



# ISLINGTON

Law and Public Services  
Town Hall, Upper Street, London N1 2UD

**Report of : Director of Corporate Resources**

Meeting of	Date	Agenda Item	Ward(s)
Standards Committee	1 February 2007	10	

Delete as appropriate	Exempt	Non-exempt
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If exempt under paragraph 10.4, category (1-15) of the Access to Information rules give reasons. Because:

**Subject: CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF CONDUCT FOR MEMBERS**

## 1. Synopsis

The purpose of this report is to seek the Committee's views on the consultation currently being carried out by the Department for Communities and Local Government on amendments to the model Code of Conduct for Members. This report makes some suggested responses upon which members' views are sought.

## 2. Recommendations

- (1) To agree the responses to the consultation questions set out in the report subject to the views of this Committee and the Leaders and Chief Whips of both Groups and Councillor Dawson.
- (2) To authorise the Monitoring Officer to submit a formal response to the Government by the deadline of 9th March 2007.

### **3. Background**

- 3.1 The Local Government White Paper, *Strong and Prosperous Communities*, issued in October 2006, sets out the Government's proposals to put in place a cleaner, simpler and more proportionate model Code of Conduct, which would include changes to the rules on personal and prejudicial interests.
- 3.2 This followed the discussion paper *Conduct in English Local Government : The Future*, issued by the then Office of the Deputy Prime Minister in December 2005, which set out the Government's response to the recommendations made by the Standards Board for England for amendments to the code.
- 3.3 The decision to amend the code so as to make it more effective and proportionate formed part of the Government's wider review of the conduct regime applying to local authorities, which concluded that the regime should be amended along the lines suggested by the Committee on Standards in Public Life, i.e., that there should be a move to a more locally based decision making regime for the investigation and determination of all but the most serious of misconduct allegations, with the Standards Board at the centre of the revised regime with a new strategic, regulatory role to ensure consistency of standards.
- 3.4 The current consultation paper sets out the detailed amendments needed to be put in place to take the proposal forward. There are four current codes applying to various categories of local authority members - local authorities, Parish Councils, National Park and Broads Authority and Police Authorities. The Government proposes to combine these into one consolidated code.
- 3.5 Comments on the consultation are required to be submitted by the 9th March and given that the next meeting of this Committee and Corporate Services Committee are the 24th April and 20th March respectively, it is recommended that the responses set out in the report be agreed subject to this Committee's views and those of the Leaders and Chief Whips of both Groups and Councillor Dawson. It is recommended that the Monitoring Officer be authorised to submit a formal response to the Government by the deadline.

### **4. Detail**

Set out overleaf are the Government's commentary on the detailed amendments proposed plus specific questions set out in the consultation with officers' suggested responses in respect of them.

## **Commentary on Detailed Amendments Proposed**

(THE BRACKETED REFERENCES TO PARAGRAPH NUMBERS CORRESPOND TO THE RELEVANT PARAGRAPHS OF THE DRAFT MODEL CODE)

### **Unlawful discrimination**

#### **1. To delete reference to unlawful discrimination (paragraph 2(2)(a))**

Paragraph 2(a) of the model code currently provides that a member must promote equality by not discriminating unlawfully against any person. However, an Adjudication Panel finding in January 2005 concluded that the Panel had no jurisdiction to make findings of unlawful discrimination. We need therefore to ensure that unlawful discrimination is not an issue on which a Panel may be required to make a determination, so the provisions in current paragraph 2(a) will be deleted.

We propose to replace paragraph 2(a) with a provision proscribing members from doing anything that would seriously prejudice their authority's statutory duties in regard to equality. We are also retaining the provision in the current rules requiring members to treat others with respect. These provisions should allow the code to continue to support the principles of fair treatment and respect for others, including behaviour and actions which could relate to equality issues.

### **Bullying**

#### **2. Add a provision specifically proscribing bullying (paragraph 2(2)(b))**

Currently, paragraph 2(b) of the model code states that a member must treat others with respect. Paragraph 4 of the current code provides that a member must not bring his or her office or authority into disrepute. The code makes no specific reference, however, to bullying behaviour.

We propose to add a specific provision to indicate that members must not bully any person, ie that bullying of other members, officers or anyone else is a breach of the code of conduct. We wish to ensure that it is clear that bullying behaviour should play no part in members' conduct.

We have accepted the Standards Board's view that a specific definition of bullying does not need to be included in the code, and that this should be left to guidance by the Board, which will indicate, for example, the view we take that bullying can relate not only to patterns of behaviour, but also to individual incidents.

### **Disclosure of confidential information**

#### **3. To allow members to disclose confidential information where such disclosure is in the public interest (paragraph 3(a)(iii))**

Paragraph 3(a) of the code currently provides that a member should not disclose information given to him or her in confidence or which the member believes to be of a confidential nature. There is no explicit provision allowing members to disclose information if this is in the public interest.

An Adjudication Panel decision in 2005 confirmed, as a matter of law, that paragraph 3(a) of the code of conduct fails properly to take into account Article 10(1) of the European Convention on Human Rights. The Panel found that in order to be compatible with Article 10(1), the code should be read so as to allow for the disclosure of information of a confidential nature where it is in the public interest to do so.

We therefore wish to provide that a member may make a disclosure of information given to him or her in confidence or which he or she believes to be of a confidential nature in the public interest provided the disclosure is in good faith and reasonable, and that the member has not breached any reasonable requirements of the authority, eg in the form of relevant local protocols or procedures. We propose that the Standards Board would issue guidance on how they would expect members to interpret this. We expect that such guidance would indicate that members should be able to disclose information in the following circumstances: where they reasonably believe that the disclosure will indicate evidence of a criminal offence, where the authority is failing to comply with its legal obligations, that a miscarriage of justice has occurred or may occur, that the health and safety of anyone has been endangered, or that the environment has been damaged.

We appreciate that it is important that the public interest test does not allow members to use the defence of public interest when merely seeking to make political capital through disclosure of properly confidential information. Our aim is to strike a sensible balance which is workable in practice between the need to treat certain information confidentially and to allow the disclosure of information in appropriate circumstances.

There may be scope for the provision on confidential information to be clarified further, so as to make clear that the rules on the disclosure of information cover information received by a member in his official capacity or which relates to the work of the council. This would ensure that a member would not be able to claim that although he did disclose information, he did not receive the information in his capacity as a member, which the current drafting might potentially allow him to claim.

***Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?***

#### **Suggested Response:**

Much will depend on the final form of the guidance issued by the Standards Board but, broadly speaking, the proposed circumstances justifying disclosure seem sensible. Perhaps consideration could be given to requiring the member first to raise the concerns internally with either the Head of the Paid Service, or the Section 151 Officer or the Monitoring Officer, only disclosing the information if no satisfactory response is received.

## **Behaviour outside official duties**

### **4. Paragraphs 4 and 5**

Paragraph 4 of the current code provides that a member must not in his or her official capacity or any other circumstance conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute. In addition, paragraph 5 currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to secure for himself or herself or any other person an advantage or disadvantage.

The Standards Board has recommended amending the code so that, in terms of a member's behaviour in private life, conduct which amounts to a criminal offence, as well as behaviour which would be regarded as criminal but for which a conviction has not been secured, could be regarded as bringing the member's office or authority into disrepute under the terms of the code.

Separately the decision by the High Court in the case of the appeal of the Mayor of London, in October 2006, cast some doubt on the ability of the code of conduct to proscribe behaviour of members in their private capacity. The judgement commented on the interpretation of section 52 of the Local Government Act 2000. This section imposes a duty on a council member to give an undertaking to observe the code of conduct 'in performing his functions'. The Court considered that section 52 limits the scope of the code so that conduct in a member's private capacity can only come within the scope of the code where it is established that there is a direct link with the member's office, eg if the member uses his office for personal gain.

The Court judgement gave examples of cases where it did not think that the code was able to apply. These included where a member shoplifts or is guilty of drunken driving. Such action will not now be caught by the code if the offending conduct had nothing specifically to do with the member's position as a councillor.

This is a narrower interpretation than we have previously applied to the code. Up to now we have assumed it was possible to take a wider view of what private conduct could be relevant, ie including actions not necessarily to do with the member's position as a councillor but which may affect the member's reputation and electors' confidence in him or her.

In response to this case, we have decided to amend sections 49 to 52 of the Local Government Act 2000 so that behaviour in a private capacity might be included within the remit of a code of conduct. This amendment is included in the Local Government and Public Involvement in Health Bill currently before Parliament.

If the amendments are enacted, Ministers are currently minded to provide that only private behaviour for which the member has been convicted by a court should be proscribed by the code of conduct, as referred to in paragraph 4(2), and not behaviour falling short of a criminal offence.

***Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in members' private capacity to those activities which have already been found to be unlawful by the courts, appropriate?***

### **Suggested response:**

So far as we can see, the proposed wording does not limit the application of the Code as suggested. Were it to do so, we are not sure that the limitation is appropriate. There may conceivably be situations where no criminal offence has been committed, or proved, yet the behaviour calls into question the members ability to fulfil his or her duties. For instance, what would the situation be if someone failed to pay income tax, wrongfully claimed housing benefit or received a caution for a violent crime?

## **Commission of criminal offence before taking office**

### **5. Paragraph 4(2)**

We agree with the Standards Board that in the circumstances where a member's behaviour has been found to be unlawful by a court, then the member may be perceived to have brought his or her office or authority into disrepute. We also consider that where a member committed the offence before taking office as a member but where he or she was not convicted until after becoming a member, then this offence should be capable of being taken into account when considering whether the member has brought his or her authority into disrepute. A new paragraph 4(2) implements this amendment.

## **Using or seeking to use improper influence**

### **6. To amend paragraph 5(a) by adding 'or attempt to use'**

Paragraph 5(a) currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to confer on or secure for himself or herself or any other person an advantage or disadvantage. A literal interpretation of this provision might mean that it does not cover unsuccessful attempts by the member to use his or her position in this way. We believe that justice would be better served if provision was made for the code to proscribe members' attempts to use their position even where such attempts were not in the event successful. To this end, we have proposed that the paragraph should provide that the member should not either use or attempt to use his or her position to confer an advantage or disadvantage for himself or herself or anyone else.

### **7. Paragraph 5(b)(ii)**

We have sought to simplify this sub-paragraph without losing any of the intended meaning of the original provision, and specific reference is added to clarify the intention that an authority's resources should not be used improperly for party political purposes.

## **Publicity code**

### **8. To add reference at paragraph 5 to the need for the member to have regard to the guidance set out in the Government's local authority publicity code**

We believe it would be a sensible complement to the code to make it clear that, in addition to providing in paragraph 5 that members should not use resources improperly for political purposes, they should also have regard to the Government's Code of Recommended Practice on Local Authority Publicity.

The Code of Recommended Practice on Local Authority Publicity (a copy of which can be found at <http://www.communities.gov.uk/index.asp?id=1133867>) is issued by the Government under the Local Government Act 1986 and was last amended in 2001. The Publicity Code provides instructions about the content, style and distribution of promotional activity and material produced by authorities, supplementing the basic requirement in the 1986 Act that authorities must not use their resources for political purposes.

It has been suggested by some that the Code of Practice on Local Authority Publicity is unnecessary and restrictive. We would be grateful to hear the views of consultees on the Publicity Code and whether or not they feel it is serving a useful purpose. If people feel it should be abolished, do they think it should be replaced by any other guidance, eg issued by local authority representative bodies?

The Publicity Code does not currently apply to the Greater London Authority, fire and rescue authorities and the national parks authorities, although the code of conduct does apply to these bodies. We would also be grateful therefore for views on whether and how it might be appropriate for the Publicity Code to apply in relation to the above bodies.

***Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?***

### **Suggested Response:**

The Code does provide some useful guidance for local authorities and should probably be retained, although there may be some room for the wording to be reviewed.

## **Reporting breaches of the code and proscribing intimidation**

### **9. To delete the duty in paragraph 7 of the existing code to report breaches of the code by other members, and add a proscription (at paragraph 2(2)(c)) on the intimidation of complainants and witnesses**

Paragraph 7 of the current code provides that a member must, if he or she becomes aware of another member's breach of the code, make an allegation to the Standards Board of that breach.

We wish to delete the requirement to report other members' breaches of the code, which has been perceived by some as encouraging councillors to make trivial allegations.

At the same time, to protect members who do report serious misconduct from victimisation, we propose to add a provision at paragraph 2(2)(c) prohibiting a member from intimidating or attempting to intimidate a complainant or witness, people carrying out the investigation, support staff and others involved in the case, whether or not they are members, officers or members of the public. This would demonstrate to members that victimising complainants or witnesses will rebound on them by making the case against them more serious, since such intimidation would itself count as a breach of the code.

In addition, since it is the Government's policy to increase the proportion of cases to be investigated locally, it is important that officers who are required to handle such cases are free from inappropriate pressures from members.

## **Gifts and hospitality**

### **10. Paragraphs 7(a)(vi) and 8(3)**

Paragraph 17 of the code currently provides that in the case of the receipt of any gift or hospitality over the value of £25, members must notify the monitoring officer of the existence and nature of the gift or hospitality. There is no provision for such information to be made public in the register of members' interests.

We wish to reinforce the principles of accountability and openness of the conduct regime by requiring that information about gifts and hospitality should be included in the register of interests. We propose therefore to provide that the receipt of gifts or hospitality of over £25 in value should be an interest that should be registered as a personal interest. However, to ensure this provision is proportionate, we also propose that the requirement to disclose the personal interest to a meeting would cease after five years following the receipt of the gift or hospitality, although that receipt would remain on the register as a personal interest.

***Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?***

#### **Suggested Response:**

The drafting of this provision is unclear. Does the matter in which the Member will be deemed to have an interest have to relate to the gift itself, or the person making the gift? This lack of clarity applies to 7(b) as well where it is implied that there will only be a personal interest in a matter if it relates to a person's membership of a body, e.g. a trades union, as opposed to the Union itself.

Islington has always made available for public inspection the gifts and hospitality register. Many members already err on the side of caution and include items in the register which do not strictly need to be listed. It would seem unnecessary to make members declare these matters at meetings when the register is already publicly available in the borough. If this is to be a requirement, a period of 5 year's would appear to be unnecessarily long.

## **Body influencing public opinion or policy**

### **11. Paragraph 7(b)(iv)**

To clarify the fact that the existing reference to a body whose purposes include the influence of public opinion or policy in which the member may have a personal interest, includes any political party.



## **Interests of family, friends and those with a close personal association**

### **12. To amend reference in the current code to friends and family by adding reference to any person with whom the member has a close personal association (paragraph 7(c)(i) and elsewhere)**

Paragraph 8 of the current code provides that a member must regard himself or herself as having a personal interest in a matter if a decision on it affects to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend. We wish to ensure that the definition of personal interest includes matters affecting a range of personal, business and professional associates, as well as people who would specifically be termed as 'friends'. Reference has therefore been added to any person with whom the member has a close personal association.

### **13. Definition of family and friends (paragraph 7(c)(i) and elsewhere)**

With the inclusion of "close personal association" it is not thought necessary to keep the definitions of 'family' or 'friend' in the code. Guidance by the Standards Board will give assistance to members on these definitions.

***Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?***

### **Suggested Response:**

The authority accepts that it is never going to be possible to precisely define the type of relationship which ought to be declared and agrees that the inclusion of 'close personal association' is helpful.

## **Definition of personal interests**

### **14. To replace reference in paragraph 8 to the inhabitants of an authority's area with provision that members should not be required to register an interest in a matter unless the interest is greater than that of the majority of the inhabitants of the ward affected by the matter. For parish councils the definition would apply in respect of the council's whole area (paragraph 7(c)).**

Paragraph 8 of the current code provides that members have a personal interest if they would be affected by a matter to a greater extent than other council tax payers, rate payers or inhabitants of the authority's area.

We wish the code to allow members to be able more frequently to take part in council meetings which their communities expect them to participate in or on issues, in some cases, which they have even been elected specifically to address. We therefore wish to delete the current requirement that a personal interest arises where a decision on it might be regarded as affecting the member to a greater extent than other inhabitants of the authority's area, and replace it with a requirement that the personal interest arises only where the interest might reasonably be

regarded as affecting the member to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward which is affected by the particular matter. The purpose is to reduce the number of times a personal interest may arise on matters which are not of genuine concern to the public, as a result of the broad current test relating to the whole council's area, which in effect has meant in some cases that members have felt they have to declare interests which are in fact shared with a large number of people.

Narrowing the definition will provide a more locally-based focus, and reduce the number of personal interests which arise by requiring that an interest would arise only where the interest would be higher than most people in the local area affected by the matter. This should mean that an interest would not arise where interests are shared by a substantial number of inhabitants in the authority's area.

Where members, eg elected mayors and co-opted members, do not represent wards, the relevant test would be whether the issue affected the member more than the majority of people in the ward affected by the particular matter.

In the case of parish councils, which do not usually have wards, their areas are so small that we propose to apply the definition in respect of the council's whole area.

## **Disclosure of personal interests**

### **15. Paragraph 8(4)**

Under the current code, a member would technically be in breach of the code's provisions in respect of the personal interests of a relative even if he or she was unaware of any interest held by a relative. It would be sensible and more proportionate to amend the provision so that the rules on the disclosure of interests at a meeting in respect of a family member, friend or a person with a close personal association will only apply if the member is aware or ought reasonably to be aware of the interest held by that person.

## **Public service interests**

### **16. To create a new category of 'public service interest', which arises where a member is also a member of another public body, and for the public service interest only to be declared at meetings where the member speaks on the relevant issue (paragraph 8(2) and 8(7))**

Paragraph 9 of the current code provides that a member with a personal interest must disclose the interest at the commencement of the meeting or when the interest becomes apparent.

We wish to provide a definition of what is meant by 'public service interest', ie an interest which arises where a member is also a member of another public body, to which they have been appointed or nominated by the authority, or of which they are a member in their own right. Members would be required, as now, to enter any such interest they have in the register of interests.

However, instead of, as now, requiring that public service interests are declared at the start of any relevant business, we wish to require that such interests should only be declared at such time as the member speaks on a relevant issue. The aim of this is to avoid the current onerous requirement by which lengthy periods at the start of business on a particular issue can be spent by members in declaring their personal interests in the particular issue, even if many or all of those members have no intention to take part in the debate on that subject.

## **Prejudicial interests – List of exemptions**

### **17. To simplify and amend the list of exemptions where members should not regard themselves as having a prejudicial interest (paragraph 9(2)(b))**

Three new items have been added to the list of interests which are not to be regarded as prejudicial. This will mean that a member will not have a prejudicial interest where the matter relates to the authority's functions in respect of:

- Indemnities. This addition arises from the Standards Board's experience of cases where, for example, members have felt unable to vote in discussions on the issue by the authority of indemnities which might relate to themselves, as well as a number of other members of the council.
- The setting of council tax. We understand that some members have been concerned that in discussing this issue, prejudicial interests may arise for them because of their connection with an organisation funded from an operational budget which is being set by the council tax settlement. We consider that such an interest is likely to be too remote to be a prejudicial interest.
- Considering whether or not the member should become a freeman of the authority.

We also propose to amend the Local Authorities (Code of Conduct) (Local Determination) Regulations to allow a member to attend a hearing of a standards committee into his or her conduct in order to be able to defend himself or herself.

### ***Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?***

#### **Suggested Response:**

The authority does agree that this is useful although in relation to council tax, the Monitoring Officer has previously advised that this would be the position. It would also be useful to include votes of no confidence and indeed, appointments to office in order to make explicit the relevant Members' ability for participation in this matter.

In relation to public service interests it would be helpful to define 'public authority', and make it clear whether it is necessary for a Member to declare such an interest when it comes to an actual vote on a matter. We are not sure we understand the logic of only having to declare if you speak.

The authority would welcome some clarity around motions at full Council meetings where the passing of such a motion will not lead to any specific action being taken. Such motions may, for example, call upon another body to take action. Could consideration be given to making clear that in those circumstances the interest would not be prejudicial?

## **Overview and scrutiny committees**

### **18. To provide that members are excluded from overview and scrutiny committees where they are scrutinising decisions, including decisions made by the authority's executive, which they were involved in making (paragraph 10)**

Paragraph 11 of the current code does not allow a member to scrutinise a decision of a

committee, sub-committee or joint committee 'of which he may also be a member'. It does not cover the position of a member who may not now be a member of the relevant committee but was a member at the time the decision was taken. We therefore wish to make an amendment to ensure that the proscription will apply where the councillor was a member at the time of the decision or action.

A further consequence of the current paragraph 11 provision is that a member is not allowed to scrutinise decisions where he or she is a member of the committee whose decision is being scrutinised, ie the proscription applies where he or she was not involved in making the decision, for example, because he or she was absent from the committee or where he or she became a member after the decision was taken. This can have the effect of debarring members from the scrutiny function in respect of decisions in which they had no involvement. We therefore propose an amendment to provide that members should only be debarred from involvement in the scrutiny function in cases where they are scrutinising decisions they were involved in making.

In addition, the rules do not currently refer to decisions made or action taken by the authority's executive. They therefore do not cover the case where a former member of the executive sits on a scrutiny committee to scrutinise decisions of the executive to which he or she contributed. We propose therefore that paragraph 10 is amended to indicate that the restriction will apply to former executive members who were involved in making the relevant decisions.

## **Participation in relation to prejudicial interests**

### **19. To provide a clearer prejudicial interest test to apply for public service interests and where members attend to make representations (paragraphs 9 and 11)**

Actions which a member should take where he or she has a prejudicial interest are set out in current paragraph 12.

We wish to provide for clearer and more proportionate rules to apply in respect of participation in council meetings for those who have public sector interests, ie who are members of another authority or a charity or lobbying body, and for those who are attending meetings to make representations.

We consider that the fact that an issue considered by one body may affect another body with which the member is involved does not necessarily mean that the member's judgement of the public interest will be prejudiced. In such cases, the public service interest should only be considered prejudicial where

- (a) the matter relates to the financial affairs of the body concerned, or
- (b) where the matter relates to the determining of any approval, consent, licence or permission (eg in respect of planning and licensing) in relation to the body.

Where a member has a public service interest and (a) or (b) do not apply, then no prejudicial interest would arise and the member may speak and vote at the meeting.

Any member (including a member with a public service interest to which (a) or (b) also apply), will not have a prejudicial interest where they attend a meeting to make representations, answer questions or give evidence, provided the committee agrees that the member may do so. After members have answered such questions or given such evidence, they must then withdraw from the room where the meeting is being held.

All members with a prejudicial interest, regardless of the category of interest, would still continue to be subject to paragraph 11(1)(c), ie the requirement that members should not seek improperly to influence a decision about the matter.

***Q7. Is the proposed text, relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions or give evidence, appropriate?***

**Suggested Response:**

Yes. The purpose of the Code is to promote transparency and to ensure people do not take part in decisions where they have a prejudicial interest. It is suggested, for clarity's sake that the time when the Member is required to leave the room be when the matter is put to the vote.

**Sensitive Information**

**20. To provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the member or those he or she lives with being subject to violence or intimidation (paragraphs 8(5) and 13)**

Paragraph 14 of the current code requires members to register all of their personal interests.

We wish to ensure that sensitive information, for example, where members are employed in areas of sensitive employment, such as certain types of scientific research, need not be made public if to do so would threaten the safety of the member and/or his family. A member who considers that the information which he or she would need to register is sensitive, will apply to the authority's monitoring officer for the interest not to be registered. If the monitoring officer is satisfied that the information is sensitive and the risk of intimidation of the member or those he or she lives with is real, the member may not include the sensitive information on the register of interests.

Consistent with the above, we also wish to amend paragraph 8(5), so that a member with an accepted sensitive interest should not have to disclose publicly the details of that sensitive information at a council meeting, although he or she will still need to disclose that they have a personal interest if this is the case in respect of a particular matter under discussion.

**National Park and Boards Authorities – prejudicial interest**

**21. Delete sub-paragraphs (f) and (g) from paragraph 10(2) of the current National Park and Broads Authorities (Model Code of Conduct)(England) Order 2001**

Paragraph 10(2)(f) and (g) of the current model code applying to the National Park and Broads Authorities makes provision in respect of matters for which a member may regard himself as not having a prejudicial interest. At the request of DEFRA, and following earlier consultation by them with the National Parks and Broads Authorities, we wish to delete provisions allowing interest in respect of matters relating to farming, land, certain charges or navigation not to be regarded as prejudicial interests for members in certain cases. This is to address criticism that these clauses have lead to preferential treatment for some landowners and navigators, who, if it was not for the operation of the paragraph, would have been regarded as having a prejudicial interest.

## **Register of members' interests**

### **22. Paragraphs 12 and 13**

Opportunity has been taken to rearrange the position of various provisions within the code. Because the list of potential personal interests is now in paragraph 7, the paragraphs on the registration of personal interests have been simplified and shortened.

## **Gender neutrality of language**

### **23. To amend the code throughout to ensure gender neutrality of language**

To signal the fact that the principles of the code refer both to women as well as men, and promote a more inclusive approach, we propose to make the language of the code gender neutral and replace gender-specific language such as 'he', or 'him', with 'he or she', or 'him or her'.

***Q8. Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?***

#### **Suggested Response:**

Changing the language from he/she to you would not only be clearer but more user friendly.

## **5. Implications**

### **5.1 Financial Implications**

### **5.2 Legal Implications**

These are set out in the body of the report.

### **5.3 Equality Implications**

The consultation papers sets out various proposals with regard to equalities matters to make the Code of Conduct more inclusive and the wording of the code gender neutral.

## Final Report Clearance

Signed by

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Director of Corporate Resources

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Date

Received by

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Head of Democratic Services

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