

introduction

Authorities are now responsible for receiving and referring complaints about the conduct of elected members.

This means that all complaints about members, whether from the public, council officers, other members or members of different authorities, will be made directly to your authority instead of the Standards Board for England.

Your authority is now responsible for deciding whether allegations should be acted upon. It will usually carry out any action, including investigations, under the supervision of your monitoring officer.

Following an investigation, your authority's standards committee will determine whether the councillor has breached the Code of Conduct. The standards committee can take a number of different forms of action. These include imposing some form of sanction on the member or referring the case to the Adjudication Panel for England.

Investigations and complaints about members' conduct can, not surprisingly, attract considerable press interest. Until now, the Standards Board has been dealing with complaints and investigations, and so its press office has been handling most of the media interest in them. This has changed now the new legislation has come into force.

Your authority's press office will need to manage the local media response to Code of Conduct investigations and hearings. The Standards Board's press office has put together this toolkit to help you prepare.

We also hope you can use this toolkit as a practical resource when answering media enquiries about Code of Conduct complaints, investigations and hearings.

You can also contact us for information or guidance. You can find our contact details on [page 3](#) of this pack.

about this toolkit

This toolkit is a resource to help authorities' press offices effectively handle media enquiries about complaints and investigations relating to authority members.

It is written specifically to help press officers and others within authorities – the people most likely to be responsible for answering media enquiries concerning matters in their authority.

The toolkit is based on the Standards Board's press policy, developed over five years of handling media enquiries about ethical standards in local government, the Code of Conduct, complaints made to us and investigations.

It provides a step-by-step guide to handling media interest at different stages of complaints and investigations. There are also template press releases and answers to questions the press ask most frequently. These should help you generate positive media coverage and ensure you are fully briefed on your authority's new role.

For more information on the Standards Board's role and to order further copies of this toolkit call the Standards Board's press office on **0161 817 5400** or visit www.standardsboard.gov.uk.

Note: This toolkit is not formal guidance and it is not intended to replace the need to take appropriate advice from your monitoring officer.

contact us

The Standards Board for England's press office would welcome your feedback and would like to hear of any best practice that could be shared among other authorities.

We are also happy to answer any questions you might have about the new system, the way we manage media interest in referrals and investigations, and press and PR generally around the issue of ethical standards and members' conduct.

Press Office

0161 817 5400

press.enquiries@standardsboard.gov.uk

If you need further copies of this toolkit, please call **0161 817 5300** or email [**publications@standardsboard.gov.uk**](mailto:publications@standardsboard.gov.uk)

contents

checklist	2
what to say and when	3
On receipt of a complaint	3
What to confirm	3
During an investigation	4
When an investigation has finished	4
During the hearing	5
After the hearing	5
other forms of action	6
media faqs	7
General	7
Complaints and investigations	8
The Code of Conduct	14
The Adjudication Panel for England	17
Appeal proceedings	17
The role of monitoring officers and standards committees	18
Alternative action	19

checklist

Things to do to prepare for stories about the local assessment of complaints

- 1) Speak to your monitoring officer and standards committee chair about the changes. Ask them to brief you on exactly what they mean for your authority and what internal procedures are in place for managing complaints.
- 2) Visit the Standards Board for England's website at www.standardsboard.gov.uk for an overview of the changes and information about the Code of Conduct and ethical standards issues.
- 3) Make sure your monitoring officer and standards committee are aware of likely press interest in individual complaints and hearings. Establish that you, not they, should be the first point of contact for all media interest.
- 4) Develop a robust, consistent press policy that sets out what sort of information you will or will not give to the media in relation to Code of Conduct cases. Ask your monitoring officer and/or standards committee chair to agree your press policy, so they are clear about what you will and will not confirm to the local press on receiving complaints and during investigations.
- 5) Decide how proactive and reactive media work around ethical standards will fit into your overall media strategy and consider developing key messages accordingly.
- 6) Have a copy of your press policy readily available in writing in case a journalist, a complainant or the subject of a complaint asks you to justify or clarify your media response.
- 7) Consider ways in which you will make the outcomes of cases available to the public. In most circumstances, authorities have a statutory obligation to publicise the outcomes of hearings via a public notice in the local press, but you may wish to consider more media-friendly ways of summarising the contents of hearing reports.

what to say and when

This is a guide to handling media interest at different stages of complaints and investigations. These are, of course, only guidelines, based on the Standards Board for England's own press policies.

We have found that our approach has worked well for us, but you may wish to adapt it in line with your own media strategies and your authority's own procedures for handling allegations.

On receiving a complaint

The Standards Board does not confirm to the press if it has received a complaint until the subject of that complaint has been notified.

Ideally, members should not learn for the first time that they have been the subject of a complaint by reading the news in the local paper. However, complainants do of course, sometimes choose to discuss their complaint with the media.

The point at which you can confirm the receipt of a complaint to the press will therefore depend on when your authority notifies the member that it has received allegations about their conduct.

We suggest that after your authority has notified those concerned in writing, you wait for two or three working days before confirming anything to the media to allow all parties to receive their letters. Make it

clear to the media that this is part of your press policy.

What to confirm

The Standards Board confirmed the following information at the referral stage:

- The name of the subject member.
- The date we received the complaint and the date we decided whether or not to refer it for investigation.
- The type of person who complained (in other words whether they are a member of the public, a fellow council member, and so on) but not their name.
- The potential breach of which parts of the Code gave rise to the complaint being referred for investigation*.

*We use this wording because we run into problems if we say that the 'complainant alleged that the member breached the following parts of the Code'. This is because the complainant does not always specify which parts of the Code he or she believes the member to have breached, or can have a different view to the monitoring officer on the matter. We have found that this wording is the best option from a legal point of view.

We do not go into the specifics of the allegations while a case is ongoing.

what to say and when

During an investigation

If an investigation is being conducted by a local authority we refer callers to the authority concerned.

During an investigation carried out by an ethical standards officer employed by the Standards Board for England, we do not give any more details of the allegations. We do not give an estimated end date for the investigation or tell the media when a draft report has been issued for comment. It tends not to be helpful for the media to be on the look-out for 'stray' drafts of reports before they have been finalised.

We do:

- confirm that the investigation is ongoing
- give **generic** information about investigations generally and what they can entail
- explain what the possible outcomes of investigations can be, in general terms

However, we do not tell the media **anything specific** about the investigation in question.

It helps to stress that investigations can vary considerably in timescale, according to the complexity of the case, the availability of members for interview, and other factors.

As your authority handles more and more investigations, you may be able to give helpful statistics such as '**90% of investigations are complete within six months**'.

When an investigation has finished

Once the investigatory stage of the case is over, the investigator will produce a 'final report' outlining their conclusions. There will then be a gap between the final report and the subsequent standards committee hearing.

Final reports arising from internal investigations, particularly if their contents are to be considered and voted on by your standards committee, may or may not be confidential. You will need to check with your monitoring officer and standards committee and consider carefully the privacy of any other individuals named in the report but not directly involved – such as members' business associates, friends or relatives.

In cases where a standards committee has referred the matter to the Standards Board, the committee will consider a final report produced by an ethical standards officer rather than one arising from an internal investigation. In cases like this, the confidentiality issues may be different.

what to say and when

Even where reports are confidential, it is possible that either the complainant or the subject of the complaint will leak the final report to the local press.

The final report contains the facts the standards committee will consider when they determine the case, such as when they decide whether the member has breached the Code of Conduct and if any sanction is necessary.

Only the standards committee can make that decision and they may not agree with the investigator's comments. If the media have got access to the final report, it is important to make this clear to them.

During the hearing

Some parts of standards committee hearings are likely to be accessible to the public and the press, unless the details of the case are particularly sensitive. However, certain information may be confidential, and the committee may consider its conclusions in private.

Where hearings or parts of hearings are held in public, you may need to explain to your standards committee that they will need to give a justifiable reason to prevent the press from attending. If the press have asked to attend, you may need to reassure the standards committee that you will make sure that the journalist:

- knows the relevant facts
- understands the procedures
- has what they need to write an accurate story.

If the hearing is of particular interest, it would be worth you being there to manage any press and provide the media with background material.

After the hearing

Your authority has a statutory duty to publicise the outcome of a case. Usually, it will do this through a public notice in the local paper. The only exception is when a member who has been found not to have breached the Code asks for a notice not to be published.

However, you may also wish to provide some form of case summary for the press. The Standards Board produces a short case summary – no more than about 500 words – for each case it investigates. You can find examples in the case information section of our website, www.standardsboard.gov.uk.

You may also wish to consider issuing a press release to announce the result of a case, particularly if it has had a high local profile. This will, of course, depend on your overall media strategy and the local interest or sensitivities that surround the investigation or the individuals involved. A template for a suggested post-hearing press release is included in this toolkit.

other forms of action

When a standards committee assesses a complaint, it can decide that a form of action other than investigation is appropriate. It will then refer the matter to the authority's monitoring officer to undertake this action.

There are many circumstances in which this might happen. They may include cases where there are wider issues that would not be usefully resolved by taking action against an individual. For example, these could be cases in which:

- a large number of members are alleged to have failed to comply with the same area of the Code
- council officers have given members inaccurate advice
- financial or administrative procedures in general appear to have been inadequate
- a council has failed to adopt the Code
- relationships have broken down with the council to a significant degree, resulting in patterns of allegations of disrespect, bullying or harassment, factionalised groups among members, tit-for-tat allegations and employment issues such as tribunals or grievance procedures

Alternatives to investigation could include arranging training for members, reviewing the council's procedures or arranging for mediation between individuals, members or groups.

Your authority can choose whether it wants to make decisions about alternative action public. If the authority in question is not your principal authority, such as a parish council, that authority should be involved in – or at the very least aware of – that decision.

If you do make a public statement, it should be clear that alternative action does not mean that the standards committee has made any finding of fact regarding the member's conduct. Alternative action does not indicate that a member has or hasn't breached the Code.

Although you do not have to make a public statement when your standards committee decides to recommend alternative action, your authority will have to publicise the outcome of the alternative action if it is deemed to have failed.

media faqs

These frequently asked questions (FAQs) are to help you answer easily the sorts of questions the media regularly ask us. They are based on the answers we tend to give at the Standards Board for England, but have been adapted to take into account differences in the national and local systems.

The answers are suggested guidelines only and have been written on the assumption that you will want to use your own words and include your own key messages.

Answers will depend on the individual practices or policies of your authority.

General

Q1: What has changed?

The responsibility of handling and investigating complaints about members' conduct has moved to a local level. The new legislation (the Local Government and Public Involvement in Health Act – passed in Parliament on 30 October 2007) means the Standards Board for England no longer receives complaints.

Now that the new legislation has come into force on 8 May 2008, complaints go directly to local authorities, who are responsible for assessing them and deciding whether to take action.

The Standards Board will only carry out the relatively few investigations which are inappropriate for local authorities to manage.

The key changes to the framework are:

- Standards committees are responsible for receiving allegations and deciding whether any action needs to be taken.
- Standards committees must be chaired by an independent member.
- Standards committees will report periodically to the Standards Board.
- Standards committees are allowed to enter into joint working arrangements with other standards committees.
- The Standards Board is responsible for monitoring and ensuring the effectiveness of local arrangements, including supporting authorities which are experiencing difficulties.

media faqs

Complaints and investigations

Q2: Has a complaint been made against, or is there an investigation into, Councillor John Smith?

Confirm the following:

- The date the allegation was received and, and if applicable, the date when the decision to refer/not refer for investigation or other action was made.
- The type of person making the allegation – for example a member of the public, council employee, member of the same authority.
- The potential breach of which parts of the Code of Conduct gave rise to the referral or non-referral.
- The reason for non-referral, if applicable.
- If the investigation will be dealt with locally or by an ethical standards officer of the Standards Board (if known at this stage).
- If action other than investigation will take place, and if so, what.

When outlining parts of the Code involved, use the following wording:

The potential breach of paragraph 5(a) of the Code of Conduct gave rise to the complaint being referred for investigation or other action being taken. Paragraph 5(a) states that...

or

The potential breach of paragraph 5(a) was considered before it was decided that no action was necessary...

Remember that you need to check that all parties have been informed before confirming anything to the press. This is to ensure, where possible, that the relevant parties find out about the developments in the case from your authority and not from the media.

If there are no complaints, or a complaint has been made but you cannot confirm the information yet, state that:

“There are **no ongoing investigations** into Councillor Smith, and **no allegations that we have received and decided whether or not to act upon.**”

media faqs

Q3: How many complaints have been made about Councillor John Smith?

You can confirm the number of complaints made against specific councillors. The information you can confirm is the same as outlined in the press policy.

If a journalist gives you more names than it is reasonable for you to check in the time you have, then you may want to ask the journalist to make a Freedom of Information request. This will normally be made to your authority's legal services department.

Be aware that you may not have a record of complaints made to the Standards Board prior to the new legislation coming into force. If this is the case, suggest to the journalist that they contact the Standards Board for England's press office as well as talking to you.

Q4: Has Betty Jones made a complaint against any members?

It is not usual practice to confirm the names of complainants.

Q5: Why don't you confirm the name of complainants?

Disclosing the names of people who make complaints might deter complainants from bringing legitimate

concerns to our attention. In addition, by revealing the name of complainants we run the risk of compromising our duty to protect whistleblowers.

You can also mention that this view was supported by the Office of the Deputy Prime Minister Select Committee's report on the Standards Board's role and effectiveness when the Standards Board was handling complaints.

Q6: Has a complaint been made against your planning officer/housing officer/chief executive/other paid employee?

The Code of Conduct applies to elected, co-opted and independent members. It does not apply to council officers. There are plans for a national code of conduct for officers to be introduced and Communities and Local Government has consulted on this.

Complaints about the way councils deliver services or make decisions can be dealt with by the Local Government Ombudsman. Complaints against individual officers should be handled internally through the council's own complaints process.

media faqs

Q7: Who can make a complaint?

Anyone can make a complaint. Complaints must be made in writing and must be about individual named members.

Q8: Who assesses complaints?

The standards committee assesses complaints and decides if action needs to be taken.

The committee can decide either to investigate or recommend an alternative form of action to investigation, such as training or mediation.

Q9: Can you refer some parts of the complaint for investigation, and not others?

Yes, allegations can be partially referred for investigation.

Q10: Why are some complaints not passed for investigation?

Your authority will use a set of criteria to decide which complaints are referred for investigation. You may wish to outline these to the press. Otherwise, a suggested response, assuming it is in line with your standards committee's policy, follows.

We consider **all** allegations that we receive; however our priority is to focus on those allegations that have the potential to damage the public's confidence in local democracy. Some allegations, even if proved to be true, would still not amount to a breach of the Code of Conduct, so of course there would be no point in us referring them for investigation. Others might be so minor that we could not justify spending taxpayers' money on investigating them.

In some cases the standards committee may choose another form of action as an alternative to an investigation, particularly where there are wider issues involved which may not be usefully resolved by taking action against an individual member.

Q11: Do you receive a lot of politically motivated complaints?

We discourage councillors from making tit-for-tat allegations and we vigorously weed out malicious or vexatious complaints.

You may wish to point out that the majority of complaints are made by the public, not members, but obviously you would need to check your own authority's figures first to make sure that this national trend holds true in your area.

media faqs

Q12: Why do you confirm the details of the person under investigation, but not the name of the person who made the complaint?

In the interests of openness and transparency, it is necessary to confirm certain facts about a case once it is clear that the press know about the matter. (Also see response on naming complainants.)

Q13: Doesn't this policy encourage troublemakers to make multiple complaints?

Refer to politically motivated complaints answer (**Q11**).

We will not tolerate abuse of the system for personal or political gain.

You should check if your authority's standards committee has adopted specific criteria in its assessment process to highlight such complaints so they can be dealt with appropriately.

Check that your authority has a policy in place to handle those people making unreasonable persistent complaints.

Q14: How long do investigations take?

The time taken to complete a case will vary depending on its complexity.

Check with your authority to see if it has an average completion time or a target to complete a certain percentage of investigations within a certain time.

Q15: Who carries out investigations?

Monitoring officers are usually responsible for conducting investigations but they can delegate the investigation to another officer or outsource it to an external investigator or firm.

In some cases, where it is inappropriate for the monitoring officer to oversee the investigation, it may be referred to the Standards Board for England for investigation by an ethical standards officer. In cases like this, the press should contact the Standards Board on **0161 817 5400**.

After an investigation, the monitoring officer will set out their findings on the case in a final report. The report will contain information like evidence, findings of fact, and reasons for their decision on whether there has been a breach of the Code of Conduct or not.

media faqs

However, it is important to understand that this is simply their considered opinion after a thorough investigation. Only an authority's standards committee, or a hearing of the Adjudication Panel for England to which the case is referred, can reach a legal determination as to whether there has been a breach of the Code and impose a sanction if appropriate.

Q16: When do investigations get passed to the Standards Board instead?

If an ethical standards officer of the Standards Board, rather than an authority, carries out an investigation, it may be because:

- a local investigation could reasonably be perceived as biased or unfair
- there are relevant local political issues that might have a bearing on a local investigation
- there is a conflict of interest (the complaint was made by, for example, the monitoring officer or chief executive)
- the monitoring officer is being obstructed in their investigation and cannot complete it

If this is the case, the press should contact the Standards Board on **0161 817 5400**.

Q17: What happens during an investigation?

The investigator will establish the facts of the case. How they do this will depend on the nature of the complaint. However, it is likely to include gathering relevant documents and interviewing those involved, including the subject of the complaint, the complainant and any witnesses.

Q18: How much do investigations cost the taxpayer?

The costs of investigations can vary depending on their complexity.

It is suggested that you obtain an average figure from your authority if possible.

For specific investigations, calculating the exact cost can be very labour-intensive and you may wish to suggest that the journalist submits a Freedom of Information request instead.

Q19: What are the possible outcomes following an investigation?

Once a monitoring officer or investigator has completed the investigation, they can make one of two findings:

media faqs

- a) that the member has failed to comply with the Code (finding of failure)
- b) that the member has not failed to comply with the Code (finding of no failure)

The standards committee then considers the report. It decides either to accept a finding of no failure, or to determine the matter at a hearing. If the standards committee determines that the member has breached the Code of Conduct, it may decide to impose some form of sanction.

Q20: Can you confirm whether a draft report has been issued?

We suggest that you do not comment on whether a draft report has been issued. This is because it does not necessarily indicate that an investigation is drawing to a close (for example there could be numerous comments from relevant parties about parts of the report) and the contents of the draft report are likely to change before the final report is issued.

It is best just to reiterate the process – that a draft report is issued, any comments or queries about the report's contents from relevant parties are considered and then a final report is produced – and offer to contact the journalist once you are able to tell them the outcome of the case.

Q21: Can I get a copy of the final report?

This will depend on whether your authority's final reports are confidential or considered to be in the public domain.

Q22: Do you publish the outcomes of all investigations?

Authorities have a statutory duty to publish the outcomes of standards committee hearings in which the committee finds a member to have breached the Code. This is done in the form of a public notice.

When a member is found not to have breached the Code, they can ask the authority not to publish a public notice of this outcome, if they wish.

[You can also inform the journalist of any other procedures you have put in place for publicising the outcomes of cases.](#)

The outcomes of all cases that the Standards Board investigates are published on its website for a limited time in summary form, except where there may be exceptional circumstances and a case summary would be inappropriate, for example in the event of the death of the person being investigated.

media faqs

The Code of Conduct

Q23: What is the Code of Conduct?

The Code of Conduct sets out the rules governing members' ethical behaviour. All elected and co-opted members sign up to the Code of Conduct when they take office. The Code was approved by Parliament. It was reviewed after five years, following extensive consultation with local government. The revised version was introduced in May 2007. You can find it online at www.standardsboard.gov.uk.

Q24: What's in it?

The Code of Conduct covers areas relating to individual behaviour. Examples include treating others with respect, declaring interests and members not abusing their position.

Q25: Who does it cover?

The Code of Conduct applies to all elected, co-opted and independent members of local authorities.

Q26: When was it introduced?

The Code of Conduct was introduced as a part of the Local Government Act 2000 and the model Code of Conduct was approved by Parliament in November 2001. Local authorities had until May

2002 to adopt the Code. After this date the model Code of Conduct automatically applied. The government carried out a consultation on the Code in early 2007 and a revised Code was introduced in May 2007.

Q27: Why was it introduced?

The introduction of the Code of Conduct followed an inquiry by the Nolan Committee on Standards in Public Life. The committee recommended a change in the ethical framework and proposed that each individual council, within a framework approved by Parliament, should develop a clear code of conduct for councillors.

Q28: What was in place prior to the Code of Conduct?

Prior to the Code of Conduct, all councillors were required to sign the National Code of Local Government Conduct, proposed in the 1970s by the Redcliffe-Maude Committee on Local Government Rules of Conduct, and revised in the 1990s following the Widdecombe report. The National Code was reviewed to establish whether there was a satisfactory framework of accountability for councillors and if the regimes in place were consistent with the best practice at the time.

media faqs

Q29: Does the Code of Conduct cover members' allowances?

The Code does not explicitly address members' allowances, but it does prohibit members from misusing authority resources for political purposes. It is the responsibility of individual members to manage their allowance.

Q30: Can a person with a criminal conviction stand for office?

Section 80 of the Local Government Act 1972 sets out the type of people who Parliament has determined are disqualified from standing for office or holding office as a member of a local authority. Section 80 says that, amongst others, the following types of people are disqualified:

"Those who, within the last five years, have been convicted in the United Kingdom, Channel Islands or Isle of Man of any offence and have received an imprisonment sentence of more than 3 months (without the option of a fine)."

If a serving member is convicted and sentenced to imprisonment for three or more months, they are automatically disqualified from office for five years.

Q31: Do all councils have the same Code of Conduct?

All local authorities were required to adopt the model Code of Conduct. However, they can choose to add their own rules in addition to the provisions in the model Code.

For town and parish councils and other authorities such as fire, police and park authorities, some parts of the Code are optional.

Q32: If a councillor becomes bankrupt can they still serve as a councillor under the Code of Conduct?

This does not fall within the remit of the Code.

For information, however, under Section 80(1)(b) of the Local Government Act 1972, a person shall be disqualified from being elected or being a member of a local authority "if he/she has been adjudged bankrupt".

Q33: Does the Code cover predetermination?

No, not as such. The issue of predetermination is a matter of English common law. The Standards Board for England has published an occasional paper to help clarify the issues of predetermination and bias, as they have

media faqs

proved to be difficult and controversial issues for many members and monitoring officers. The paper is based on advice from leading treasury counsel Philip Sales QC and is available from the Publications section of the Standards Board's website, www.standardsboard.gov.uk

Q34: Under the Code of Conduct, do members have to declare their membership of the Freemasons?

Some Masonic organisations are registered charities with the Charity Commission, and membership of these organisations must be declared. However, the Code requires members to declare membership of any body "directed to charitable purposes" and was clearly intended also to cover organisations not falling within the legal definition of a charity. Although ultimately, a member must judge the matter for themselves, the Standards Board for England believes that many Masonic organisations fall within the scope of this part of the Code and therefore should be declared.

Guidance on personal and prejudicial interests can be found at www.standardsboard.gov.uk

Q35: Do elected members breach the Code of Conduct if they don't live in the area they represent?

To be eligible for election, a councillor must have been living, and registered as an elector, within the authority's boundary, for one year, up to and including election day.

Once a councillor is elected, the requirement to live in the local area no longer applies, and as long as they continue to turn up to meetings, they can continue to be a councillor.

If the member moves home and sells the property in the local area they have 28 days to inform their monitoring officer of a change of details on their register of interests – failure to do this is potentially a breach of the Code.

media faqs

The Adjudication Panel for England

Q36: What is the Adjudication Panel?

The Adjudication Panel for England is an independent judicial tribunal that was established by Part III of the Local Government Act 2000 to hear and adjudicate on matters concerning the conduct of authority members. You can find out more from their website: www.adjudicationpanel.co.uk

Q37: Is it part of the Standards Board?

No, the Adjudication Panel is independent from the Standards Board. If you have any further questions about the Adjudication Panel and its members, you will need to contact the Adjudication Panel itself on **01423 538 783**.

Q38: How can I find out about a hearing of the Adjudication Panel?

The Adjudication Panel publishes its decisions on its website at www.adjudicationpanel.co.uk

Contact the Adjudication Panel for more information on **01423 538 783**.

Q39: Can I attend an Adjudication Panel hearing?

Hearings are usually open to the press and public. Contact the Adjudication Panel for more information on **01423 538 783**.

Q40: Can you provide me with some background information to clarify the process on matters which are referred to the Adjudication Panel?

On completion of an investigation, one outcome is that the matter could be referred to the independent Adjudication Panel for England.

The maximum sanction the Adjudication Panel can impose is disqualification for five years from being or becoming a member. They can also impose lesser sanctions – for example, disqualified for three months, one or two years and so on – or they can suspend the member for up to one year.

Appeal proceedings

Q41: How does a member appeal against a decision by a standards committee or the Adjudication Panel for England?

If a standards committee determined the case, then the member may appeal

media faqs

against the finding to the Adjudication Panel. Only the member who is the subject of the complaint can appeal, not the complainant.

If the Adjudication Panel determined the case, then the subject member has a right to appeal to the High Court. A notice of appeal to the High Court should be lodged with the Administrative Division and made within 28 days of the decision.

The role of monitoring officers and standards committees

Q42: What are monitoring officers?

Monitoring officers are local authority employees, often employed in the legal and democratic services sector. They do not report to the Standards Board, but the Standards Board works closely with them on issues relating to the Code of Conduct. Local authorities are required by law to employ a monitoring officer.

Q43: When was the role established?

The Conservative government introduced monitoring officers as part of the Local Government and Housing Act 1989.

Q44: What are standards committees?

Standards committees have a variety of functions, but their primary role is to oversee, support and promote high ethical standards within the local authority.

More specifically, their remit includes:

- assessing complaints
- advising the council on the Code of Conduct
- monitoring the effectiveness of the Code
- training members on the Code, or arranging for such training
- promoting and maintaining high standards of conduct for members
- helping members to follow the Code of Conduct
- making determinations on allegations of breaches of the Code of Conduct.

Q45: What is the size and make-up of a standards committee?

There must be at least three people on the standards committee. At least two of the committee members must be councillors and at least one must not be

media faqs

an elected member of the same local authority. Standards committees must be chaired by an independent member.

If there are more than three people on the standards committee, at least 25% of the members must be independent. For example, if the standard committee has five members, at least two must be independent representatives.

If the council is responsible for any parish or town councils, at least two representatives from those parish or town councils must be on the standards committee.

Q46: How do you appoint independent standards committee members?

The local authority must advertise for the position of independent member of the standards committee in one or more local newspapers. Any independent appointments must be approved by the majority of members of the authority.

Q47: What powers do standards committees have?

Following a local investigation or an investigation by an ethical standards officer, standards committees can, if they determine that a breach of the Code of Conduct has occurred: suspend a member for up to six months; impose training; censure the member; request an

apology from the member; or impose a combination of these sanctions.

Q48: How does a standards committee hearing announce its decision?

They will announce their decision at the hearing and afterwards will arrange to publish a notice of decision in a local newspaper. If the committee decides there is no evidence of a breach of the Code, the member being investigated may ask the committee not to publish the notice.

However, there is nothing to stop any third party from publishing details of the case which emerge during the public hearing, even if the authority withholds its notice.

Alternative action

Q49: What does it mean when you say you're taking alternative action?

Sometimes a standards committee may consider that an investigation is not the most effective way of dealing with a complaint. The committee may make this decision when it first receives the complaint, or when information revealed during an investigation suggests that it would not be useful or appropriate for it to continue.

media faqs

Opting for action other than an investigation can be a positive, proactive way of dealing with less serious matters. It can also be used to address issues which are part of a wider problem that could not be reasonably resolved by investigating an individual member or members. For example, if it becomes clear that many members are routinely failing to comply with a certain part of the Code, a standards committee may require that all members receive Code of Conduct training to clarify their obligations. Or, if allegations stem from a wider breakdown in relationships within the council, alternative action might take the form of mediation between parties to help improve the situation.

It's important to remember that when a standards committee recommends another form of action as an alternative to investigation, it has not made any finding on whether the member has breached the Code of Conduct or not.

Q50: What sort of alternative action can you take?

Alternative action can take many forms but examples might be training, mediation or a review of procedures.

Q51: Who enforces it?

The standards committee decides if alternative action is appropriate and what

it should be. The authority's monitoring officer arranges for it to be carried out, and it is usually done according to an action plan with regular updates to the standards committee.

Q52: How do we find out about the outcome?

It is up to your authority to decide what information about alternative action you want to make public. In cases where the Standards Board directs a monitoring officer to take alternative action instead of continuing an investigation, we do not make any proactive announcements or publish a case summary, but in the interests of openness and transparency we will explain the direction to the media if asked and outline what we have asked the monitoring officer to do and why.

Q53: Does this mean that the member has/hasn't breached the Code?

When the standards committee recommends alternative action to an investigation, it makes no finding on whether a member has breached the Code. Only a full investigation and hearing can determine whether a breach has occurred, and this is an alternative to that.

media faqs

Q54: Why can't you investigate and then ask for these actions to be carried out afterwards?

The issues are wider than could reasonably be resolved by investigating the conduct of an individual or individuals, and we would rather deal with the situation promptly in a practical and useful way rather than spend time and public money on an investigation.

Q55: What will happen to the councillor if the alternative action doesn't work? Will you launch an investigation then?

Once the standards committee has decided to take alternative action in relation to an allegation, it cannot then decide to investigate the matter. Alternative action is undertaken instead of, not as well as, an investigation. If alternative action fails, the standards committee has to publicise the fact.

Q56: What if members refuse to cooperate?

First of all we would try to find out why. Sometimes a refusal to cooperate is based on a misunderstanding. For example, in cases where mediation is recommended, a member might not want to be in the same room as someone who they have alleged to have bullied them, so we would explain that the mediator

can act as a go-between and have separate discussions with both parties.

In some cases we might call a meeting to discuss members' concerns.

Q57: Who carries out mediation?

This will vary, so check with your monitoring officer.

contents

local assessment announcement press release	2
hearing outcome press release	3
standards committee press release	4
suggested quotes for press releases	5

templates

In this section you'll find template press releases with suggested quotes to send to local media to help you promote your authority.

Word documents of each template are available on the CD-Rom provided with this toolkit. You can download each press release template from the CD-Rom to edit and save.

The templates are suggested as a guide only – you may want to incorporate your own key messages and put them in your own corporate style.

Each template provides copy for the press releases, and the text within the brackets shows where you can insert details specific to your authority.

The templates refer to 'councils' but can be adapted for other types of authority.

You can also find lots of examples of press releases we have issued to the media on our website –

www.standardsboard.gov.uk

templates



PRESS RELEASE

New role for Anyshire County Council

Members of the public concerned about councillors' conduct can now make complaints directly to [insert authority name] Council.

Previously, anyone wishing to complain about the conduct of elected members had to report their allegations to the Standards Board for England, who would decide whether or not to investigate. This responsibility has now been taken over by authorities, with the Standards Board's role moving towards one of advice and support.

All councillors have to keep to a Code of Conduct to ensure that they maintain the high ethical standards the public expect from them. If a complainant reveals that a potential breach of this Code has taken place, [insert authority name] Council may refer the allegations for investigation.

Investigations themselves will also be managed by [insert authority name] Council, except in cases where a conflict of interest or other unusual circumstances mean that it would be more appropriate for the Standards Board to handle.

Once cases have been investigated, the authority's independently-chaired standards committee will decide what action, if any, should be taken against the member. On rare occasions this responsibility will be given to the Adjudication Panel for England, an independent judicial tribunal.

The Standards Board will continue to provide guidance to authority standards committees and will monitor their effectiveness to ensure that results are consistent.

"Handling and investigating complaints at a local level will give [insert authority name] Council the opportunity to take control of its ethical standards and should streamline the process for both the complainant and the member under investigation," said [name]. "Naturally, we expect high standards of behaviour among our elected members, and we shall continue to make every effort to ensure that such standards are maintained. The majority of members will never find themselves subject to an investigation, but for the small number of cases where there is cause for concern, we will aim to deal with the allegations quickly and efficiently."

[Insert brief details on how to make a complaint]

templates



PRESS RELEASE

Three-month suspension for Anyshire councillor

A [insert name of authority] councillor was suspended for [insert number] weeks/months/years* today after a standards committee/Adjudication Panel for England* hearing found that s/he had breached the members' Code of Conduct.

A council investigation revealed that [insert brief details of Code breaches].

[Use next paragraphs to outline brief details of case and if necessary, why the conduct revealed by the investigation was in breach of the Code]

As well as being given a [insert time period here] suspension/disqualification*, Councillor [name] was also ordered to [insert any other sanctions here, for example training or an apology].

[insert name and job title here] said: [insert quote here].

*delete as appropriate

templates



PRESS RELEASE

Council seeks new committee member to uphold standards

[insert authority name] Council is looking for new independent members for its standards committee.

Standards committees are responsible for assessing complaints about councillors and deciding how to proceed.

Following investigations into councillors' conduct, standards committees hold hearings at which they decide whether or not the councillor has breached [insert authority name] Council's Code of Conduct and what further action is necessary.

They also advise the council on ethical standards, monitor the effectiveness of the Code of Conduct, and oversee, promote and support high standards of behaviour among elected members.

Anyone can apply to be part of the standards committee, and appointments must then be approved by the majority of local authority members.

The standards committee is currently made up of XX independent members and XX councillors. Following changes in legislation, which have given standards committees additional powers, the committee chair must be independent. In addition, 25 per cent of committee members must be independent.

"Being part of a standards committee is an interesting and challenging role which provides a chance to have a real say in the ethical governance of your authority," said [insert name]. "We are encouraging members of the public from all walks of life to apply."

"New legislation now means that [insert authority name] Council has taken responsibility for receiving, assessing, investigating and determining allegations about councillors' conduct, and the standards committee will be a major part of that process. They will be deciding whether members have breached the Code of Conduct and will be able to impose sanctions such as a suspension or additional training."

[insert details on how to apply or find out more]

templates

Suggested quotes for press releases

“ It is important to [insert name of authority] that its members maintain the high ethical standards that the public expects. By suspending Councillor [insert name here] for [insert time period here] we hope to show both members and the electorate that we take such matters seriously. ”

“ By [insert breach here] Councillor [insert name here] failed to act with the honesty and integrity that the public have every right to expect from their local representatives. This was a breach of the trust the electorate had placed in him, and the [insert time period here] sanction reflects the seriousness of his conduct. ”

“ It is thankfully rare that [insert name of authority]’s standards committee has to take action against a councillor, but when a councillor’s conduct does fall short of our expectations we take the matter seriously. Nothing less than [insert sanction] would have been appropriate in this case. ”

contents

- factsheet 1: bullying**
- factsheet 2: disclosing confidential information**
- factsheet 3: the ethical framework for local government**
- factsheet 4: gifts and hospitality**
- factsheet 5: lobby groups and declarations of interest under the code of conduct**
- factsheet 6: 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.

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.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at enquiries@standardsboard.gov.uk.

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.

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.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
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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:

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

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.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
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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.
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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 – www.standardsboard.gov.uk

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
- 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*.

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.
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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:

- a) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2)(c), for example, setting the council tax.
- b) 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.
- c) 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.

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.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at enquiries@standardsboard.gov.uk.