

Report to:  
**STANDARDS COMMITTEE**

Agenda  
Item

**A.3**

Meeting Date: 26 November 2012

Portfolio: n/a

Key Decision: Not applicable

Within Policy and Budget Framework: n/a

Public/Private\*: Public

Title: **HEARING IN RELATION TO POSSIBLE FAILURE TO FOLLOW CODE OF  
CONDUCT FOR MEMBERS**

Report Number: GD.66/12

Report of: Director of Governance and Monitoring Officer

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**PURPOSE/SUMMARY:**

To consider an investigation report undertaken following a decision by the Assessment Sub Committee of the Council's Standards Committee.

**RECOMMENDATIONS:**

To consider the Investigating Officer's report into alleged breaches of the Council's Code of Conduct by a Member of the City Council and to make a decision on that report in accordance with the Council's procedures for dealing with local determinations.

**TRACKING:**

Standards Committee:	26 November 2012
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## **1. BACKGROUND**

- 1.1 On 5 December 2012 two separate complaints were submitted to the City Council's Monitoring Officer alleging that a City Councillor had breached the Council's Code of Conduct during a meeting of the City Council on 8 November 2011. Copies of the complaints are included in the papers forwarded to Members of the Standards Committee (Appendix B of Private Report GD.67/12). As both complaints were similar in terms they have been considered as though they were a single complaint relating to the same conduct.
- 1.2 The complaints alleged that the Councillor's conduct may have amounted to a breach of the Code in that the Councillor had allegedly failed to declare that his personal interest in an item of business at the meeting was also a prejudicial interest and he thereafter participated in the debate when he should have withdrawn from the Council Chamber.
- 1.3 The Assessment Sub Committee of the Standards Committee, at its Meeting on 21 December 2011 decided that the complaints should be investigated and referred it to the City Council's Monitoring Officer for local investigation and determination. The Monitoring Officer appointed Brian Walker as the Investigating Officer and he has investigated the complaints against the Councillor and produced a report (Appendix A of Private Report GD.67/12). The Investigation Report should be regarded as confidential at this stage.
- 1.4 Following the Investigating Officer's conclusion that there has been a breach of the Code of Conduct, the report is now being presented to the Standards Committee for determination of the complaints.

## **2. PRE-HEARING PROCESS**

- 2.1 In accordance with the Council's procedure, the Councillor who is the subject of the complaints has been provided with a copy of the Investigating Officer's report and requested to identify any elements where he disagrees with any findings of fact. The Councillor has not submitted any elements with which he disagrees.
- 2.2 The purpose of the pre-Hearing process and this report is to identify for the Committee the main facts of the case that are agreed and where facts are not agreed and this has been done under the Key Issues section below.

## **3. KEY ISSUES**

- 3.1 The core of the allegations is that the Councillor failed to declare a personal and prejudicial interest during a debate at a meeting of the City Council on 8 November 2011 (contrary to Paragraph 12 of the Code).

- 3.2 The Committee will see that the Investigating Officer has concluded in his report that the conduct complained of did not bring the Councillor's office into disrepute in breach of paragraph 5 of the Code (see paragraph 8 of the Investigating Officer's report).
- 3.3 However, the Investigating Officer did conclude that the Councillor had breached paragraph 12 of the Code in that, having a Personal and Prejudicial Interest in the item on the Agenda for the meeting of the City Council on 18 November 2011, he declared only a Personal Interest and failed to withdraw from the Council Chamber when the item was considered and participated in the consideration and decision making on that item. His reasons for so concluding are set out in his report as paragraphs 7.3 to 7.9.

#### **4. PROCEDURE FOR HEARING**

- 4.1 The City Council at its meeting on 25 June 2012 adopted the new Code of Conduct under the Localism Act 2011 and approved the procedure for determination of allegations about personal conduct of Council Members. A copy of the procedure for the hearing (Appendix A) and the Code of Conduct for Members (Appendix B) are attached to this report for Members' information.
- 4.2 Members will note that the complaints against the Member were made under the previous statutory Code of Conduct which ceased to have effect on 30 June 2012 due to legislative changes implemented by the Localism Act 2011. Importantly, the Code of Conduct the Member is to be judged by is the Code existing at the relevant date (i.e. 8 November 2011) but the sanctions to be applied, if any are deemed appropriate, the those now applicable under the current Standards regime

#### **5. DETERMINATION OF THE MATTER**

- 5.1 Members of the Standards Committee should determine the matter in accordance with paragraphs 25 and 26 of the agreed procedures (Appendix C).

**Contact Officer:** Mark Lambert  
Monitoring Officer

**Ext:** 7019

**Appendices attached to report:** Appendix A - Procedure for Determination of Allegations About the Personal Conduct of Council Members  
Appendix B - Members Code of Conduct

In compliance with Section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- All background documents have been included in the report as appendices.

#### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's** - None

**Community Engagement** – None

**Economic Development** – None

**Governance** – The Council was subject to a statutory Code of Conduct at the time of the alleged incident. It is important for reasons of probity that it is seen to adhered to.

**Local Environment** – None

**Resources** - None

**CARLISLE CITY COUNCIL**

**PROCEDURE FOR LOCAL DETERMINATION OF ALLEGATIONS ABOUT THE  
PERSONAL CONDUCT OF COUNCIL MEMBERS**

**INTRODUCTION**

1. The local determination of complaints by the Standards Committee where an investigation has been completed by an Ethical Standards Officer [ESO] of the Standards Board for England, or following a local investigation, will be governed by this procedure. Regard shall be had to any relevant guidance issued by the Standards Board for England.
2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub-Committee of the Standards Committee.

**PRE-HEARING PROCESS [LOCAL INVESTIGATIONS]**

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members or the Standards Committee finds that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Standards Committee to consider the matter.
4. Where the Monitoring Officer is the Investigating Officer he/she must arrange for a separate legal advisor to the Committee to be appointed in respect of the allegation.

**NOTIFYING THE MEMBER AND COMPLAINANT**

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and, where possible, the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chairman and Members of the Committee shall be informed of the allegation by the Monitoring Officer, as well as any Parish or Town Council Clerk where the allegation relates to conduct of a Member in his/her capacity as a member of a Parish or Town Council.
6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report, which response shall set out the reply to the Investigating Officer's report and state whether or not he/she:
  - i. disagrees with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
  - ii. wants to be represented, at his/her own expense, at the hearing by a Solicitor, Barrister or any other person;
  - iii. wants to give evidence to the Committee, either verbally or in writing;

- iv. wants to call relevant witnesses to give evidence to the Committee;
- v. wants any part of the hearing to be held in private;
- vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

[Pre-Hearing Forms A B D and E as recommended by the Standards Board will be used in this process]

7. The Member shall be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.
8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not he/she:
  - i. wants to be represented or be present at the hearing;
  - ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Committee;
  - iii. wants any part of the hearing to be held in private;
  - iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and request the Monitoring Officer to set a date for the hearing in consultation with the Chairman.
10. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Hearing may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.
11. Nothing in this procedure shall limit the Chairman of the Hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
12. The Monitoring Officer, in consultation with the Chairman, will:
  - i. confirm a date, time and place for the Hearing, which must be within three months from the date that the Investigating Officer's report was received;
  - ii. confirm the main facts of the case that are agreed;

- iii. confirm the main facts that are not agreed;
- iv. provide copies of any written evidence to the relevant parties;
- v. confirm which witnesses will be called by the parties;
- vi. provide the parties with a copy of the proposed procedure for the Hearing, specifying which parts of the matter, if any, may be considered in private; and
- vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Hearing at least two weeks before the proposed date of the Hearing.

## **THE HEARING**

- 13. The Committee shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.
- 14. Each Committee Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chairman will have second or casting vote.
- 15. The meeting of the Committee will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

## **PROCEDURE AT THE HEARING**

- 16. The initial order of business at the meeting shall be as follows:-
  - i. Establishing whether the Committee is quorate;
  - ii. Declarations of interest;
  - iii. Introductions
  - iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
  - v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Committee should exclude the press and public and determination as to whether to exclude the press and public.
- 17. The purpose of the Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Committee members in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the Hearing, including the questioning of witnesses.
- 18. The Committee members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]

19. The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

## **PROCEEDING IN THE ABSENCE OF THE MEMBER**

20. If the Member is not present at the start of the Hearing:
- i. The Chairman will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the Hearing;
  - ii. The Standards Committee shall then consider any reasons which the Member has provided for not attending the Hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
  - iii. If the Standards Committee is satisfied with such reasons, it shall adjourn the Hearing to another date;
  - iv. If the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the Hearing to another date.

## **21. Presentation by the Investigating Officer**

- 21.1 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.
- 21.2 The Member or his/her representative may ask questions of the Investigating Officer or any witness.
- 21.3 The Committee members may ask questions of the Investigating Officer or any witness.

## **22. Presentation by the Member**

The Member or his/her representative will present the evidence which is relevant to the matter. The Member or his/her representative may introduce witnesses or present any other relevant evidence.

The Investigating Officer may ask questions of the Member, or any witness.

The Committee members may ask questions of the Member or any witness.

The Investigating Officer and then the Member or his/her representative will be given the opportunity to sum up.

- 22.5 If the Committee at any time prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter the Committee may (on not more than one occasion) adjourn the hearing and make a request to the Monitoring Officer to



seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

**23. Decision by the Committee**

The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.

At any stage in the consideration of the matter the Committee may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

The Committee may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.

At the conclusion of their deliberations, the Chairman will advise the Member and the Investigating Officer of their findings and whether the Code of Conduct has been breached.

If the Committee concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Committee may ask questions of the Member and the Investigating Officer.

**24. The Committee, having heard any representations, will consider what actions, if any, to take.**

The findings that the Committee may make are:

- a) That there has been no breach of the Code;
- b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- c) That the Member has failed to comply with the Code of Conduct and should be:
  - ❖ Censured, or
  - ❖ Restricted access to the premises and the resources of the Authority for a maximum period of six months [but ensuring that such restrictions are reasonable and proportionate to the nature of the breach and will not unnecessarily restrict the Member's ability to carry out his/her responsibilities as an Elected or Co-opted Member];
  - ❖ Suspended or partially suspended for a maximum period of six months;
  - ❖ Required to submit a written apology or undertake any training or conciliation as specified by the Committee; or

- ❖ Suspended or partially suspended for a maximum period of six months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Committee.
- 25. In deciding what penalty to set, the Committee will consider all relevant circumstances, including those covered in any Guidance produced by the Standards Board for England.
- 26. The Chairman will announce the decision of the Committee, the action, if any, it is proposed to take and the reasons for the decision.
- 27. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

## **APPEAL**

- 28. Where the Committee determines that the Member has failed to comply with the Code of Conduct, the Chairman shall inform the Member of his or her right of appeal against the determination to an appeal tribunal drawn from the Adjudication Panel. Permission to appeal can be sought in writing to the President of the Adjudication Panel for England at 23 Victoria Avenue, Harrogate, North Yorkshire, HG1 5RD within 21 days of the written Notice of Findings.

## **NOTICE OF FINDINGS**

- 29. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft will be prepared with regard to any format recommended by the Standards Board. The draft decision will be forwarded to the Chairman of the Committee for approval.
- 30. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Standards Board, the Complainant [where possible], the Investigating Officer and any other Authority concerned.
- 31. The Monitoring Officer, subject to paragraph 32, shall arrange for a summary of the findings to be published in one newspaper circulating in the area of the Authority.
- 32. Where the Committee determines that there has not been a breach of the Code of Conduct, the notice shall:
  - i. State that the Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
  - ii. Not be published in the local newspaper if the Member so requests.
- 33. Where the Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
  - ii. Specify the details of the failure;

- iii. Give reasons for the decision reached; and
  - iv. State that the Member concerned may apply for permission to appeal against the determination.
- 34. Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct;
  - ii. Specify the details of the failure;
  - iii. Give reasons for the decision reached;
  - iv. Specify the sanction imposed; and
  - v. State that the Member concerned may apply for permission to appeal against the determination.
- 35. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.

# **CARLISLE CITY COUNCIL**

## **CODE OF CONDUCT**

### **FOR MEMBERS**

**ADOPTED 17 JULY 2007**

**CARLISLE CITY COUNCIL**  
**CODE OF CONDUCT FOR MEMBERS**

**Part 1**

**General Provisions**

**Introduction and interpretation**

1. — (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
- “meeting” means any meeting of—
- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
- “member” includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

**Scope**

2. — (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

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

- (2) You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006).
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

#### **4. You must not—**

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature,  
except where—
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is—
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6.** You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7. — (1)** When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.

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



## Part 2

### Interests

#### Personal interests

8. — (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

- (ix) any land in your authority's area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
  - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
  - (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

- 9. — (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you

need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

- 10. —** (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

- 11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

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

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

## Part 3

### Registration of Members' Interests

#### Registration of members' interests

- 13. —** (1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### Sensitive information

- 14. —** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **ANNEXURE - THE TEN GENERAL PRINCIPLES**

### **Selflessness**

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

### **Honesty and Integrity**

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **Objectivity**

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

### **Accountability**

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### **Openness**

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### **Personal Judgement**

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### **Respect for Others**

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### **Duty to Uphold the Law**

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### **Stewardship**

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### **Leadership**

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