2 **Subject to Paragraph 12 of the Code of Conduct (see Section 3), if a member who has declared a personal interest then considers the interest to be**

32.3 prejudicial, he must withdraw from the room or chamber during consideration of the item to which the interest relates.

32.3 The Clerk may be required to compile and hold a register of member's interests in accordance with agreement reached with the Monitoring Officer of the Responsible Authority and/or as required by statute.

32.4 If a candidate for any appointment under the Council is to his knowledge related to any member of or the holder of any office under the Council, he and the person to whom he is related shall disclose the relationship in writing to the Clerk. A candidate who fails so to do shall be disqualified for such appointment, and, if appointed, may be dismissed without notice. The Clerk shall report to the Council or to the appropriate committee any such disclosure.

32.5 The Clerk shall make known the purpose of Standing Order 32.4 to every candidate.

33 Canvassing of and Recommendations by Members

33.1 Canvassing of members of the Council or of any committee, directly or indirectly, for any appointment under the Council shall disqualify the candidate for such appointment. The Clerk shall make known the purport of this sub-paragraph of this Standing Order to every candidate.

33.2 A member of the Council or of any committee shall not solicit for any person any appointment under the Council or recommend any person for such appointment or for promotion; but, nevertheless, any such member may give a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.

33.4 Standing Orders 32.4, 32.5, 33.1, and 33.2 shall apply to tenders as if the person making the tender were a candidate for an appointment.

34 Inspection of Documents

34.1 A member may for the purpose of his duty as such (but not otherwise), inspect any document in possession of the Council or a committee, and if copies are available shall, on request, be supplied for the like purpose with a copy.

34.2 All minutes kept by the Council and by any committee shall be open for the inspection of any member of the Council.

35 Unauthorised Activities

35.1 No member of the Council or of any committee shall in the name of or on behalf of the Council:

- a) Inspect any lands or premises which the Council has a right or duty to inspect;
or
- b) Issue orders, instructions or directions

unless authorised to do so by the Council or the relevant committee.

36 Admission of The Public and Press to Meetings

36.1 The public and press shall be admitted to all meetings of the Council and its committees, which may, however, temporarily exclude the public by means of the following resolutions:

“That in view of the confidential nature of the business about to be transacted, it is advisable in the public interest that the press and public be excluded and they are instructed to withdraw”

36.2 At all meetings of the Council the Chairman may at his discretion and at a convenient time in the transaction of business, adjourn the meeting so as to allow any members of the public to address the meeting in relation to the business to be transacted at that meeting.

36.3 The Clerk shall afford to the press reasonable facilities for the taking of their report of any proceedings at which they are entitled to be present. There shall be no audio or video recording or photographs of the meeting without the express approval of the Council.

36.4 If a member of the public interrupts the proceedings at any meeting, the Chairman may, after warning, order that person to be removed from the meeting and may adjourn the meeting for such period as is necessary to restore order.

37 Confidential Business

37.1 No member of the Council or of any committee or sub-committee shall disclose to any person not a member of the Council any business declared to be confidential by the Council, the committee or the sub-committee as the case may be.

37.2 Any member in breach of the provisions of paragraph (1) of this Standing Order shall be removed from any committee or sub-committee of the Council by the Council.

38 Liaison with County and District Councillors

38.1 A summons and Agenda for each full council meeting shall be sent, together with an invitation to attend, to the County and Borough Councillor for the appropriate division or ward.

38.2 Unless the Council otherwise orders, a copy of each letter ordered to be sent to the County or Borough Council shall be transmitted to the County Councillor for the division or to the Borough Councillors for the ward as the case may require.

39 Planning Applications

39.1 The Clerk shall, as soon as it is received, enter in a book kept for the purpose the following particulars of every planning application notified to the Council:

- (a) the date on which it was received
- (b) the name of the applicant
- (c) the place to which it relates.

40 Financial Matters

- 40.1 The Council shall consider and approve Financial Regulations drawn up by the Responsible Financial Officer.
- 40.2 Such Regulations shall include detailed arrangements for the following:
- a) the accounting records and systems of internal control;
 - b) the assessment and management of risks faced by the Council;
 - c) the work of the Internal Auditor and the receipt of regular reports from the Internal Auditor which shall be required at least annually;
 - d) the financial reporting requirements of members and local electors and
 - e) procurement policies (subject to 40.3 below) including the setting of values for different procedures where the contract has an estimated value less than £10,000.
- 40.3 Any proposed contract for the supply of goods, materials, services and the execution of works with an estimated value in excess of £10,000 shall be procured on the basis of a formal tender as summarised in 40.4 below.
- 40.4 Any formal tender process shall comprise the following steps:
- a) a public notice of intention to place a contract to be publicised in the same manner as public notice of meetings is given and where the estimated value of the contract exceeds £50,000, a similar notice to be placed in a local newspaper;
 - b) a specification of the goods, materials, services and the execution of works shall be drawn up;
 - c) tenders are to be sent, in a sealed marked envelope, to the Clerk by a stated date and time;
 - d) tenders submitted are to be opened, after the stated closing date and time, by the Clerk and at least one member of Council;
 - e) tenders are then to be assessed and reported to the appropriate meeting of Council or Committee.
- 40.5 The Council, and any Committee, is not bound to accept the lowest tender, estimate or quote. Any tender notice shall contain a reference to the Standing Orders 59, 60 & 62 regarding improper activity.
- 40.6 The Financial Regulations of the Council shall be subject to regular review, at least once every four years.

41 Complaints

- 41.1 The Council shall deal with complaints of maladministration allegedly committed by the Council or by any officer or member in such manner as adopted by the Council except for those complaints which should be properly directed to the Standards Board (England) for consideration.

42 Variation, Revocation and Suspension of Standing Orders

- 42.1 Any or every part of the Standing Orders except those printed in **bold type** may be suspended by resolution in relation to any specific item of business.

43 Standing Orders to be Given to Members

A copy of these Standing Orders shall be given to each member by the Clerk upon delivery to him of the member's declaration of acceptance of office and written undertaking to observe the Code of Conduct adopted by the Council.

SECTION 2 – GUIDANCE NOTES

CHAIRMANSHIP

NOTE: the word “Chairman” means the person actually presiding at a meeting and “Council” includes “committee,” where any function has been delegated.

BASIC PRINCIPLES

1. The officers and agents of the Council must act as the Council’s executive and carry out its decisions. They cannot do this properly unless they have instructions which they can understand.
2. It is the primary, if not the only, function of the Council to frame instructions upon which people can act; even a decision to take no action, is such an instruction.
3. The Council’s instructions are conveyed by resolutions and it is the purpose of the Council’s proceedings to *reach, without unreasonable delay, an intelligible and lawful decision for the right reasons*. The whole duty of a Chairman is to ensure that this purpose is achieved and to this end he must:-
 - (a) protect the Council against *outside interference*;
 - (b) ensure that everything to be discussed is *lawful*;
 - (c) ensure that the Council is invited to deal with *clear issues*;
 - (d) ensure that as far as possible *information is complete*;
 - (e) permit every point of view to have a *fair hearing*;
 - (f) ensure that opinions expressed are *relevant* to the matter in hand;
 - (g) ensure that business is transacted with *reasonable speed*;
 - (h) ensure as far as possible that proceedings are *courteous and free from personalities*;
 - (i) co-operate with the officers and councillors.

THE AUTHORITY OF THE CHAIR

Origin

4. The office of Chairman of a local authority is created by statute, which has conferred upon the occupant of the chair a second or casting vote on all occasions but one. The scope of his authority, however, depends upon ancient customs which are perfectly logical and arise from the necessities of the case.

Nature and Limitations

5. Whether or not the Council has passed any standing orders, the Chairman’s procedural authority is derived from the Council as a whole and an individual councillor must obey his rulings because they are the rulings of the Council itself. It follows from this, however, that the Chairman cannot overrule the Council and that a councillor who is dissatisfied by the Chairman’s ruling may invite the Council to disagree with it. Such appeals against the chair ought to be very rare.
6. The authority of the Chairman, as such, is limited to matters of procedure and neither increases nor decreases his right (in comparison with other members) to discuss the merits of a particular case. It is one of his most difficult tasks to remember that, while the Chair gives him authority on matters of procedure, it confers no rights (other than the casting vote) on matters of policy above those possessed by other members.

PRELIMINARY ISSUES

7. Before any meeting, the Chairman should study the items on the agenda with either the Clerk or any other officers, and should in effect ask in respect of each item the following questions:-

What does it mean?

Is it lawful?

Do we know enough about it?

Has any member special knowledge of this problem?

Is there any member who may have a prejudicial interest?

OUTSIDE INTERFERENCE

Public Disturbances

8. No one is entitled to interrupt or obstruct the proceedings of the Council or its committees. In general it is best to stop an interruption at once before the habit spreads to the rest of the audience; and though he will naturally not wish to be rude, the Chairman should cut an interrupter short, and if good humour and conciliation fail to produce silence he may have to warn him that he will be turned out if he does it again; if the warning is ignored it should be resolved, without discussion, that the interrupter be excluded, and if he fails to leave he should be removed by force. Care should be taken to use no more force than necessary. It is not essential to call the police, but maybe necessary.
9. The Chairman should never argue or allow argument with an interrupter. If the public becomes disorderly it may eventually be necessary to close the meeting or to adjourn to a more private place. It is, however, illegal to decide to exclude the public from any future meeting. The press is in a privileged position inasmuch as its representatives must so far as possible be given facilities for taking their reports.

Rulings on notices

10. The Chairman must be satisfied that the meeting is lawful. He does not need to have personal knowledge that the proper notices and summonses have been issued, but if complaints are made he must give a ruling based upon the essential justice of the matter. A meeting is not necessarily illegal because someone has not received a notice to which he is entitled, but where an irregularity appears to be intentional or important the meeting should be adjourned until it has been corrected.

Quorum

11. No business can be transacted if no quorum is present. This rule applies not only to cases of physical absence but to cases of disqualification by interest. A situation may, therefore, sometimes arise where the Council cannot act because it is impossible to obtain a disinterested quorum. In such a case the Chairman should adjourn the matter until it can be next dealt with. Those members with a prejudicial interest (England) or a personal interest requiring withdrawal (Wales) should consider making an application for dispensation to their standards committee where appropriate.

Ultra Vires Proposals

12. The Chairman should satisfy himself that any proposal involving expenditure is lawful and should rule any unlawful proposal or amendment out of order. Where there is any doubt, advice should be sought well before the meeting and in time to delete it, if

necessary, from the agenda. The section 137 power (*contained in the Local Government Act 1972*) is not a “long stop” in case of a mistake; expenditure under this heading requires a special resolution, related to the provisions of that section.

A CLEAR ISSUE

13. *Every* decision of the Council must be made by an affirmative vote of a majority of those present and voting (including, where necessary, the Chairman’s second or casting vote). The members must, therefore, know exactly what they are being asked to decide and each proposition must be put to them in a form which can be answered by a simple “Yes” or “No”. From this there follow certain practical consequences:-

- (a) All motions should be affirmative in form; it is never necessary to move that a resolution be rejected;
- (b) Where there is more than one solution to a problem each solution must be separately put to the vote.

The affirmative Form

14. The most exact method of putting a question to the vote is by the use of the following formula:-

“The resolution is as follows: -

(e.g.) ‘*That the Clerk’s salary be raised to £5,000 a year.*’

The motion is that this resolution be agreed to.”

(Note: A *resolution* is a proposal of the action intended to be taken: for example “That the Council buy a mower”. A *motion* is the procedural formula by which the Council disposes of business: for example “The motion is that the resolution be amended by _____” or “The motion is that the Council do now adjourn”.)

Separating the Issues

15. In attempting to reach a decision a Council may from time to time be faced with alternative solutions. Some alternatives may be mutually exclusive; others may be matters of detail subsidiary to the principal issue.

16. Where the alternatives are mutually exclusive it may be desirable in the first instance to discuss the resolutions embodying them together until the general trend of opinion is apparent and then to put one of them in the form of an amendment to the other; for instance, if a Council considers that it can afford either a swimming pool or a new playing field but not both, a decision to provide the one in practice excludes the other. Therefore, the resolution on behalf of each should be discussed together and the issue at this stage may be informally stated thus:-

“If the Council is to spend its money would it prefer a swimming pool or a playing field?”

In more formal language the issue is put to the vote by substantive resolution and amendment: -

“The resolution is that the swimming pool be provided. To this the following amendment has been moved: -

leave out the words ‘swimming pool’ and substitute the words ‘new playing field.’

The motion is that this is amendment be agreed to.”

18. A vote on an amendment does not end the matter: it merely decides what shall be discussed next. Thus, in the example, if the amendment is carried, all further discussion of the swimming pool becomes out of order, but the Council has yet to decide whether the major operation shall be carried out at all. This is done by putting *the resolution as amended to the vote*. (See also paragraph 35 below.)

METHOD OF VOTING

19. The rules on the manner in which decisions are taken are peremptory and admit of no exceptions. Every decision must be reached by a majority of those voting. Appointments to employments must be decided in the same way as other questions.

COMPLETENESS OF INFORMATION

20. Sensible decisions cannot be reached without reasonably complete information, which it is usually the duty of the clerk to supply. The Chairman should before the meeting consider whether enough information is available or likely to be made available, and at the meeting he should make a point of asking a member with special knowledge to give his opinion. If it appears at the meeting that information is still insufficient he should move to adjourn consideration until more is known, and sometimes it may be desirable to frame questions and to instruct the clerk to obtain the answers by a specified date.

IMPARTIALITY

21. When differences of opinion develop in discussion it is the duty of the Chairman to give a fair hearing to all points of view including his own, if he has one. It is not his duty as Chairman to suppress his own convictions nor his privilege to impose his opinions. Experience has shown that the safest and least controversial course is for the Chairman to call upon speakers for and against a proposal to speak alternately and himself to avoid speaking first or last.
22. Some people are better at putting a case than others and the Chairman ought to allow reasonable latitude to the less eloquent. For this reason mechanical rules of debate limiting, for instance, the time allowed for a speech or the number of times a member may speak, are undesirable, and the Chairman should have some latitude in applying them, especially in a Council with a small membership.

RELEVANCE

General Rule

23. A speech must be directed to the point under discussion and nothing else. This rule is easy to state, but not always easy to apply fairly, because the relevance of what is being said may be understood by the speaker before it is grasped by the listener; whilst the rule should not be made a cover for “barracking from the chair” it is probably true that if Chairmen enforced it more strictly, business would be much more quickly and efficiently conducted than is often the case, and many unnecessary arguments and even some quarrels would be avoided. Bad feeling originates in irrelevancies more often than in any other way. On the other hand, it is sometimes advantageous to allow irrelevance in order to “clear the air”. Too harsh suppression can breed ill will and a sense of grievance.

Personalities

24. The Chairman should do his best to prevent observations in discussion; the custom whereby the speeches are in a form addressed to the Chairman, should only be observed because it forces members to employ an impersonal mode of expression. If a member makes an offensive personal observation, the Chairman should immediately intervene to seek immediate apology to an offended member.

Methods of Enforcement

25. Where a speech is obviously irrelevant the Chairman should stop the speaker and invite him to return to the point or sit down. Where the irrelevance is not quite so obvious the Chairman may often find it convenient to ask the speaker to explain how his remarks relate to the issue.

Revival of Decided Issues

26. The Chairman should not allow a matter that has been decided to be reopened at the same meeting. An attempt to “hark back” to a previous agenda item should be firmly ruled out of order as irrelevant to the matter *now* under discussion, even if the member who raises it was not present when the item was considered.

Minutes

27. One of the commonest irrelevances is the practice of attempting to discuss the merits of what is contained in the minutes, on a motion for their signature as a correct record. On such a motion the only issue is whether the words of the minutes accurately record the events at the meeting of which they are a record.

Other Problems

- 28.
- (a) If any substantial issue arises on a matter dealt with in the Minutes, it is better to have a separate agenda item than to discuss it under “Matters Arising”. That heading should be used only for reports of progress, and not for new or additional decisions.
 - (b) Letters received by the Council should not be read out verbatim: this provokes irrelevant discussion on wording and is liable to lead to misunderstanding by the public. On the very rare occasions that the exact text is needed by every councillor the clerk should issue copies. Normally it is sufficient to report the main issue in the letter: for example “Mrs Smith of _____ has written asking the Council to get the pile of rubbish removed from outside 48 _____ Lane”.

REASONABLE DESPATCH

Intervals

29. It is important that business should be transacted with reasonable speed. Long meetings bore the members and so reduce the level of attentiveness and public spirit, and long intervals between meetings lead to missed opportunities and lack of continuity. A Local Council cannot expect to be consulted regularly by other bodies such as the County or District Council if it does not answer letters reasonably promptly. The Chairman ought not to hesitate to call special meetings in necessary cases; the greater the interval between regular meetings the more ready he should be to call them. The right of Local Councils to be notified of planning applications makes this especially important.

Obstruction at Meetings

30. Deliberate obstruction is rare, but must be firmly dealt with when it occurs. It is difficult to be directly obstructive for long without being irrelevant, and therefore deliberate obstruction sometimes takes the form of raising a succession of points of order. In dealing with this type of obstruction it is well to remember that a point is not necessarily a point of order because the person who makes it labels it as such. (*For points of order see paragraph 33 below.*)

Repetition

31. If it is evident that nothing new can be said on either side in a particular discussion, a Chairman is justified in putting the matter to the vote even though there are still members wishing to speak. Usually, however, the state of affairs is not so clear and in such cases the Chairman should ask leave of the Council to put the matter to the vote.

References

32. All deliberative bodies have a natural tendency to refer questions to someone else (e.g. an officer or a committee) for consideration or report. These are frequently unnecessary because they are often used only when a Council is unwilling to make a final decision.

SOME PROCEDURAL POINTS

Points of Order

33. Points of Order relate to procedure only and take precedence of all other business; it is the duty of the Chairman to deal with them. If a point relates to the substance of a matter under discussion it is not a point of order and should be ruled out of order by the Chairman. The person raising the matter of substance in this way should be told to save it for his speech on the business. For instance, if the provision of a swimming pool is being discussed and someone interrupts the speaker by saying “On a point of order, can we afford it?” the interruption should be ruled out of order because this is not a procedural question. It is part of the merits of the business and must therefore be decided by discussion. The person interrupted may of course answer the point when he continues his speech or ignore it as he thinks appropriate. If, however, the interruption had been “On a point of order, have we power to do this?” the Chairman (in consultation with the clerk) must give a ruling the answer is “No”, the Council has no power to act as proposed and the business ought not to be under discussion.

Procedural Resolutions

34. Procedural resolutions should normally be put without discussion. The usual exceptions are resolutions to (a) correct minutes, (b) alter the order of business (c) refer to committee.

Closure Motions

35. The following are the respective effects of closure resolutions:-
- (a) On the passing of a resolution to proceed to *next business* proceedings on the business in hand come to a stop and no decision upon it can be taken.
 - (b) On the passing of a resolution that the *question be now put* the mover is usually entitled to reply before the matter is put to the vote. By custom the chairman may refuse to accept such a resolution until he thinks that the matter has been sufficiently debated.

- (c) A resolution to *adjourn a discussion or a meeting* stops the discussion at the moment it is passed and no decision is taken on the business; therefore the discussion may later be resumed at the point where it was interrupted.

Amendments

36.

- (a) An amendment, which in substance negates the principle resolution, should not be allowed because it is confusing and unnecessary.
- (b) An amendment should always be put to the vote before the resolution that it seeks to amend. (See also paragraph 18 above.)

“Any Other Business”

37. The summons to a meeting of a Local Council must by law *specify* the business to be transacted; a Local Council cannot legally decide to take any action under the general heading of “any other business” because these words do not specify any item of business. The rule prevents the Council deciding any business which will have either expenditure consequences or lead the Council into a legal situation: for example by making a contract. There is no practical objection to exchanges of information under “A.O.B.” or the giving of a preliminary notification of important business for next time.

“Urgent” Business

38. The law makes no provision for dealing with “urgent” business. If it is “urgent” only because it was not notified in time to appear on the agenda, it should be left till the next meeting. If it is genuinely “urgent”, that is it was too late for the agenda *and* it will be too late for action if left till the next ordinary meeting an additional meeting should be called *or* the Council should have a regular arrangement for the reference of such matters either to a committee or to the clerk for action. It is contrary to local government law for the Chairman or any other single member to take a decision binding the Council.

USE OF CHAIRMAN'S VOTES

39. Save on one occasion the Chairman has both an ordinary and a casting vote. There is no rule of law which requires him to give his ordinary vote at the same time as the other members are voting, and it is obviously undesirable and undignified for him to wait and then say “the voting is 5 to 4 against; I therefore vote in favour which makes it even.”
40. Where there is an equality of votes a Chairman may be faced with an embarrassing problem. A resolution requires a majority and therefore, since equality is not majority, he may declare the resolution *not* carried. This course is, however, sometimes regarded as irresponsible or lacking in courage; in such circumstances the Chairman ought to give a casting vote, if at all possible, in such a way that the matter can be considered again; for instance, on a motion to accept a particular tender a vote in favour will conclude the matter, but a vote against will leave the way open for further negotiations or reconsideration.

PRESENCE OF THE PUBLIC AND PRESS

41. In principle, the public (which includes the press) is entitled to be present at all meetings of the Council and its committees, and ought to be admitted to sub-committees. The Council or a committee, however, may exclude the public for a particular item of business, if it is opinion that such exclusion is reasonable and in the public interest. Where the public and Press have been excluded the *decisions* made in the closed

session must be minuted: a record should be kept of who was present at the session: the Press should be told of any decision. Business is 'confidential' if its discussion *must* be kept secret: it is 'special' and the reasons for secrecy must be stated in any case where the need for secrecy is not obvious.

MALADMINISTRATION

42. Parish and Community Councils are not subject to the jurisdiction of the Local Ombudsman. There is, therefore, no outside body that can adjudicate on complaints about the procedures of a Local Council if the law has not been broken. It is, however, important for the good name of the Council that complaints be handled properly and fairly. The National Association has therefore published *National Circular 2/86 – Code of Practice in Handling Complaints*, which recommends a standard and formal procedure to all Councils. In light of the Local Government Act 2000, Councils are recommended to agree, with their Standards Committee, a form of complaint procedure for matters falling outside the jurisdiction of the Standards Board.

PUBLIC PARTICIPATION

43. The public cannot, of course, take part in the proceedings of the Council, but an increasing number of Councils have created and sustained public interest in their work by arranging for a short period in meetings (say 20 to 30 minutes) when members of the public are permitted to put questions to the Council or to make observations. Such periods can be either during the meeting (by adjournment) or at its end.

LENGTH OF MEETINGS

44. Experience suggests that a meeting should never be allowed to continue for more than two hours without a break. Some organisations embody this idea in a Standing Order. This has not been done here, but councillors may well find it advantageous to establish a custom.

SECTION 3 – CODE OF CONDUCT

2007 No. 1159

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Model Code of Conduct) Order 2007

Made

2nd April 2007

Laid before Parliament

4th April 2007

Coming into force

3rd May 2007

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000.

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49(1) of that Act.

Citation, commencement and application

1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order 2007 and comes into force on 3rd May 2007.

(2) This Order applies—

...

(iv) a parish council;

...

and in this Order references to “authority” are construed accordingly.

Model Code of Conduct

2.—(1) The code set out in the Schedule to this Order (“the Code”) has effect as the model code issued by the Secretary of State under section 50 of the Local Government Act 2000 as regards the conduct which is expected of members and co-opted members of an authority.

(2) Subject to paragraphs (3) to (6), every provision of the Code in the Schedule to this Order is mandatory for an authority.

(3) Paragraph 6(c) of the Code is not mandatory for police authorities, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, fire and rescue authorities and joint authorities.

(4) Paragraph 7 of the Code is not mandatory for parish councils.

(5) Subject to sub-paragraph (6)(c) and (d) below, paragraphs 10(2)(c)(i) and (ii), 11 and 12(2) of the Code are mandatory only for county councils, district councils and London borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

(6) The following provisions of the Code are mandatory only for an authority which is operating executive arrangements—

(a) in paragraph 1(4), in the definition of “meeting”—

(i) sub-paragraph (b);

(ii) in sub-paragraph (c), the words “or its executive’s” and “, or area committees”;

- (b) paragraphs 9(6), 9(7) and 12(1)(b);
- (c) in paragraph 11(a), the words “your authority’s executive or”
- (d) in paragraph 11(b), the word “executive,;” and
- (e) in paragraph 12(2), the words in brackets.

Disapplication of certain statutory provisions

3. The following provisions shall not apply (where they are capable of doing so) to an authority which has adopted a code of conduct or to which such a code applies—

- (a) sections 94 to 98 and 105 to the Local Government Act 1972;
- (b) section 30(3A) of the Local Government Act 1974;
- (c) regulations made or a code issued under section 19 and 31 of the Local Government and Housing Act 1989;
- (d) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995; and
- (e) any guidance issued under section 66 of the Greater London Authority Act 1999.

Revocation and savings

4.—(1) Subject to paragraphs (2) and (3), the following orders are revoked—

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001;
- (b) the Parish Councils (Model Code of Conduct) Order 2001;
- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001; and
- (d) the Police Authorities (Model Code of Conduct) Order 2001.

(2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with —

(a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation relates to conduct which took place before the date when, pursuant to section 51 of that Act—

- (i) the authority adopts a code of conduct incorporating the mandatory provisions of the Code in the Schedule to this Order in place of their existing code of conduct;
 - (ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the Code in the Schedule to this Order; or
 - (iii) the mandatory provisions of the Code in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;
- (b) the adjudication of a matter raised in such an allegation; and
- (c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

(3) Any order made under section 83 of the Local Government Act 1972 shall have effect for the purpose of prescribing the form of a declaration of acceptance of office in relation to a county council, district council, London borough council and a parish council.

Signed on behalf of the Secretary of State for Communities and Local Government

Phil Woolas
Minister of State
Department for Communities and Local Government

2nd April 2007

SCHEDULE TO THE MODEL CODE OF CONDUCT**Part 1 General provisions****Introduction and interpretation**

1.—(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State.

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

“meeting” means any meeting of—

(a)

the authority;

(b)

the executive of the authority;

(c)

any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.—(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

-
- (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

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

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

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

6. You—

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

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

- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7.—(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 Interests

Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9.—(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12.—(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. *(Note this has been adopted by the Council on 26/6/08)*

Part 3 Registration of Members' Interests

Registration of members' interests

13.—(1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

EXPLANATORY NOTE *(This note is not part of the Order)*

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. The Secretary of State has power to issue such a code under section 50 of the Local Government Act 2000. Under section 51 of that Act, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the Code. Under section 51(5), where an authority does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the Code will apply to the members of the authority until it adopts its own code.

Article 1 provides that this Order applies to specified authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

Article 3 disapplies the statutory provisions relating to the National Code of Local Government Conduct and members' interests.

Article 4 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001;

the Parish Councils (Model Code of Conduct) Order 2001;

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001; and

the Police Authorities (Model Code of Conduct) Order 2001.

These Orders continue to have effect in relation to misconduct committed before the date when the new code is adopted or applied to an authority.

Article 4(3) provides that orders made under section 83 of the Local Government Act 1972 shall have effect for the purpose of prescribing the form of a declaration of acceptance of office.

In the **Schedule to the Order**—

Paragraph 1 of the Code provides that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

Paragraph 2 of the Code provides that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 3 of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

END