

FACTSHEETS



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Note: These factsheets were all published by Standards Board for England on 1 October 2007 and have been amalgamated into one document for ease of reference.

The text has not been altered with the exception of references to the Royal Berkshire Fire Authority, and to the Authority's website.

If you are viewing this document via the Authority's website, you may use the "Bookmarks" tab to show more headings, for ease of navigation.

The Royal Berkshire Fire Authority Code of Conduct is available from www.rbfrs.co.uk/fire_authority_code_of_conduct.html

The ethical framework for local government

Summary: This document provides key information and answers to frequently asked questions about the ethical framework for local government and the role of the Standards Board for England.

Date published: 1 October 2007

Key facts

- The current ethical framework for local government first emerged from the Committee on Standards in Public Life's third report in 1997.
- The report responded to concerns over a series of high-profile political scandals during the 1990s and that public confidence in councillors was being undermined.
- It formed part of the broader drive by government to modernise local government and make it more accountable to local communities.
- The key elements of the ethical framework are the Code of Conduct for elected and co-opted members of local authorities, local authority standards committees and the Standards Board for England.
- The Standards Board for England was formally established in March 2001, by an Act of Parliament in Part III of the *Local Government Act 2000*.
- The Standards Board for England is independent of government, although it reports to the minister of state for local government.

Frequently asked questions

Q1 What does Part III of the Local Government Act 2000 govern?

- Every local authority is required to adopt the Code of Conduct and most elected, co-opted, appointed and independent members are covered by it.
- Each principal authority is required to have a standards committee, comprising members of the authority and at least one independent representative.
- Standards committees have specific and general functions, including promoting standards of ethical conduct of members and carrying out local determinations of allegations of breaches of the Code of Conduct.
- Establishment of the Standards Board for England as an independent body to promote high ethical standards in local government and to investigate allegations that members may have breached the Code of Conduct.

Q2 What is the difference between the Standards Board for England and the Adjudication Panel for England?

The Standards Board's main roles are to ensure that standards of ethical conduct are maintained across authorities and to deal with complaints of misconduct against individual members.

This differs from the Adjudication Panel for England, which is an independent judicial tribunal set up to deliver judgement on matters concerning the Code of Conduct of local

authority members. The Adjudication Panel considers cases referred to it by ethical standards officers of the Standards Board for England and also considers appeal cases.

Q3 What are the general principles of standards in public life?

The ten general principles of public life come from the Nolan Committee's First Report on Standards in Public Life. They define the standards that members should uphold, and serve as a reminder of the purpose of the Code of Conduct.

The principles, as set out in the Relevant Authorities (General Principles) Order 2001, are:¹

- Selflessness
- honesty and integrity
- objectivity
- accountability
- openness
- personal judgement
- respect for others
- duty to uphold the law
- stewardship
- leadership

¹ The General Principles are included as an Annex to the Royal Berkshire Fire Authority Code of Conduct, available to download from www.rbfrs.co.uk/fire_authority_code_of_conduct.html

Personal and prejudicial interests

Relevant Code paragraphs: **8 – 13**

Summary: This document provides key information and answers to frequently asked questions about the ethical framework for local government and the role of the Standards Board for England.

Date published: 1 October 2007

Key facts

Personal interests

There are two types of personal interest.

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- 1) An interest that you must register.
- 2) An interest that is not on your register but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral divisions affected by the decision (in the case of authorities with wards or electoral divisions)
 - inhabitants of the assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases)

Note:

- 1) You must declare that you have a personal interest and the nature of that interest, as soon as it becomes apparent to you in all meetings before the matter is discussed.
- 2) There are two exemptions to the rule on declaring a personal interest, which is a key change under the revised Code.

Exemptions apply where an interest arises solely from membership of, position of control or management on:

- Any other body to which you were appointed or nominated by the authority.
- Any other body exercising functions of a public nature for example, if you have been appointed as a school governor.

In these exceptional circumstances you only need to declare your interest if and when you speak on a matter, provided that you do not have a prejudicial interest (see below).

Prejudicial interests

Your personal interest will also be a prejudicial interest if it meets all of the following conditions:

- 1) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2)(c), for example, setting the council tax.
- 2) The matter affects your interests financially or a licensing or regulatory matter, for example an application for a grant funding to a body on your register of interests, or

a planning or licensing application made by you or a body on your register of interests.

- 3) A member of the public, who knows the relevant facts, would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

Note: in order for your interest to be prejudicial, it must be a financial or regulatory matter.

What to do if you have a prejudicial interest

If you have a prejudicial interest in a matter being discussed at a meeting:

- You must declare that you have a prejudicial interest and the nature of that interest as soon as the interest becomes apparent.
- You should leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If this is the case, you can also attend the meeting for that purpose.
- You must leave the room immediately once you have finished speaking, or when the meeting decides that you have finished (if that is earlier).

Frequently asked questions

Q1 Is paragraph 12(2) mandatory for my authority?

Paragraph 12(2) is mandatory for most authorities. However, paragraph 12(2) is not mandatory for the following authorities:

- parish and town councils
- English and Welsh police authorities
- the Greater London Authority
- national park authorities
- fire and rescue authorities

If your authority wishes paragraph 12 (2) to apply, it will need to pass a resolution adopting the Model Code of Conduct including paragraph 12(2).

If your authority is a parish or town council and you wish to adopt paragraph 12(2), you can do so by adopting the Standards Board's *Model Code of Conduct for parish and town councils 2007*, which is available on our website on our website -

www.standardsboard.gov.uk

If paragraph 12(2) is included in your authority's Code, the Standards Board recommends that standing orders or procedural rules should be put in place for clarity. These should clearly set out the circumstances in which members of the public can attend the authority's meetings to make representations, give evidence or answer questions.

If your authority does not provide members of the public with any right to speak, paragraph 12(2) will have no effect at your authority. This means that members with a prejudicial interest would have to continue to leave the meeting room after declaring the nature and extent of their interest.

Q2 What rights are available to members with a prejudicial interest?

Paragraph 12(2) gives members with a prejudicial interest in a matter the same rights as members of the public to speak at a meeting on the matter. Members must then leave before the main discussion and voting takes place.

Lobby groups and declarations of interest under the Code of Conduct

Relevant Code paragraphs: 8 – 12

Summary: This document provides key information and answers frequently asked questions about lobby groups and declarations of interest under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

The revised Code of Conduct

The Code of Conduct was revised in 2007. It is now less restrictive than the 2001 Code for members who participate in campaigns or are members of lobby groups. Some members, who found they were prevented by the 2001 Code from voting on a matter important to them or their lobby group, will not have a prejudicial interest under the revised Code of Conduct.

Register of interests

Membership of lobby or campaign groups should be included on your register of interests, as these are bodies “whose principal purposes include the influence of public opinion or policy” under paragraph 8(1)(ii)(cc).

Even if your lobby group does not keep a formal membership list, the Code of Conduct still applies to you. If you are acting as a member of the group – perhaps attending meetings or participating in group activities – you should still register your membership of the group and declare interests, where appropriate.

Personal interests

The Code of Conduct requires you to declare a personal interest in any matter relating to an interest you must include in your register of interests. You are required to declare a personal interest if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority.

You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your decisions. You can continue to participate unless the interest is also prejudicial (see the section on prejudicial interests below).

You may not have a personal interest in a related discussion or decision of your authority if you merely campaigned on an issue as an individual and not as member of a relevant lobby group - for example, if you tackled an issue as part of your election campaign.

However, you should still consider the general test for personal and prejudicial interests and whether there is any other reason why you should not participate in the decision, including the possibility of bias.

You may want to discuss your circumstances with your monitoring officer. For information on bias and predetermination, see our occasional paper, which is available from our website - at www.standardsboard.gov.uk/Publications/OccasionalPaper

Prejudicial interests

Under the Code of Conduct, you only have to withdraw from a meeting where your personal interest is also prejudicial.

Exceptions

You cannot have a prejudicial interest in a matter if:

- a) The matter falls within one of the exempt categories of decisions under paragraph 10(2)(c), for example, any ceremonial honour given to members. A full list of exempt categories can be found in the Standards Board's Code of Conduct guidance, which is available on our website - www.standardsboard.gov.uk (and on the Royal Berkshire Fire Authority website at www.RBFRS.co.uk/
- b) The matter does not affect your financial interests or does not relate to a licensing or regulatory matter brought by you or a person or body in which you have a personal interest.

For example, you will not have a prejudicial interest in a developer's planning proposal which you and your lobby group have campaigned against, if you, any person, or any body you have a personal interest in is not financially affected by the proposal.

The planning proposal might indirectly affect your lobby or campaign group since it relates to things it campaigns for or has expressed public opinions about. However, in this context, it will not be relevant for the purposes of the Code.

Nevertheless, you may have a prejudicial interest where the matter is an application for a grant for funding for a body on your register of interests, or a planning or licensing application made by you, a person or a body on your register of interests.

If your personal interest in a matter falls outside the exempt categories mentioned in [a\) above](#), and does affect your financial or regulatory interests, you will then have to consider the following **general test for prejudicial interests**:

Would a member of the public, who knows the relevant facts, reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest?

If the answer is 'yes' then you would have a prejudicial interest.

Frequently asked questions

Q1 How has the Code of Conduct changed for members of lobby or campaign groups?

Under the original Code of Conduct 2001, members of lobby groups were required to consider whether the indirect impact of a decision on their group would give rise to a prejudicial interest under the general test ([see above](#)). As a result, members declared personal and prejudicial interests in matters which they or their group had campaigned on or had expressed public opinions about.

Under the revised Code, members will not be prevented under the Code of Conduct from voting on a matter if their only interest is that they hold views on the matter, for example based on their experiences or political outlook.

Q2 Do I have a personal and prejudicial interest if I am a member of a group that campaigned against a planning application submitted by a developer?

No. You will only have a personal interest which you should declare the existence and nature of at the meeting considering the application. This is so that members of the public are informed about interests that may relate to your decisions.

However, you should still consider the general test for personal and prejudicial interests and whether there is any other reason why you should not participate in the decision, including bias. You may want to discuss your circumstances with your monitoring officer.

Q3 What should I do if my membership of a pro-development campaign does not give rise to a prejudicial interest, but I have other interests that may be relevant?

You still need to consider whether you have any personal interests that may also be prejudicial interests. For example, a prejudicial interest is likely to exist where a particular development financially affects your sister, as her property is two doors away from the development site. Please see our specific factsheet entitled [Personal and Prejudicial Interests](#)

Bullying

Relevant Code paragraphs: 3(2)(b) and 3(2)(c)

Summary: This document provides key information and answers frequently asked questions about bullying under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- You must not bully anyone including other councillors, council officers or members of the public.
- Bullying can be described as offensive, intimidating, malicious, insulting or humiliating behaviour, towards someone weaker than you or someone you have, or believe to have, influence over.
- Bullying may happen once or be part of a pattern of behaviour.
- Bullying attempts to undermine an individual or group of individuals and it can have a damaging effect on a person's confidence, capability and health.
- You must not intimidate anyone who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a Code of Conduct investigation.
- Bullying can be contrasted with the legitimate challenges a member can make when questioning policy or scrutinising performance (as long as it is done appropriately and is not offensive or disrespectful).

Frequently asked questions

Q1 Why is bullying such a serious issue?

Bullying can have a significant effect on victims and the authority's ability to provide services by affecting the morale of staff and the authority as a whole. This is because bullying can create a working environment with an atmosphere of mistrust, insecurity and fear.

In some cases, bullied officers require long periods of leave because of ill health or stress which can damage the running of an authority. This is particularly the case in parish and town councils, where there may only be a small team of employees. Quite often, officers feel unable to return to their role or even to carry out work of a similar nature.

Q2 Is bullying only bullying when it is done face-to-face?

Bullying is any insulting or offensive behaviour towards an individual or group of individuals. This includes using physical force or making abusive personal remarks about or to the victim not only face-to-face, but by email, letter, through the press, at council meetings or by other means.

Q3 How can it be proved that bullying has occurred?

It is possible to investigate complaints of bullying if there is clear evidence that it may have occurred, for example if the complainant has kept a detailed record of the incidents and the context in which they took place.

Clear evidence is required so objective assessments can be made more easily as to whether these may be a breach of the Code of Conduct. This is because it is more difficult to judge bullying from general remarks, such as ‘the councillor is always undermining me through her comments’.

To test whether bullying is taking place, ask yourself whether a neutral third party with all the facts would regard the conduct as bullying. In some circumstances, the claims are cases of oversensitivity to criticism, or a breakdown in a relationship between officers and members without an indication of any bullying.

Q4 Is it possible to take part in a vigorous political debate without breaching the Code of Conduct?

Disrespectful, intimidating or demeaning behaviour which is not carried out from a position of power or authority may not be bullying. But it may still be a breach of the Code of Conduct, e.g. by failing to treat others with respect.

For example, if a member uses inappropriate language or is disrespectful to another member during a debate, it may not be classed as bullying because a platform is present for the other member to defend themselves.

On the other hand, a member making abusive and disrespectful comments about an officer during a debate may be seen as bullying because the officer is not able to defend themselves.

Disclosing confidential information

Relevant Code paragraphs: 4(a)

Summary: This fact sheet provides a summary of key points and frequently asked questions about disclosing confidential information under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- Confidential information can only be disclosed when at least **one** of the following circumstances applies:
 - 1) You have to disclose the information by law.
 - 2) An authorised person says that you can disclose it.
 - 3) You need professional advice from a third party, for example your lawyer, and that person agrees not to pass the information to anyone else.
 - 4) The disclosure is in the public interest. This is only justified in limited circumstances ([see below](#)).
- Disclosure of confidential information, or information which you believe to be confidential for any other reason, is likely to be a breach of the Code.
- Disclosure of confidential information in the public interest can only be justified when **all** of the following requirements are met:
 - (a) The disclosure must be reasonable.
 - (b) The disclosure must be in the public interest.
 - (c) The disclosure must be made in good faith.
 - (d) The disclosure must be made in compliance with any reasonable requirements of your authority.

Frequently asked questions

Q1 When is a public interest disclosure “reasonable”?

This depends on the facts of the case and is a matter of judgement. However, you will need to consider issues such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is true. If you do not believe it is true, then the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom you make the disclosure. It may be reasonable to disclose information to the police but not to the world at large through the media.
- The extent of information disclosed. The inclusion of unnecessary detail is unlikely to be reasonable.
- The seriousness of the matter. The more serious it is, the more likely it is that the disclosure will be reasonable.

- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, then the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence to another person.

Q2 When is a disclosure “in the public interest”?

For a disclosure to be in the public interest it needs to involve at least one of the following matters, or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- A criminal offence is committed.
- Your authority or some other person fails to comply with any legal obligation to which they are subject.
- A miscarriage of justice occurs.
- The health or safety of any individual is in danger.
- The environment is likely to be damaged.
- Information showing any of the above is deliberately concealed.

Q3 When is a public interest disclosure “made in good faith”?

To make a disclosure in good faith you must not act with an ulterior motive, for example to achieve political advantage.

Q4 How do I comply with the “reasonable requirements of my authority”?

Before considering releasing confidential information you must ensure that you comply with your authority’s policies or protocols on matters such as whistle-blowing or member-officer relationships and confidential information, in addition to considering requirements [\(a\)-\(c\)](#) in the key facts above.

If your authority does not make any requirements to cover the possibility of a member considering a release of information, then the test for disclosing confidential information is a three-stage one – namely it must satisfy the requirements [\(a\)-\(c\)](#) as above.

However, the Standards Board recommends that authorities ensure they have policies on matters such as whistle-blowing in place and that they take steps to ensure that all members are familiar with the provisions.

Appropriate and robust authority protocols can assist in ensuring the protection of confidential information where appropriate, and in promoting and upholding high ethical standards more generally.

Q5 When is a public interest disclosure not capable of being justified?

When a disclosure amounts to a criminal offence or when information is protected by legal professional privilege, it is extremely unlikely its release could be justified in the public interest.

Gifts and hospitality

Relevant Code paragraphs: 8 and 13

Summary: This document provides key information and answers frequently asked questions about registering gifts and hospitality under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- You must register any gifts or hospitality worth £25 or over that you receive in connection with your official duties as a member. You must also register the source (for example, the person, firm, body or company) of the gift or hospitality.
- You must register the gift or hospitality and its source within 28 days of receiving it.
- You automatically have a personal interest in a matter if it relates to or is likely to affect the source of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the source who gave it to you, how the business under consideration relates to that source, and then decide whether that interest is also a prejudicial interest.
- Once three years have passed since you registered the gift or hospitality, your obligation to disclose that interest to any relevant meeting ceases.

Frequently asked questions

Q1 Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, “would I have been given this if I was not on the council”? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to your monitoring officer (or your parish or town clerk where appropriate). What matters is to show who you have received a gift or hospitality from, and to make that known when business related to them is discussed at a council meeting at which you are present.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept.

However, you should always register a gift or hospitality if it could be seen as something given to you because of your position or if your authority requires you to do so. It may also be good practice to register declined gifts.

Q2 What if I do not know the value of a gift or hospitality?

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You should also register an accumulation of small gifts you receive from the same source over a short period that add up to £25 or more.

Q3 What about official gifts or hospitality given to the civic mayor or chair of a council?

There are no special rules for those who serve as mayor or chair of an authority. Gifts that are clearly made to the authority do not need to be registered. Gifts made directly to a mayor or chair's charity appeal also do not need to be registered.

On the other hand such gifts ought to be recorded for audit, and perhaps insurance purposes on the council's asset inventory. Although the mayor or chair may attend many social functions they are not exempt from the requirement to register hospitality.

However, where the hospitality is extended to the office holder for the time being rather than the individual, the Standards Board takes the view that there is no requirement under the Code to register the hospitality.

All hospitality over £25 must be registered under the Code.

Q4 What does "hospitality" mean?

Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

Q5 Does the revised Code require me to register the interests of people that give me gifts or hospitality?

No. The Standards Board believes the revised Code requires you to register any gifts or hospitality worth £25 or over that you received in connection with your official duties, and the source of the gift or hospitality.

Q6 Do I have to transfer my gifts and hospitality register from before 2007 onto the new, publicly available, general register of interests?

If you were a member prior to the revised Code being introduced in 2007, you are likely to have a register of gifts and hospitality which was separate to the publicly available registers of members' interests under the 2001 Code.

You do not need to copy or transfer your register of gifts and hospitality onto your general register of interests under the revised Code. This is because we believe the new Code cannot be applied retrospectively.

As a result, gifts and hospitality received prior to the revised Code coming into effect in your authority (on 1 October 2007 or on the date your authority adopts it - whichever is earlier), will also not give rise to a personal interest under the revised Code.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk and from the Royal Berkshire Fire Authority website at www.RBFRS.co.uk
- These factsheets and frequently asked questions are available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online at www.standardsboard.gov.uk/Publications/OccasionalPaper.
- Call our enquiries line on **0845 078 8181**
- Email us at enquiries@standardsboard.gov.uk

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