

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	30 April 2012
Title:	Localism Act 2011 – Revised Standards Arrangements - Update
Reference:	3882
Report From:	Chief Executive

Contact name: Andrew Smith/Barbara Beardwell

Tel: 01962 845252/845157 **Email:** Andrew.j.smith@hants.gov.uk
Barbara.beardwell@hants.gov.uk

1. Executive Summary

- 1.1. This report outlines the revised requirements on the County Council in respect of changes to Standards Arrangements introduced by the Localism Act 2011 ‘(the Localism Act)’, and advises Cabinet on the legislative framework surrounding the changes.
- 1.2. This report also considers a number of options open to the County Council as to how both mandatory and non-mandatory matters relating to Standards included within the Localism Act might be dealt with within the County Council’s Governance Arrangements, and sets out a suggested way forward.

2. Contextual information

- 2.1. Section 7 of the Localism Act and Schedule 4, which it introduces, contains revised arrangements in respect of a Members’ Code of Conduct, which the County Council is required to adopt, and matters relating thereto, and the registration and disclosure of Members’ interests. These matters are dealt with in more detail below.
- 2.2. As Cabinet will be aware, both the Standards Board for England and the jurisdiction of the First-tier tribunal over Member conduct issues were abolished on 1 April 2012. It is expected that on the ‘appointed day’ (expected to be 1st July 2012), the remaining parts of the Localism Act, so far as they relate to Standards, will be implemented, although it is possible that in view of the fact that Regulations required to implement detail of the new Standards arrangements in respect of statutorily disclosable pecuniary interests have yet to be made, there could be a transitional period under any Commencement Order whereby the existing Members’ Code of Conduct

would continue to apply. Once implemented however, the County Council's existing Members' Code of Conduct contained within the Constitution will cease to have effect, as will the requirement on Members and Co-opted Members of the County Council to undertake to comply with the Code of Conduct. The existing regime in respect of the registration and disclosure of Members' interests will also be abolished, as will the existing Standards Committee and functions which, under the current legislation, are required to be exercised by Standards Committees. It will still however be necessary for the County Council to have in place arrangements to deal with and determine allegations that a Member may be in breach of the Members' Code of Conduct. It will also be necessary for the County Council to have in place arrangements for dealing with dispensations in order to allow Members, in appropriate cases, to participate and vote in meetings in cases where Members would otherwise be unable to do so in consequence of having a statutorily disclosable pecuniary interest.

- 2.3. Recently two separate suggested template model Codes of Conduct have been released by the LGA and CLG, as referred to at paragraph 3.3 of this report.

3. Members' Code of Conduct

- 3.1. As indicated above, once Schedule 4 of the Localism Act is implemented, the Code of Conduct currently adopted by the County Council, and contained within the Constitution, will cease to have effect, as will undertakings by Members to comply with the Code of Conduct as part of their declaration of acceptance of office.
- 3.2. However by virtue of Section 27 of the Localism Act, the County Council is still required to promote and maintain high standards of conduct by both Members and Co-opted Members of the County Council, and to adopt a Code of Conduct to deal with the conduct expected of Members and Co-opted Members when acting in an official capacity. By virtue of Section 28 of the Localism Act, such Code of Conduct must, when viewed as a whole, be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership as set out in the Localism Act. The new Code of Conduct must also include such provision as the County Council considers appropriate in respect of the registration and disclosure of pecuniary interests, and interests other than pecuniary interests. The new Code may be either a revision of the existing Members' Code of Conduct, or a replacement of the existing Code. Approval of the new Members' Code of Conduct is required under the Localism Act to be done by full Council.
- 3.3. Whilst recognising that, subject to the mandatory requirements of the Localism Act, the exact form of the new Members' Code of Conduct is a matter of local choice, in order to provide help to Local Authorities in determining what a new Code of Conduct might look like, both the Local Government Association ('LGA') and the Department for Communities and Local Government ('CLG') have issued in the last few days suggested 'model' Codes of Conduct. The LGA model is referred to as a template Code of

Conduct, and the CLG model is referred to as an 'illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity'. A copy of the suggested LGA model is attached at Annex 1 to this report, and a copy of the suggested CLG model is attached at Annex 2 to this report. Also attached for ease of reference at Annex 3 to this report is the County Council's existing Members' Code of Conduct, as contained within the Constitution.

4. Members' Interests

- 4.1. Section 29 of the Localism Act requires the Monitoring Officer to establish and maintain a register of Members' and Co-opted Members' interests, to make the register available for inspection, and to publish it on the County Council's website. Members will be required under the Localism Act to notify the Monitoring Officer of any disclosable pecuniary interests ('DPI's') of themselves, their spouse or person they live with as husband and wife or civil partner, within 28 days of taking office. Regulations have yet to be made by the Secretary of State defining what will constitute a 'DPI'. It could be that the definition of 'DPI' will be modelled along the existing definition of what would currently constitute a prejudicial interest. Other than 'DPI's', it is up to the County Council to determine in its Code of Conduct what, if any, other interests it requires to be entered on the register. What currently constitutes a prejudicial interest is set out at Part 2, paragraph 10 of the existing Members' Code of Conduct. Before a Member or Co-opted Member can have a prejudicial interest in a matter, a Member must first have a personal interest. A prejudicial interest then arises if the matter does not fall within one of the exempt categories of decisions set out at paragraph 10 (2) of the existing Code of Conduct, and the matter affects the Member's financial interests or relates to a licensing or regulatory matter, and a member of the public with knowledge of the relevant facts would reasonably regard such personal interest as being so significant as likely to prejudice the Member's judgement of the public interest.
- 4.2. It should be noted that there is no ongoing requirement under the Localism Act for Members to register any 'DPI' arising after such Member has taken office. However in the interests of good governance and transparency, Members may consider that the new Code of Conduct should contain an ongoing obligation to register any DPI's. It is also suggested that, in the interests of good governance, and to minimise any allegations of bias in decision making, Members might also wish to retain provisions in respect of the registration and disclosure of what, under the current Code of Conduct, would constitute a personal interest, as set out at Part 2, paragraph 8 of the existing Code of Conduct. A personal interest arises where it relates to or is likely to affect an interest a Member must register, or to an interest not required to be registered, but where the well-being or financial position of the Member, his family, or people with whom such Member has a close association, is likely to be affected by the business more that it would affect the majority of inhabitants of any electoral division of the County Council, or inhabitants of the County Council's area generally. Interests a member must

currently register are as set out at Part 2, paragraph 8(a) of the existing Members' Code of Conduct.

- 4.3. Where at a meeting a Member or a Co-opted Member of the County Council is aware that they have a 'DPI' in a matter being considered at such meeting, such Member cannot participate in discussion or voting on the matter. It should however be noted that what Section 31 of the Localism Act does not do is require a Member with a disclosable pecuniary interest to leave the room while the matter is discussed. As a matter of good governance and in the interests of openness and transparency, and to protect Members from allegations of undue interference from the fact of being there, it might be that Members would wish for this to take place. If this were considered desirable Standing Orders would need to be amended to require a Member with a 'DPI' to leave the room, when a matter to which such 'DPI' related was debated or voted on. Current provisions regarding the effect of prejudicial interests in participation in the business of the County Council are set out at Part 2, Chapter 12 of the existing Members' Code of Conduct.

5. Arrangements for Investigation of Allegations of Breaches of the Members' Code of Conduct

- 5.1. The County Council will still be required by virtue of Section 28 (6) of the Localism Act to have in place arrangements to deal with complaints that a Member or Co-opted Member may have breached the Members' Code of Conduct. Whilst under the Localism Act there is no longer a requirement to have a Standards Committee, the County Council will need to consider how best to carry out this function. It should be noted that under the Localism Act, functions in respect of Standards cannot be a function of the Executive. Thus whichever Committee of the County Council is given the delegated authority to carry out functions in respect of Standards matters, either on its own or as part of the terms of reference of another County Council Committee, not reserved to full Council, such Committee will be an ordinary Committee of the County Council, and will need to be appointed by full Council in the normal way. It will also need to be proportionally constituted in accordance with the requirements of the Local Government and Housing Act 1989.

6. Appointment of Independent Person

- 6.1. Since any future Committee appointed by the County Council to deal with Standards will be an ordinary Committee of the County Council, proportionally constituted, existing requirements in respect of independent Members on such Committee will, once the provisions of the Localism Act are brought into force, no longer apply. There is however a requirement under Section 28 (7) of the Localism Act for the County Council to appoint at least one independent person ('Independent Person'), whose views must be sought before any decision is made on any allegation which the County Council has decided to investigate before it makes any decision, and whose views may be sought by a Member or Co-opted Member against whom an allegation has been made. As the Act is currently drafted, a person cannot be appointed as an Independent Person if they have, within the last five years, been a Co-

opted voting Member of a Committee of the County Council. This means that all existing Independent Members of Standards Committee are ineligible to be appointed as an Independent Person. Whilst it is possible for the County Council to delegate authority to assist in the recruitment of an Independent Person, approval of the appointment itself of an Independent person is required to be done by full Council.

7. Future direction

- 7.1. In the circumstances the Leader has suggested that a panel of members be convened as a 'task and finish' group to give early consideration to these issues. This would allow early consideration of member issues. The Chief Executive will therefore make the necessary arrangements with the Group Leaders over membership.
- 7.2. A further report will be prepared for the Annual General Meeting on 17 May 2012.
- 7.3. Given the number of 'twin hatters' amongst elected members it may also be worthwhile asking the group to consider this issue and liaise with other authorities in the Hampshire area.

8. Recommendations

- 8.1. It is recommended that Cabinet:
- 8.2. Note the emerging position with regard to revised Standards arrangements in consequence of the Localism Act.
- 8.3. Approve the direction of travel in respect of revised Standards arrangements and the establishment of a 'task and finish' group in order to inform a report to full Council.

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Localism Act 2011 – Standards Update	3757	2 March 2012
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	
Localism Act	2011	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

None

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. n/a

2. Impact on Crime and Disorder:

2.1. n/a

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption? n/a

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? n/a

TEMPLATE CODE OF CONDUCT

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of *[X authority]*, my conduct will in particular address the statutory principles of the code of conduct by:

Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.

Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the *[county][borough][Authority's area]* or the good governance of the authority in a proper manner.

Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.

Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.

Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

Always treating people with respect, including the organisations and public I engage with and those I work alongside.

Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

ILLUSTRATIVE TEXT FOR CODE DEALING WITH THE CONDUCT EXPECTED OF MEMBERS AND CO-OPTED MEMBERS OF THE AUTHORITY WHEN ACTING IN THAT CAPACITY

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

Existing Members' Code of Conduct

Part 1: General provisions

Introduction and interpretation

- 1 (1) This Code applies to **you** as a member of Hampshire County Council.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State(a).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code
"meeting" means any meeting of
 - (a) Hampshire County Council;
 - (b) the Executive of Hampshire County Council;
 - (c) any of Hampshire County Council or its Executive's Committees, Sub-Committees, Joint Committees, Joint Sub-Committees, or Area Committees;"member" includes a co-opted member and an elected member of Hampshire County Council.
"your authority" means Hampshire County Council
- (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.
- (6) Where you are a member of more than one local authority, but acting on behalf of the County Council, you are, for the avoidance of any doubt, bound by this Code of Conduct.

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(a));
 - 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 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

- reasonable and in the public interest; and
- 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 your 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 or 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 contracts 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 estimate 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 remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in your 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 decisions; 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 97), 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(i)(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 (a).

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 committee

- 11 You also have a prejudicial interest in any business before a Select (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 in 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 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 circumstance 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.