

CORPORATE AND CUSTOMER SERVICES

Director: Mrs. J.E. Jones

TO: ALL MEMBERS OF THE COUNCIL

Your Ref:

Our Ref: AMcL/CD

Please ask for: Mrs. S. Cole

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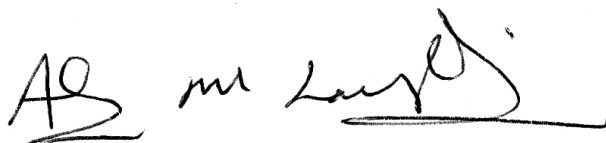
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Dear Councillor,

YOU ARE HEREBY SUMMONED to attend the meeting of the County of Herefordshire District Council to be held on **Friday, 27th July, 2007** at The Council Chamber, Brockington, 35 Hafod Road, Hereford. at 10.30 a.m. at which the business set out in the attached agenda is proposed to be transacted.

Yours sincerely



A. McLAUGHLIN
HEAD OF LEGAL AND DEMOCRATIC SERVICES



A G E N D A

COUNCIL

Date: **Friday, 27th July, 2007**

Time: **10.30 a.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford.**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Sally Cole, Committee Manager

**Tel: 01432 260249, e-mail:
scole@herefordshire.gov.uk**

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the COUNCIL

To: All Members of the Council

	Pages
1. PRAYERS	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on this Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 25th May 2007.	1 - 4
5. CHAIRMAN'S ANNOUNCEMENTS To receive the Chairman's announcements and petitions from members of the public.	
6. QUESTIONS FROM MEMBERS OF THE PUBLIC To receive questions from members of the public.	5 - 12
7. QUESTIONS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS To receive any written questions.	
8. NOTICES OF MOTION UNDER STANDING ORDERS Councillor Mrs. M.D. Lloyd-Hayes has submitted the following notice of motion: This Council resolves to ensure that no irreversible action be taken that would prejudice the potential for appropriate access to this major archaeological site. <i>That this Council suspend the building of the Rotherwas Relief Road in the area of the archaeological find and land adjacent to it, in order to undertake an independent, external and exhaustive enquiry and report back to Council.</i> <i>The findings to be made available to all members to consider and vote on at the 9th November meeting of Council. The report be made available to members and the public at least 21 days prior to the same council meeting.</i>	

- The Chairman will rule on whether the matter is urgent.
- 9. CABINET** 13 - 20

To receive the report and to consider any recommendations to Council arising from the meetings held on 7th June, 21st June, and 12th July, 2007.
 - 10. STRATEGIC MONITORING COMMITTEE** 21 - 26

To receive the report and to consider any recommendations to Council arising from the meetings held on 13th June and 16th July, 2007.
 - 11. REGULATORY COMMITTEE** 27 - 28

To receive the report and to consider any recommendations to Council arising from the meetings held on 13th June, 3rd July, and 11th July, 2007.
 - 12. CASINO PREMISES LICENCES IN ACCORDANCE WITH SECTION 166 OF THE GAMBLING ACT 2006** 29 - 30

To consider whether to resolve not to issue casino premises licences in accordance with section 166 of the Gambling Act 2006.
 - 13. AUDIT AND CORPORATE GOVERNANCE COMMITTEE** 31 - 36

To receive the report and to consider any recommendations to Council arising from the meeting held on 29th June, 2007.
 - 14. STANDARDS COMMITTEE** 37 - 38

To receive the report and to consider any recommendations to Council arising from the meetings held on 11th May, and 6th July, 2007.
 - 15. REVISED CODE OF CONDUCT** 39 - 104

To consider the report of the Standards Committee regarding the adoption of the revised code of conduct required under the Local Authorities (Model Code of Conduct) Order 2007.
 - 16. PLANNING COMMITTEE** 105 - 108

To receive the report and to consider any recommendations to Council arising from the meeting held on 13th July, 2007.
 - 17. WEST MERCIA POLICE AUTHORITY** 109 - 114

To receive the report of the meeting of the West Mercia Police Authority held on 12th June 2007. Councillor B. Hunt has been nominated for the purpose of answering questions on the discharge of the functions of the Police Authority.
 - 18. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY** 115 - 118

To receive the report of the meeting of the Hereford & Worcester Fire and Rescue Authority held on 11th June, 2007.

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

FIRE AND EMERGENCY EVACUATION PROCEDURE

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MINUTES of the meeting of COUNCIL held at The Assembly Hall, Shirehall, Hereford. on Friday, 25th May, 2007 at 11.30 a.m.**Present:**

Councillors: PA Andrews, LO Barnett, CM Bartrum, DJ Benjamin, AJM Blackshaw, WLS Bowen, H Bramer, RBA Burke, ACR Chappell, ME Cooper, PGH Cutter, SPA Daniels, H Davies, GFM Dawe, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, P Jones CBE, MD Lloyd-Hayes, G Lucas, RI Matthews, TMR McLean, R Mills, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, A Seldon, RH Smith, RV Stockton, K Swinburne, AP Taylor, DC Taylor, WJ Walling, PJ Watts, DB Wilcox, JB Williams and JD Woodward

The outgoing Chairman, J.W. Edwards took the Chair for the first item.

1. CHAIRMAN

RESOLVED: That Councillor J Stone be elected Chairman of the Council until the annual meeting of Council in May 2008.

Councillor Stone made and signed a declaration of acceptance of office and took the chair for the remainder of the meeting.

2. PRAYERS

The Very Reverend Peter Haynes led the Council in prayer.

3. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Atfield, RC Hunt, Toon and Vaughan.

4. DECLARATIONS OF INTEREST

Councillor GFM Dawe declared a personal interest in Item 14 of the agenda - Statement of Principles in accordance with Section 349 - Gambling Act 2005.

The Chairman announced that, following the election on 3rd May, 2007, all members of the Council had completed and signed notifications of financial and other interests. He reminded councillors of their obligation, under Standing Order 2.8A.3 to notify the Head of Legal and Democratic Services of any changes in the information within one month of any change occurring.

5. VICE-CHAIRMAN

RESOLVED: That Councillor JB Williams be appointed to the office of Vice-Chairman of the Council until the annual meeting of Council in May 2008.

Councillor Williams made and signed a declaration of acceptance of office.

6. MINUTES

RESOLVED: That the minutes of the meeting held on 27 April 2007 be approved as a correct record and signed by the Chairman.

7. PERSONS ELECTED AS COUNCILLORS

The Council received a report from the Chief Executive as Returning Officer as to the persons elected on 3 May 2007 to serve as councillors. He reported that all councillors so elected had made their declarations of acceptance of office.

RESOLVED: That the information be noted.

8. POLITICAL COMPOSITION OF THE COUNCIL AND FORMATION OF POLITICAL GROUPS

The Chief Executive presented a report setting out the notifications which he had received at the time of the despatch of the agenda under regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 giving the composition of the political groups. He confirmed the political composition of the Council as 32 Conservatives, 14 Independents, 10 Liberal Democrats and 2 Labour.

RESOLVED: That the information be noted.

9. APPOINTMENT OF THE LEADER OF THE COUNCIL

RESOLVED: That Councillor RJ Phillips be appointed the Leader of the Council for the ensuing council year.

Councillor Phillips advised that Councillor JP French would be Deputy Leader of the Council and confirmed the names of his other cabinet members, with portfolio titles, which had been circulated at the beginning of the meeting. He confirmed that any changes to the titles and remit of scrutiny committees would have to follow the formal procedure laid down in the constitution.

10. APPOINTMENT TO OFFICES RESERVED TO COUNCIL, ALLOCATION OF SEATS TO POLITICAL GROUPS AND APPOINTMENTS TO COMMITTEES AND OTHER BODIES (Pages 1 - 4)

The Chief Executive presented a report on appointments to offices reserved to Council.

A list of those offices to which the Council has powers to appoint, together with nominations was circulated at the beginning of the meeting. Also circulated was a list of outside bodies to which appointments needed to be made immediately. The lists are attached at appendices 1 and 2 of these minutes for ease of reference.

He advised that allocation of seats to political groups would be proportionate, and that, where one political group held the majority of seats on the Council, it was entitled to the majority of seats on each of its committees. In order to continue the

existing arrangement of allowing the Chairmen and Vice-Chairmen of the other Scrutiny Committees to sit on the Strategic Monitoring Committee it would be necessary to suspend proportionality. This would allow the membership of the Strategic Monitoring Committee to be made by Council on a basis which departed from political proportionality. He advised that any vote on suspension of proportionality would need to be "nem con", that is, no councillor should vote against it.

RESOLVED: (nem con)

THAT (a) the recommendation to partially suspend the rules of proportionality be approved;

(b) Councillors be appointed to the offices contained in Appendix 1 for a term of office which will expire at the next Annual Meeting of Council;

(c) the Chief Executive be requested to exercise his delegated powers to make, following consultation with the political group leaders, any adjustment to the number and allocation of seats to give effect to the rules on proportionality and to make appointments, as necessary, in accordance with the nominations of the political group leaders;

and

(d) the arrangements for appointments to outside bodies be noted and appointments made to the Adoption Panel (1 Member), Herefordshire Housing (4 Members), Herefordshire Community Leisure Trust (2 Members), the Hereford and Worcester Fire and Rescue Authority (6 Members), the West Mercia Police Authority (2 Members) and the Joint Committee (1 Member) as listed in Appendix 2.

11. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Councillors and guests to the Annual Meeting of Council and looked forward to seeing them in the Town Hall after the meeting.

He announced that the restoration of Victoria Bridge, Hereford had won two awards. It was named the best civil engineering project in the West Midlands for 2007 and was also the Heritage Award winner. The project team also won a further award for the best presentation and display at the ceremony.

There were no petitions.

12. NOTICES OF MOTION UNDER STANDING ORDERS

There were no Notices of Motion.

13. DELEGATION OF LICENSING AUTHORITY FUNCTIONS IN ACCORDANCE WITH SECTION 154 - GAMBLING ACT 2005

The Leader called for a suspension of Standing Order 4.31 to allow an amendment to the Constitution.

Council considered a delegation in accordance with Section 154 of the Gambling Act

2005 (setting of fees) to the Regulatory Committee.

RESOLVED:

- That (a) **Standing Order 4.31 be suspended; and**
- (b) **the function in respect of the setting of fees be delegated to the Regulatory Committee and the Constitution be amended accordingly.**

14. STATEMENT OF PRINCIPLES IN ACCORDANCE WITH SECTION 349 - GAMBLING ACT 2005

Council received a report seeking approval of a Statement of Principles in accordance with Section 349 of the Gambling Act 2005. The Statement of Principles had previously been approved by the Regulatory Committee on 28th November, 2006 but a subsequent change in legislation now required it to be approved by Council.

A proposal to amend the statement of principles was not seconded.

RESOLVED: That the Statement of Principles be approved.

15. DATES OF FUTURE MEETINGS

It was noted that the dates determined for Council meetings in the year 2007/08 are:

Friday 27 July 2007

Friday 9 November 2007

Friday 8 February 2008

Friday 7 March 2008 (To set the budget and council tax)(Shirehall)

Friday 16 May 2008 (Annual Council) (Shirehall)

All meetings will commence at 10.30 am and will be held in the Council Chamber, Brockington, 35 Hafod Road, Hereford unless advised otherwise.

The meeting ended at 12.20 p.m.

CHAIRMAN

QUESTIONS FROM MEMBERS OF THE PUBLIC**Report By: Head of Legal and Democratic Services****Wards Affected****Purpose**

1. To receive any questions from members of the public deposited more than six clear working days before the meeting of Council.

Background

2. Standing Order 4.24 of the Constitution states that: A member of the public may ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties or which affects the County as long as a copy of that question is deposited more than six clear working days before the meeting i.e. by close of business on a Wednesday in the week preceding a Friday meeting. No supplementary questions may be asked.
3. A total of 25 minutes shall be set aside for the answering of questions from members of the public save that the Chairman, or Vice-Chairman, if presiding, shall have absolute discretion to vary the period of time by making it shorter or longer as he/she considers appropriate. Any questions unanswered at the expiry of the time limit shall be dealt with by way of written reply to the questioner.
4. Any question which contains defamatory material or the publication of which is likely to be detrimental to the Council's interests, may be rejected.

Questions

5. A number of questions have been received by the deadline and are attached at Appendix 1.

Questions from Mr. M Wilson, Hereford

- 1 Why does the local Standards Committee not follow the Standards Board for England's procedures when carrying out a local investigation? Viz issuing the investigating officers report in draft so that misunderstandings, misinterpretations, errors of fact and bias can be corrected before the report is presented to the Committee.
- 2 Having had errors reported to them, why does the Committee use a report containing all the above errors as the basis for their findings?
- 3 What appeal procedures are available to challenge the procedures of the Monitoring Officer and the local Standards Committee in carrying out local investigations into alleged breaches of the Code of Conduct, when the Director and Chief Executive decline to use the Council's complaints procedure and the Standards Board for England have washed their hands of the matter in passing it to the Monitoring Officer?

Question from Mr. P Cocks, Hereford

- 4 Observation of the traffic flow at the junction of Ross Road and Holme Lacy Road indicate that the percentage of heavy goods vehicles against light vans and cars turning into Holme Lacy Road is very small. What is the evidence that the council carried out a detailed traffic survey to justify the Rotherwas Relief Road. Sites for a survey need to have been at the junction of the A49 and Holme Lacy Road, also at the entrances to the Rotherwas Industrial Estate, in the following categories?
- 1) Pedal Cycles
 - 2) Two wheeled motorised vehicles
 - 3) Cars and Taxi's
 - 4) Buses and Coaches
 - 5) Light goods Vehicles
 - 6) HGV Rigid 2 Axles
 - 7) HGV Rigid 3 Axles
 - 8) HGV Rigid 4 Axles
 - 9) HGV Articulated 3 Axles
 - 10) HGV Articulated 4 Axles
 - 11) HGV Articulated 5 or more Axles

The above formula is from the Ministry of Transport. It is used by many councils, from 07:00 hrs to 19:00 hrs. If Herefordshire Council has not carried out such a categorized traffic Census then what detailed data can you produce to justify the Rotherwas Road?

A weight restriction is proposed for Holme Lacy Road. At what weight will the restriction be set? Will this limit include vehicles carrying waste and domestic rubbish to Rotherwas? How stringent will the enforcement of the weight restriction be and what is the calculated cost of this enforcement?

Earlier proposals for Holme Lacy Road included a restriction of traffic at the Railway Bridge on Holme Lacy Road to force the majority of vehicles to use the new Rotherwas road. Is this proposal still under consideration?

It would be appreciated if an answer to these questions be given as an item and not as on the 9th February 2007 included in an all encompassing statement, which was designed to confuse.

Questions from Mr. R Hattersley, Hereford

- 5 What is the extent of the research the Council have undertaken into the potential for tourism for the Ribbon? What plans do the Council have for investigating this before covering the find up? Have the Council undertaken any research into the concept of a Heritage Park on Dinedor Hill and surrounding area? Do they intend to do so?

- 6 How important do the Council believe to be the views of local tourism business, and how do the Council intend to consult with them on the potentially positive impact the ribbon could have on their business? How important do the Council believe the views of the Herefordshire public to be on what should be done with the Ribbon? When and how do the Council plan to take these views into account?

- 7 In a recent letter to businesses in Rotherwas, the Council's Director of Environment stated "The Ribbon has not even a fraction of the intrinsic interest enjoyed by Stonehenge..." On what evidence was this statement based?

Questions from Mr. J Hines, Hereford

- 8 What date was the Ribbon actually discovered, when was its significance realised, and when was English Heritage informed?
- 9 Had the solution to cover the Ribbon with the road been formally approved by English Heritage when the Council made this proposal public and what alternative options had been investigated other than the proposal to cover the Ribbon with the road? Has any analysis been done of the potential effect of ground vibration and compaction caused by the road on the Rotherwas Ribbon?
- 10 Has the Council asked English Heritage to Schedule the Ribbon? Given that Scheduling would bring the Council financial compensation would that not be a benefit?
- 11 Why did the Council press releases imply that a 60m long object had been discovered, when in fact it is a 60m length of something much bigger that has been found so far? If as seems likely the Ribbon is much longer than 60m, is the Council concerned that if the road proceeds the Ribbon can never be viewed in its potential and dramatic entirety? What plans have been made for further investigations?

Questions from Ms. F Norman

- 12 How much does Herefordshire earn from tourism and how much from heavy industry? Which of these two sectors do the Council believe should have priority in future policy, especially if there is a conflict between the two?

- 13 Why is the Council continuing to encourage businesses into Rotherwas if access is so poor, when Leominster Enterprise Park, built at great expense about three years ago, also with AWM money, is huge and virtually empty? It has excellent access to both the A49 and, potentially, to the railway line, as does Moreton Camp, which also has plenty of space.

Questions from Mr. R Clay

- 14 Why did the Council not tell English Heritage that the Rotherwas relief road was already highly controversial before the archaeological find ? Which Councillors, whether in the Cabinet or not, knew about the Dinedor archaeological Find before it was announced on the BBC Radio 4 Today Programme ? Please name the distinguished Archaeologists who have been invited to inspect the Dinedor Find and indicate which ones have now made a visit and which ones still intend to do so ?

REPORT OF THE MEETINGS OF CABINET

HELD ON 7TH AND 21ST JUNE AND 12TH JULY, 2007

Cabinet Members: R.J. Phillips (Leader of the Council),
J.P. French (Deputy Leader),
Mrs. L.O. Barnett, P.J. Edwards, D.B. Wilcox, A.J.M. Blackshaw, H.
Bramer, J.G. Jarvis, J.A. Hyde

This report submitted to Council covers proceedings of the meetings listed above.

1. DECISIONS RESERVED TO COUNCIL UNDER PART 4 OF THE CONSTITUTION

- 1.1 Youth Justice Plan 2007/8 - Cabinet has received a report detailing the Youth Justice Plan, which is prepared annually on behalf of Herefordshire Council and Worcestershire County Council. Cabinet has endorsed the Youth Justice Plan, as prepared, and supported the recommendation that the Plan be approved by Council at its meeting on 27th July 2007. Cabinet noted that performance against targets in Herefordshire and Worcestershire exceeded that of other areas within West Mercia. Cabinet noted that Worcestershire YISP crime prevention programme included children as young as eight, and accepted that members' support would be necessary for similar action in Herefordshire.

Cabinet recommends to Council that:

the Youth Justice Plan 2007/8 be approved

2. NOTICES OF MOTION

- 2.1 No motions to Council were considered by Cabinet during the reporting period.

3. KEY DECISIONS BY INDIVIDUAL EXECUTIVE MEMBERS WHICH WERE NOT INCLUDED IN THE FORWARD PLAN

- 3.1 There were no such decisions made during the reporting period.

4. CORPORATE STRATEGY AND FINANCE (Chairman of Cabinet – Councillor R.J. Phillips)

4.1 Report on Decisions Taken

- (i) **Herefordshire Connects** – Cabinet has received a report which provides an update on the progress made in the contract negotiation and the due diligence period following identification in April of Deloitte as the preferred supplier for the Herefordshire Connects Programme. Cabinet were informed of the next phase of the programme, Phase 3 Programme Definition and that fundamental to this was the benefits review, which examines the business case and the benefits that will be derived. Cabinet were advised of the visits made to other authorities to assess the technology, with an emphasis on the Social Care and Performance Management. Particular concentration had been made on visits to Surrey with expert advice, as a similar transformation was being carried out using Deloitte as the preferred supplier. Cabinet noted

the managerial and governance arrangements proposed and that it would need to be implemented as quickly as possible. The integrated support services would take further the consolidation of central support services. Cabinet was reminded that the Member group would continue to meet and were looking to include a wider membership of the group to ensure programme delivery. Cabinet noted the progress that has been made in negotiating the contract and that detailed negotiations would continue with the Cabinet Members: Resources, Corporate and Customer Services and Human Resources and the Leader of the Council who would jointly authorise the completion of the master agreement subject to the satisfactory conclusion of contract negotiations and Cabinet receiving a further progress report in July.

- (ii) **Treasury Management activities** - Cabinet has received a report detailing the Council's Treasury Management activities for the period 1st April 2006 to 31st March 2007. Cabinet has noted that the cost of borrowing during the period was in line with the budget and that investment income was above the budget. Cabinet has also noted that, while the return on internally managed investments exceeded the index benchmark, the net return on funds managed externally by Investec Asset Management Ltd was below the index benchmark, and that the Council had decided to withdraw these funds and manage them internally. Cabinet noted the information relating to the Council's long-term borrowing transactions. The aim was to maintain a nil cleared balance in, as far as possible, low interest bearing accounts. The average daily bank balance, at £9,252 in credit, was very close to target.
- (iii) **Herefordshire Jarvis Services** – Cabinet has received a confidential report on the Herefordshire Jarvis Services contract and will give further consideration to the matter in the Autumn.

5. CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES (Cabinet Member – Councillor J.P. French)

5.1 Report on Decisions Taken

- (i) **Integrated Performance Report** – Cabinet has received a report on the Integrated Performance Report, which covers performance for the whole of the operating year 2006-07 against the Annual Operating Plan 2006-07. Additionally the report covers the full set of Best Value Performance Indicators (BVPIs) and the progress made against the Council's Overall Improvement Programme. Cabinet were advised that the in built targets for 2009 were for a significant improvement across all areas of the council and the work carried out of the next two years would be crucial for the 2009 Comprehensive Performance Assessment. Cabinet were informed that 32% of targets were not achieved, which was a significant improvement on last years which was 58%. The Best Value Performance Indicators were better with an improving picture over the last 12 months. Cabinet examined the performance figures for Highways and Transportation and noted there had only been a slight increase in the figures, which related to street lighting and was being addressed. In addition it was noted that just one accident could have a significant impact on the indicator figures for the killed and injured. Cabinet acknowledged there were some indicators that there was less control over as the performance indicators for these could be due to the work of partner organisations. Cabinet noted the 2006-07 performance and approved for publication the 2006-07 performance indicators.

- (ii) **Integrated Performance Report** - Cabinet has received a report detailing the Council's final 2006/7 end of year performance and proposing new arrangements for future performance reporting. Cabinet welcomed the improvements in performance on the previous year: of 123 strategic indicators monitored, 26% failed to achieve targets, compared with 54% the previous year, and best value performance indicators showed 68% improved and 29% deteriorated, compared with 40% improved and 35% deteriorated the previous year. Cabinet endorsed the proposal that it receives, as part of future Integrated Performance Reports, an analysis of performance against those indicators from the Annual Operating Plan (AOP), which it directly leads on. This would enable the Council to focus effectively on its own performance within the larger set of indicators in the latest AOP 2007/8.
- (iii) **Corporate ICT Strategy** – Cabinet received a further report on the Corporate ICT Strategy taking into account the impact of the Herefordshire Connects Programme, the Public Service Trust Initiative and the Members ICT Scrutiny Review. In addition the strategy has been updated in line with the Medium Term Financial Management Strategy (MTFMS). Cabinet agreed the financial impact of the strategy would be partly funded by the corporate funding for ICT, with additional funding being subject to the business case and the usual budgetary process. Cabinet thanked officers for the work carried out so far in delivering the programme. Cabinet approved the Corporate ICT Strategy as it supports the Council's corporate objectives and the service objectives of directorates.
- (iv) **Pay and Workforce Development Strategy** - Cabinet has approved the Pay and Workforce Development Strategy for 2007/10 in order to progress the human resources issues and actions outlined in the Strategy. It has noted a number of successes in 2006/07 including: achievement of sickness absence targets; stable turnover of staff at not more than 9% a year; modernisation of recruitment administration and agency working provision with significant cashable savings in local recruitment media advertising; establishment of a Skills for Work Centre; support post-job evaluation, leading to a 70% reduction in number of those in receipt of job evaluation protection; and a commitment to achieve Investors in people standard. It has also noted a number of areas where the Council has underperformed in 2006/07 including, numbers of disabled employees, employees from black/minority ethnic groups; female wage earners in the top 5%; black/minority ethnic groups in the top 5% wage earners.
- The Strategy identified six themes: effective leadership; learning and skills development; organisations development; pay, reward and recognition; resources; and employee well-being; and sets out a series of associated actions in the context of the Human Resources three-year Service Plan.
- (v) **Community Forums** – Cabinet has received a report detailing proceeding at the pilot Community Forum/Partners and Communities Together (PACT), Forums in November 2006, February 2007 and May/June 2007. Cabinet has noted the report and proposed that the future of the forums should be referred to group leaders and the Herefordshire Partnership and that a further report on the outcome of discussions be submitted to Cabinet as soon as possible.

**6. SOCIAL CARE ADULTS AND HEALTH
(Cabinet Member – Councillor L.O. Barnett)**

6.1 Report on Decisions Taken

- (i) **Fairer Charging** – Cabinet received a report recommending a number of changes to be made under the Fairer Charging regulations governing non-residential services in Adult Social Care. Cabinet was reminded that OLM Consultants were commissioned in September 2006 to carry out a review of fairer charging to support the delivery of the overall improvement proposal following the CSCI Inspection, which was part funded by the Department of Health. The objective was to develop and draft a new charging policy in respect to charging for non-residential services that provides equity in charging while maximising the income available. The review benchmarked Herefordshire's income and charging position in relation to other authorities and to develop a draft charging structure that more accurately reflected the costs of providing those services. Cabinet approved the revised and updated fairer charging policy, with changes made to the maximum weekly charge so the current absolute ceiling charge was replaced by one defined as the full cost of service. That tariff income is included in the financial assessment from savings and capital. One hundred percent of occupational/private pensions are included in the financial assessment. A flat rate for meals and transport continues to be charged with direct payment charges to be set using the same principles as day care and homecare. Services for carers to remain free of charges. Cabinet approved an eight week consultation period which would take place with all stakeholders, including service users. Cabinet revised the recommendation for charging so that the day care charges are to be set at £7.30 per hour rather than £14.00 and that a review of day care service provision takes place recognising the changing preventative agenda and other local authority good practice.
- (ii) **Commission for Social Care Inspection Report on Services for People with Learning Disabilities and the Council's Action Plan** – Cabinet has received a report advising on the Commission for Social Care Inspection report on services in Herefordshire for people with learning disabilities. Cabinet has welcomed the report as an important contribution to the improvement of services for people with learning disabilities in the County, has accepted the inspectors' judgement and their 27 recommendations and has approved an action plan to address them.
- (iii) **Extra Care Housing, Rose Gardens, Ledbury Road** – Cabinet considered an exempt report on Extra Care Housing at Rose Gardens, Ledbury Road, Hereford, and approved the approach to funding additional capital costs identified in developing the scheme.

7. ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES (Cabinet Member – A. Blackshaw)

7.1 Report on Decisions Taken

- (i) **Response to the Review of the Support for Museums and Heritage Centres** - Cabinet has received a report from the Museum Review Group which was presented to the Community Services Scrutiny Committee in December 2006. Although Cabinet has rejected a number of proposals in the report, it has supported the following recommendations:
 - (a) All Museums in the County be encouraged to complete the Museum

Associations Accreditation process;

- (b) the Museum Development Officer MDO project should continue through the support of the Hub and the MLA;
 - (c) independent museums in the County be reminded that they can apply for Community Grant Funding;
 - (d) the possibility of a partnership insurance scheme for the Herefordshire Museums Forum members should be explored. This could be pursued by the Museum Development Officer on the Forum's behalf;
 - (e) a small hiring collection be established to loan objects along the lines of the Reading Corporate Loans scheme. (The recommendation to be pursued with an outline scheme presented to the Cabinet Member);
 - (f) a formula be developed to measure Heritage's impact on both tourism and to demonstrate its social and economic impact; and
 - (g) prevention measures be undertaken to protect Kington Museum from being struck by lorries reversing to a nearby store.
- (ii) **Sale of Council Assets within the Edgar Street Grid Urban Village** – Cabinet has agreed in principal to the marketing of the Council's assets within the Edgar Street Grid Urban Village and for further work to be undertaken on detailed aspects of the development following which it will receive a further report.

8. RESOURCES (Cabinet Member – H. Bramer)

8.1 Report on Decisions Taken

- (i) **Final Revenue and Capital Outturn 2006/07** – Cabinet received a report on the final outturn position for 2006/07, the Corporate Management Board's recommendations for the carry forward of unspent budget into 2007/08 and the creation of new reserves and provisions in the 2006/07 accounts. Cabinet were advised that the full Statement of Accounts for 2006/07 would be presented to the Audit and Corporate Governance Committee on 29th June in order to meet the statutory deadline. Cabinet were advised of the service budget underspends. Cabinet noted the overspend in the Adult and Community Services Directorate, was due to budgetary pressures, and is to be brought back into line using contingency funding. The forecast outturn at month 12 is for an overspend of £698k, which reflects the reassessment of commitments against the Community Services budgets. The overspend areas were Learning Disability, Mental Health and Physical Disability. Children and Young People's Services forecast outturn at month 12 was for an overspend of £122k excluding schools budgets. This represented an improvement in financial performance of some £261k excluding schools budgets. Safeguarding and assessment budgets had an overspend of £554k. This included a £528k overspend on external agency placement budgets where the number of placements doubled in 2006/07. Increased fostering placements led to a £255k overspend and social work budgets overspent by £144k. There was an underspend of £373k on assessment and family

support, which eased the budgetary position. Additionally there were significant underspends on school transport due to route reviews and falling rolls at schools. Corporate and Customer Services directorate overspent on the budget by £191k, which was better than expected as the forecast outturn at month 12 was for an overspend of £568k, representing a financial performance of £377k. The Environment directorate under spent compared to budget by £274k. The under spend has been recommended to be used to increase the level of waste management reserve rather than carried forward for other areas of corporate support. Resources directorate under spent compared to budget by £589k, the forecast outturn at month 12 was for an under spend of £150k. This is due to the improved performance in benefits processing times resulting in a reduction in penalties. The Corporate budgets showed an under spend at outturn. Cabinet was advised there was £8.7m in general reserves, which was a better than expected position. Cabinet approved the final outturn for 2006/07 and Corporate Management Board's recommendations for carry forward of unspent budget into 2007/08.

- (ii) **New Procurement Strategy** - Cabinet has received a report on the proposed new Procurement Strategy and has supported the proposal that the Strategy be adopted as a framework document pending further comparative work with other similar local authorities. Cabinet noted the creation of a new post of Strategic Procurement and Efficiency Manager, whose responsibilities would include implementing and monitoring the effectiveness of the Strategy, monitoring compliance and updating as appropriate. Cabinet noted that a consistent approach to procurement would enable the Council to maximise savings and efficiency opportunities, leading to better outcomes and a reduction in current risk.

9. CHILDREN'S SERVICES (Cabinet Member – J.A. Hyde)

9.1 Report on Decisions Taken

- (i) **Children and Young People's Plan Annual Review 2007 and Annual Performance Assessment** – Cabinet received an urgent report on the Children and Young People's Plan (C&YPP) Annual Review 2007 and Annual Performance Assessment submission. The Annual Review of the C&YPP is a statutory requirement. The revised Annual Performance Assessment and inspection arrangements from 2007 require submission of the C&YPP Review document, which includes the Delivery (Action) Plan for 2007/08 and the Council's self-evaluation of its contribution to maintaining and improving the five Every Child Matters outcomes for children and young people. The review document included the consultation with the shadow Children and Young People's Partnership Board. Cabinet recognised that overall good progress had been made against the priorities set out in the Children and Young People's Plan with a strong capacity to improve with ongoing support from the Government office. Cabinet noted the range of improvements in place and the work to be carried out to move towards a Children's Trust. Cabinet approved, subject to any minor amendments by the Director, the Children and Young People's Plan Review 2007 and the Annual Performance Assessment Self Assessment document.
- (ii) **Progress on Improvement – Children and Young People's Services** - On 12th April, 2007, Cabinet was advised of the continuing engagement with the

Government Office for the West Midlands (GOWM) in the drive for improvement in Children and Young People's Services in Herefordshire. Cabinet has now received a report advising of the success criteria agreed with the GOWM which will judge if sufficient improvement has been made in the service, with a view to ceasing that engagement in the autumn. The Cabinet has noted that staffing is the most significant risk to achieving the criteria, but that the performance unit will have a permanent lead officer, and staff resources to support the school review will be strengthened in this period.

- (iii) **Review of School Provision** - Cabinet has received a report advising on the position on the review of school provision being undertaken in the County. Cabinet has supported the proposals from the Governors of Wigmore Primary School and Wigmore High School to form a federated school from September 2007 and has asked that a further report on the project be submitted to Cabinet after that date.

10. ENVIRONMENT AND STRATEGIC HOUSING (Cabinet Member – J.G. Jarvis)

10.1 Report on Decisions Taken

- (i) **Local Development Framework Core Strategy** - Cabinet has received a report on the LSF Task Group meeting on 25 June 2007 and endorsed the suggested approach to the Core Strategy Issues public consultation to be undertaken in September and October. The proposed approach was that consultation would include the issue of leaflets and questionnaires, a “visioning” event; media releases; mail-outs to stakeholders; interest group meetings and local exhibitions. It was also proposed that Cabinet Members covering specific portfolio areas be given delegated authority to approve the issues and scope of the questionnaire to be published. Cabinet heard that a timetable was being set to include consulting with all members and this would be reported to Cabinet on 19th July.

11. HIGHWAYS AND TRANSPORTATION (Cabinet Member – D.B. Wilcox)

- (i) **Concessionary Fares Scheme for older people and those with a disability** – Cabinet has received a report advising the revisions necessary to the Council's Concessionary Travel Scheme to take account of the new statutory requirements from 1st April 2008. Cabinet endorsed the recommendations that:
 - a. The area of the Scheme be amended so that the statutory minimum scheme allows travel throughout England and the enhanced scheme allows travel on all journeys starting or ending in Herefordshire on through buses into Wales, and journeys between Presteigne and Knighton, which start and end in Wales
 - b. Where appropriate, reciprocal arrangements be entered into with neighbouring English authorities to preserve existing benefits;
 - c. The eligibility criteria under the enhanced scheme be amended to allow disabled persons unable to travel independently to be accompanied by a companion;
 - d. Arrangements be put in place to issue new passes in the form of smartcards.

Cabinet welcomed the proposals and noted that disabled people requiring assistance from a companion could transfer the companion card between carers. A progress report would come before Cabinet at a later date.

**COUNCILLOR R.J. PHILLIPS
LEADER OF THE COUNCIL**

COUNCIL

27TH JULY, 2007

REPORT OF THE STRATEGIC MONITORING COMMITTEE

Meetings Held on 13th June and 16th July, 2007

Membership:

Councillors: PJ Edwards (Chairman), PA Andrews, WU Attfield, WLS Bowen, SPA Daniels, KG Grumbley, T.M. James, RI Matthews, SJ Robertson, RH Smith and K Swinburne.

INTEGRATED PERFORMANCE REPORT

1. The Committee has considered a report on performance for the whole of the operating year 2006-07 against the Annual Operating Plan 2006-07 together with corporate risks and a report on progress in the first two months of 2007/08 and arrangements for future performance reporting.
2. The Committee identified a number of areas of concern in relation to the outturn on performance indicators for 2006/07. These areas will be considered for inclusion in the work programme. In particular it has requested further detail on the overall approach to delivering targets in the Local Public Service Agreement and the Local Area Agreement.
3. The revised arrangements for future performance reporting are designed to enable the Council to focus more effectively on its own performance and to draw a distinction in reporting between those indicators where the Council leads and those where partners in the Herefordshire Partnership lead. In relation to the partnership indicators the revised system assigns clear responsibility for performance management to each of the partner organisations including the Council. The Committee has noted its continued role in receiving performance reports under the new system and will use these to hold the executive to account, as part of its performance monitoring activity and to inform the work programme.
4. The Committee has requested that the corporate risk register should be revised so that where there is action to be taken it is clearly shown who is responsible for taking that action and to what timescale.

FINAL REVENUE AND CAPITAL BUDGET OUTTURN 2006/07

5. The Committee has noted the final outturn for 2006/07 the carry forward of unspent budgets into 2007/08 and the movements to reserves as approved by Cabinet.
6. It has highlighted a number of issues for further consideration including the significant level of balances held by schools; transitional issues about the ICT budgets which are to be addressed; ongoing issues about pressures on the Adult Social Care budget including the need to determine arrangements for pooled budgets with the Primary Care Trust under section 31 arrangements; and has suggested that it appears there may be systemic problems in managing capital projects which need to be examined as part of the scrutiny work programme.

MANAGING PERFORMANCE MANAGEMENT

7. The Committee has considered progress against the action plan developed as the Authority's response to the Audit Commission's audit of the Council's performance

management arrangements in the autumn of 2006. It has been advised that it is not expected that any key deadlines in the action plan will be missed. A further progress report will be considered in six months time.

8. One issue the Committee has highlighted is how the performance management culture can be embedded with Members. It has been suggested that there may be benefit in repeating the recent seminar on Performance Management and establishing a programme of similar events for the future.

PAY AND WORKFORCE DEVELOPMENT STRATEGY

9. The Committee has considered the new Pay and Workforce Development Strategy for 2007-2010. It has recommended that particular emphasis be placed on the need to attain the Investors in People Standard to help support continuous performance improvement.

HEREFORDSHIRE COMMUNITY STRATEGY DEVELOPMENT PLAN

10. The Committee has considered the development and monitoring arrangements in place for the Community Strategy Development Plan and its future development. The Committee was informed that the first Development Plan had been produced for 2006/07 and an action plan for 2008-2011 is now being developed in conjunction with the redevelopment of the Local Area Agreement. The Committee has decided it will contribute to the action plan's development and monitoring by considering the draft action plan in early 2008 and monitoring progress through the annual end of year report.

NEW PROCUREMENT STRATEGY

11. The Committee has considered the new Procurement Strategy noting that this has been adopted as a framework document by Cabinet pending further comparative work with other similar local authorities. The Committee would like the final document to be made more user friendly and establish appropriate discipline whilst retaining some flexibility.
12. The Committee has also noted the importance of the Strategy's contribution to the cashable savings it is expected the Council will be required to make under the government's comprehensive spending review 2007. In view of evidence in the past of a loss of efficiency and failure to realise the benefits of economies of scale because of departments operating in isolation from one another in procurement the Committee has suggested that the section on departmental procurement should be strengthened. It has been assured that this point is being emphasised and communicated across the Council. It was advised that the need to identify and meet the training and development needs of staff involved in procurement, many of whom were not purchasing professionals, is also recognised in the Strategy.

ISSUES CONSIDERED BY THE INDIVIDUAL SCRUTINY COMMITTEES

13. The work of the Committees is analysed below as far as practicable under the following five roles for overview and scrutiny: holding the executive to account, best value reviews, policy development and review, external scrutiny, and improvement (performance management and review), the first four of which are identified as key roles in the report on "The Development of Overview and Scrutiny in Local Government published by the Office of the Deputy Prime Minister". Issues considered by the Strategic Monitoring Committee are listed for completeness.

Summary

14. The Adult Social Care and Strategic Housing Scrutiny Committee met on 22nd June, 2007 and considered the following issues:

Theme	Reports
Holding the Executive to Account	
Best Value Reviews	
Policy Development and Review	Fairer Charging Policy. Joint Scrutiny Review: Transition from Leaving Care to Adult Life.
External Scrutiny	
Improvement (Performance Management and Review)	Revenue Budget Outturn 2006/07 and budget 2007/08. Commission for Social Care Inspection report on services for people with learning disabilities and the Council's Action Plan. Performance Monitoring.
Other	Co-opted Membership. Work Programme.

15. The Children's Services Scrutiny Committee met on 25th June, 2007 and considered the following issues:

Theme	Reports
Holding the Executive to Account	
Best Value Reviews	
Policy Development and Review	Joint Scrutiny Review: Transition from Leaving Care to Adult Life.
External Scrutiny	
Improvement (Performance Management and Review)	Children and Young People's Plan Annual Review 2006/07 and Annual Performance Assessment. Children and Young People's Directorate Plan 2007-2010. Capital Budget Outturn Report 2006/07. Revenue Budget Monitoring. Performance reporting on Children and Young People's Services 2006/07 outturn.
Other	Review and consideration of Committee representative arrangements. Work Programme.

16. The Community Services Scrutiny Committee met on 2nd July, 2007 and considered the following issues:

Theme	Reports
Holding the Executive to Account	Review of the Support for Museums and Heritage Centres – Cabinet’s Response.
Best Value Reviews	
Policy Development and Review	Proposed Review of Agreement with Halo Leisure Trust. Proposed Review of Tourism.
External Scrutiny	
Improvement (Performance Management and Review)	Cultural Services Comprehensive Performance Assessment Report. Performance Monitoring. Service Plan for Economic and Community Services.
Other	Herefordshire Satisfaction Survey. Work Programme.

17. The Environment Scrutiny Committee met on 19th June 2007 and considered the following issues:

Theme	Reports
Holding the Executive to Account	
Best Value Reviews	
Policy Development and Review	Scrutiny Review Group: Household Waste Recycling in Herefordshire. Scrutiny Review Group: Draft Travellers Policy.
External Scrutiny	Safety on Trunk Roads
Improvement (Performance Management and Review)	Good Environmental Management (GEM). Capital Budget Monitoring. Revenue Budget Monitoring. Environment Directorate Plan: Outturn for 2006/07 Performance Indicators.
Other	Introduction by Cabinet Member (Highways and Transportation). Introduction by Cabinet Member (Environment and Strategic Housing). Committee Work Programme.

18. The Health Scrutiny Committee met on 28th June, 2007 and considered the following issues:

Theme	Reports
Holding the Executive to Account	-
Best Value Reviews	
Policy Development and Review	Public Service Trust for Herefordshire.
External Scrutiny	Presentations on behalf of: The Herefordshire Primary Care Trust. The Hereford Hospitals NHS Trust. West Midlands Regional Ambulance Trust.
Improvement (Performance Management and Review)	
Other	Work Programme

19. The business conducted by the Strategic Monitoring Committee at its meetings on 13th June and 16th July, 2007 is summarised below.

Theme	Reports
Holding the Executive to Account	
Best Value Reviews	
Policy Development and Review	Pay and Workforce Development Strategy Herefordshire Community Strategy Development Plan New Procurement Strategy
External Scrutiny	
Improvement (Performance Management and Review)	Integrated Performance Report Final Revenue and Capital Outturn 2006/07 Managing Performance Management
Other	Work Programme

**PJ EDWARDS
CHAIRMAN
STRATEGIC MONITORING COMMITTEE**

BACKGROUND PAPERS

- Agenda Papers of the Meeting of the Strategic Monitoring Committee held on 13th June and 16th July, 2007

REPORT OF THE REGULATORY COMMITTEE

Meetings Held on 13th June, 2007; 3rd July and 11th July, 2007

Membership:

Councillors: P. Jones CBE (Chairman), J.W. Hope MBE (Vice-Chairman) C.M. Bartrum, D.J Benjamin, M.E. Cooper, P.G.H. Cutter, Mrs. S.P.A. Daniels, J.H.R. Goodwin, R. Mills, A. Seldon, D.C. Taylor.

HIGHWAYS ACT 1980 SECTION 119 – APPLICATIONS FOR PUBLIC PATH DIVERSION ORDERS

1. The Committee has determined applications for the following Public Path Diversion Orders for which there has been consultation with interested parties, the local parish councils and the local Ward Councillors where appropriate:-
 - (a) Bridleway MR22 (part) Marden – approved and;
 - (b) Footpath KB 48 (part) Kimbolton - approved.

AMENDMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE, AND OPERATOR CONDITION REGARDING:- SMOKE FREE ENGLAND LEGISLATION. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

2. From 1st July 2007, regulations made under the Health Act 2006 came into effect to control smoking in public enclosed places. The Regulations also included all vehicles licensed to carry fare-paying passengers, including hackney carriages and private hire vehicles. Drivers or passengers may not smoke in the vehicle at any time and signage must be displayed on the vehicle to advise passengers of the new regulations. The Committee has authorised the alteration of the Council's standard conditions to comply with the new requirements and notices will be prominently displayed within vehicles to advise passengers.

SETTING OF FEES IN RESPECT OF PREMISE LICENCES IN ACCORDANCE WITH SECTION 212 – GAMBLING ACT 2005.

3. Section 212 of the Gambling Act 2005 makes provision for Licensing Authorities to set fees in respect of premise licences. On 25th May this function was delegated by Council to the Regulatory Committee which has recently decided upon what they should be. The fees have to be calculated on a cost recovery basis and must not exceed the maximums set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007, or make a profit. Those for premises licences must include an element for overheads and for dealing with illegal gambling in the area. The fees must not include start up costs and cannot be set on the basis of size, rateable value or any other basis. They must be based Licensing Authorities are required to be transparent about the assumptions they have made in setting their fees, which should be published and reviewed on an annual basis. The fees for permits are set centrally by the Department for Culture Media and Sport.

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

4. Five applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire drivers licences were referred to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions and medical requirements. The applicants and their representatives gave details of the grounds for their applications and they provided the Committee with the circumstances giving rise to their offences or health situations. The applications were dealt with as follows:
- (a) one licence licence was reinstated;
 - (b) consideration of one application was deferred until the next meeting;
 - (c) two applications were refused because the applicants were not considered to be fit and proper persons to be granted licences; and
 - (d) it was decided that the suspension of one licence should continue for the time being.

**P. JONES CBE
CHAIRMAN
REGULATORY COMMITTEE**

BACKGROUND PAPERS

- Agenda papers from the meetings of the Regulatory Committee held on 13th June, 2007; 3rd July, 2007 and 11th July, 2007.

CASINO PREMISES LICENCES IN ACCORDANCE WITH SECTION 166 – GAMBLING ACT 2005.

Report By: HEAD OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS

Wards Affected:

County-wide

Purpose:

1. For the council to consider whether they wish to resolve not to issue casino premises licences in accordance with Section 166 – Gambling Act 2005.

Law:

2. Section 2 – Gambling Act 2005 states that the ‘ a district council is a Licensing Authority’
3. Section 154 automatically delegates to the Licensing Committee some of the functions under the Act, with the exception of ‘Section 166 (Resolution Not to Issue a Casino Licence), Section 212 (Setting of fees) and Section 349 (Gambling Policy).
4. Section 166 – Gambling Act 2005 states that: -
 - 1) *A licensing authority may resolve not to issue casino premises licences.*
 - 2) *In passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter.*
 - 3) *A resolution under subsection (1) –*
 - (a) *must apply to the issue of casino premises licences generally,*
 - (b) *must specify the date on which it takes effect,*
 - (c) *may be revoked by a further resolution, and*
 - (d) *shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).*

History:

5. The ‘Resolution not to issue casino premises licences’ was presented to the Councils’ Regulatory Committee on 28th November, 2006 when it was approved.

Change in Legislation:

6. On 24th April the Department of Culture Media and Sport (DCMS) announced that for English councils the delegation for a ‘Resolution not to issue casino premises licences’ sits with the Full Council following an amendment to ‘The Local Authorities (Functions and Responsibilities) (England) Regulations 2000’

Background:

7. This authority has previously advised the Department of Culture Media and Sport (DCMS), that it did not wish to be considered as a location for one of the seventeen casinos proposed.

8. Although the DCMS have recently announced the location of the seventeen proposed casinos and no further licences can be issued at this time, there is a possibility that this number could be increased in the future.

Recommendation

That Council pass a resolution under Section 166 of the Gambling Act 2005 resolving not to issue any casino premises licences.

REPORT OF THE AUDIT AND CORPORATE GOVERNANCE COMMITTEE

Meeting held on 29th June, 2007

Membership:

Councillors: A.C.R. Chappell,(Chairman) M.J. Fishley, J.H.R. Goodwin,
R Mills, R.H. Smith, A.M. Toon.

STATEMENT OF ACCOUNTS FOR 2006/07

1. The Committee has approved the Council's formal Statement of Accounts for 2006/2007 which is determined each year in accordance with the Chartered Institute of Public Finance (CIPFA) and Accountancy Code of Practice on Local Authority Accounting. The following outlines the changes to the 2006/07 Statement of Accounts:
 - (a) the removal of notional interest from the capital charges to services in the published accounts. This does not have an effect on the 'bottom line' charge to council tax but reduces the level of spend shown in services;
 - (b) there is a new set of core statements presented in a specified order and followed by a consolidated set of notes. The statements and their order of presentation are:
 - Income and Expenditure Account
 - Statement of Movement on the General Fund Balance
 - Statement of Recognised Gains and Losses
 - Balance Sheet
 - Cash flow statement
 - (c) the statements present the figures in a completely new way and the Council is also required to restate the figures for 2005/06 to enable a consistent comparison.

The next stage will be completion of the external Audit and final publication of the Accounts by 30th September 2007.

MONITORING OFFICER'S REPORT

2. The Committee has received a report about the Council's performance for 2006/07 with regard to complaints to the Ombudsman, "Whistleblowing" and the matters within the responsibility Head of Legal and Democratic Services as the Council's Monitoring Officer. The role of the Monitoring Officer is to ensure that the Council and its Members act with probity in accordance with the law and in its Constitution.

3. The Committee was provided with details about the following:
- (a) matters dealt with by The Complaints Panel;
 - (b) complaints investigated by The Local Government Ombudsman;
 - (c) the work of The Standards Committee;
 - (d) the Register of Gifts and Hospitality;
 - (e) the Register of Members Interests;
 - (f) Risk Management – the implications of changes in legislation or case law that may impact on the delivery of services or impose statutory duties on the Authority, and training for Officers and Members.

AUDIT SERVICES ASSURANCE REPORT 2006/07

4. Consideration has been given to the Audit Services Assurance Report which informs Members about the progress made in relation to the Audit Plan and draws attention to any key internal control issues. The report also updates Members on the actions or the current position on key issues raised for 2005/06 that require attention. The arrangements are in place to comply with good practice as set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government in the United Kingdom. Five key issues were identified as being relevant to the Councils Statement on Internal Control and good progress is being made on the key issues identified in relation to 2005/06. Three key elements have effected the overall completion of the Audit Plan for 2006/07:
- (a) the level of time spent verifying performance indicators;
 - (b) the time taken to review the Council's fundamental systems; and
 - (c) the work required on the new DfES Toolkit.
5. The Audit Services review in relation to the Statement on Internal Control showed that the Council's procedures and protocols compared favourably with the CIPFA checklist and overall was found to be satisfactory. Eighteen key systems were reviewed with the majority receiving favourable reports. Management action is being taken in respect of the systems identified as having scope for improvement and the Committee will receive progress reports
6. Management responses to audit recommendations continue to be positive during the year with action being agreed in respect of 97%. Audit follow up work of previous recommendations on a sample basis showed that action was being taken on only 75% which is 6% lower than last year and does leave scope for improvement. Additional follow up work is being done by Audit Services and the Committee will be advised of the outcome. The Committee has adopted the Audit Plan for 2007/08, noting it represents best practice within the CIPFA Code of Practice for Internal Audit in Local Government. It is also an integral part of the Council's Internal Controls

procedures under the Comprehensive Performance Assessment Use of Resources, and highlights how the Council will comply with Standing Orders and Financial Regulations.

THE COUNCIL'S STATEMENT ON INTERNAL CONTROL 2006-2007

7 The Committee has discussed the work and process followed in relation to the completion of the Council's Statement on Internal Control and given approval to it. The CPA Use of Resources highlights the Criteria for judgement in relation to the Statement of Internal Control as follows:

- an appropriate member group has responsibility for review and approval of the Statement on Internal Control and considers it separately from the accounts (Level 2);
- the Council has conducted an annual review of the effectiveness of the system of internal control and reported on this in the Statement on Internal Control (Level 2);
- the sources of assurance to support the Statement on Internal Control have been identified and are reviewed by senior officers and members (Level 2);
- there are action plans in place to address any significant internal control issues reported in the Statement on Internal Control (Level 2);
- the Council has put in place an assurance framework that maps the council's strategic objectives to risks, controls and assurances (Level 3);
- the assurance framework provides members with information to support the Statement on Internal Control (Level 3);
- the assurance framework is fully embedded in the Council's business process (Level 4); and
- the Council can demonstrate corporate involvement in/ownership of the process for preparing the Statement on Internal Control (Level 4).

The Council currently scores 2 out of 4 for the Internal Control element of the Use of Resources Assessment in 2006 and is aiming to score at least 3 at the next assessment.

AUDIT COMMISSION ANNUAL AUDIT AND INSPECTION LETTER 2005/06

8. The Audit Commission's Annual Audit and Inspection Letter 2005/06 was noted. The report summarises the Audit Commission's assessment of the Council drawing on the findings and conclusions from their audit work and from analysis of the Council's performance and its improvement over the last year, as measured by the Comprehensive Performance Assessment. The Council was found to be improving adequately and maintaining its performance with improvements in priority areas such as safeguarding vulnerable children and helping more elderly adults to live at home. Accounts production is found to be good and timely and the systems of internal control and financial management have improved significantly in the year. The

Commission also recommends the steps to be taken in continued performance management, the need to continue to focus on improving service outcomes and ensuring a robust approach to benchmarking in all service areas together with appropriate monitoring and review.

AUDIT SERVICES REPORT– TELEPHONE USAGE ACTION PLAN

9. The Committee has received a progress report and action plan on work being undertaken arising on recommendation made by Audit Services in respect of telephone usage by the Council. This forms part of the current cost savings review being carried out.

AUDIT COMMISSION AUDIT AND INSPECTION PLAN 2007-2008

10. The Committee has noted the Audit Commission's Audit and Inspection Plan for 2007-2008 which highlights the key statutes that govern the Commission's Audit and Inspection duties. The Committee has been provided with details of the Commission's estimated total fee and will be advised if any changes become necessary to it. With regard to CPA and inspection activity it was noted that the Audit Commission did not intend to carry out any service inspection during 2007/08. Work within this area will be covered in the annual Direction of Travel assessment, and liaison work between the Council and the Audit Commission, other inspectorates, Government Office and other key stakeholders. The Commission will complete a Use of Resources Assessment for 2007 which will focus on the importance of having sound and strategic financial management to ensure that resources are available to support the Council's priorities and improve services. Data quality work will be based on a three-stage approach covering:

- Stage 1 – management arrangements;
- Stage 2 – competencies check; and
- Stage 3 – risk based data quality spot checks of a sample of performance indicators.

11. The results of the work at Stage 3 will inform the Commission's CPA assessment and with regard to the Council's Best Value Performance Plan, the Commission is required to report on whether the Council has complied with legislation and statutory guidance in respect of its preparation and publication. The Commission has identified the following risks in terms of the 2006/07 financial statements:

- creating a GAAP compliant Revaluation Reserve to replace the Fixed Asset Restatement Account;
- potential revisions to accounting treatment for Waste Management PFI; and
- valuation of fixed assets and coding of intangible assets.

12. The Committee was also provided with the Commission's initial assessment of risk on use of resources and the reviews that would be undertaken.

**A.C.R. CHAPPELL
CHAIRMAN
AUDIT AND CORPORATE GOVERNANCE COMMITTEE**

BACKGROUND PAPERS

Agenda papers of the meeting of the Audit and Corporate Governance Committee held on 13th April 2007

COUNCIL

27TH JULY, 2007

REPORT OF THE STANDARDS COMMITTEE

Meetings held on 11th May and 6th July, 2007

Membership:

Robert Rogers (Independent Member) (Chairman); Councillor John Stone; Councillor Beris Williams; Richard Gething (Town and Parish Council Representative); John Hardwick (Town and Parish Council Representative); David Stevens (Independent Member).

APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

1. We have granted the following dispensations to:
 - Eleven members of Bartestree and Lugwardine Parish Council in relation to their roles as members of Bartestree Village Hall Committee;
 - Five members of Holme Lacy Parish Council in relation to their roles as trustees of Holme Lacy Village Hall; and
 - Twelve members of Kington Town Council in relation to an employment matter.
2. Following the May 2007 elections, it would be sensible for Parish and Town Councils to review their dispensations if they have new members. We have asked the Head of Legal and Democratic Services to write to them, giving them guidance on the correct procedure.

LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007

3. We have considered the Model Code of Conduct and its implications for Herefordshire in considerable detail, and have made our recommendations to Council. The report from the Head of Legal and Democratic Services with our recommendations is a separate item on this agenda.
4. At our October meeting, we will also review the Codes and Protocols for which we are responsible, to ensure that they are compliant with the new Code.
5. We have already contributed to induction for new Herefordshire Councillors and, in co-operation with the Herefordshire Association of Local Councils, will be taking a full part in training for Town and Parish Councillors.

STANDARDS BOARD FOR ENGLAND SUMMER ROADSHOW

6. Two of our members, Mr David Stevens and Mr Richard Gething, represented the Standards Committee at the SBE roadshow in Birmingham on 14 June 2007, which focused primarily on the new Code. They reported that it had been a valuable forum for sharing advice, and they were able to give feedback first-hand on the Committee's views on this subject.

DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND – 2007

7. We have considered progress reports on current investigations by the Standards Board for England.

REFERRALS TO THE STANDARDS COMMITTEE FROM THE STANDARDS BOARD FOR ENGLAND

8. The Committee met on Friday 11 May 2007 to consider the final reports of investigations relating to complaints by Mr Mike Wilson against Councillors Polly Andrews, Mary Bew, Chris Chappell, Marcelle Lloyd-Hayes, Robert Preece, William Walling and Alan Williams (Complaints Nos. 17223.07 to 17229.07 respectively). In each case, we found that there was no failure to follow the Code of Conduct. The full texts of the Decision Notices can be located on the Council's website by clicking on "Council Committees" in the Quick Links box on the homepage, and then locating "Standards Committee", and the agenda for 11 May 2007.

THE LOCAL FILTER PILOT PROJECT

9. The Committee has contributed to the project run by the Standards Board for England to assist planning for the operation of "the Local Filter". In this major change to the local government standards framework, all cases will first be dealt with at the local level, with referral to the Standards Board very much the exception. This is a change for which we have argued strongly, and we are sure that this local ownership of the process will be welcomed in the County.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS:

- Agenda papers of the meetings held on 11 May and 06 July 2007.

REPORT OF THE STANDARDS COMMITTEE

REVISED CODE OF CONDUCT

REVISED CODE OF CONDUCT

1. The Council is required, under the Local Authorities (Model Code of Conduct) Order 2007 to adopt the Revised Code of Conduct by Resolution of the Council on or before the 1st October 2007. Where an authority fails to adopt the revised Code by that date, the mandatory provisions of the revised Code apply, until the authority adopts it.
2. The Committee has considered the revised Code of Conduct. The report on the Code of Conduct which the Committee considered is attached (in a slightly amended form). It analyses the new Code and identifies practical issues. The draft recommendations at the end of the report have been amended so that they reflect the Committee's views. They are thus the Committee's recommendations to Council.
3. Members will not have to give a new undertaking to observe the revised Code of Conduct, provided that they have previously given an undertaking to observe the old Code.
4. The new Code will mean consequential changes to the present supporting Protocols on standards issues (such as planning, member/Officer relations and the use of resources. The Committee has this in hand, and intends to bring proposals to Council in the Autumn.
5. The Council is recommended to pass a resolution adopting the revised Code of Conduct and also resolve to adopt the additions to the Revised Code of Conduct as set out in the report to the Standards Committee with effect from 27th July 2007.
6. Members may wish to know that the Committee is recommending to Town and Parish Councils in the County that they should adopt the Code in a similar form (without the changes that apply specifically to a unitary Authority).

The Standards Committee recommends to Council that:

A resolution be passed adopting the revised Code of Conduct and also resolving to adopt the additions to the Revised Code of Conduct as set out in the report to the Standards Committee with effect from 27th July, 2007.

BACKGROUND PAPERS

- The report of the Standards Committee dated 7th July 2007 (Appendix 1) together with Appendices 2, 3, 4, and 5.

NEW MODEL CODE OF CONDUCT

Report By: Head of Legal and Democratic Services

Purpose

1. This report asks Members to consider the new Model Code of Conduct made on 4 April 2007 which came into force on 3 May 2007.
2. This report seeks Members' views in relation to Parish and Town Councils in Herefordshire in relation to the adoption of the Code of Conduct by them.
3. The report seeks Members' views in relation to a number of matters arising out of the adoption of the new Model Code of Conduct.
4. This report also seeks Members' views on the proposed addition to the mandatory Code of Conduct.
5. The Report seeks the recommendation of Members to the Council Meeting on 27th July 2007 to adopt the new Model Code of Conduct.

Financial Implications

6. There are resource and financial implications in ensuring that the requirements to publicise the adoption of the new Model Code of Conduct are met, and in training for Members of Herefordshire Council and Members and Clerks of Parish Councils. Copies of the new Model Code of Conduct as adopted are to be available for inspection, and a copy of the Code that each council approves will be sent to the Standards Board for England. Notice of adoption must be published in the Council's own newsletter "Herefordshire Matters" and a local newspaper.

Background

7. It is a function of the Standards Committee to advise the Council on the adoption or review of the Members' Code of Conduct. On 4 April 2007 the Local Authorities (Model Code of Conduct) Order 2007 was laid before Parliament and came into force on 3 May 2007. Local Authorities are required to adopt the Code within six months of its being made or the mandatory provisions of the Code will be imposed upon them. It is therefore necessary that Herefordshire Council and all Parish and Town Councils within Herefordshire adopt a new Code of Conduct reflecting the provisions in the Model Code by 1 October 2007. The Standards Board for England recommend that the new Code of Conduct be adopted in its model form without amendment. It also recommends a preamble to the Code which outlines the ten general principles governing the conduct of Members of local authorities.
8. Section 50 of the Local Government Act 2000 ("the Act") sets out the Secretary of State's power to issue a Model Code of Conduct that such a model code may contain provisions which are mandatory and provisions which are optional. Section 151 (4) of the Act provides that local authorities must adopt a Code which incorporates any

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mandatory provisions and may include other provisions which are consistent with that Model Code.

9. All of the provisions set out in the Model Code are mandatory for Herefordshire Council. Paragraphs 7, 10 (2) (c) (i) and (ii), 11 and 12 (2) are not mandatory for Parish Councils.
10. It is proposed that the adoption of the Code be put to the Council meeting to be held on the 27th July 2007. A copy of the mandatory provisions of the Model Code is attached as Appendix 2 to this report in the form in which it would appear in the Council's Constitution, if adopted.
11. It is advised that the Members consider the additional provisions which should be added to the Code of Conduct.
12. A Member training seminar will be arranged for Members of Herefordshire Council as soon as possible through Members' Services.

Parish Councils

13. The functions that derive from Part 3 of the Act are discharged in relation to Herefordshire Council and its Members, and also in relation to Parish Councils which are wholly or mainly in Herefordshire Council's area.
14. Parish and Town Councils are under the same obligation to adopt and implement a new or revised Code of Conduct, reflecting the mandatory provisions contained within the Model Code by 1 October 2007. A draft Code is included to the report as Appendix 3.
15. The timing of adoption of the Code is for each Parish Council to determine in accordance with the requirement that they adopt the Code by 1 October 2007. Parish Councils through the Herefordshire Association of Local Councils ("HALC") and the Standards Committee have agreed dates in July 2007 to train Parish Clerks on the Code of Conduct. Parish Councils not members of HALC will need to consider their Parish Council Members' training in relation to the Code.
16. Parish Councils within Herefordshire be recommended to adopt the Code and preamble set out at Appendix 3.

Summary of the Changes in the Code

Preamble

17. The ten principles derive from seven principles of public life recommended by the Nolan Committee. They set out the basis of the obligations contained within the Code and may be a helpful summary of the ethical framework within which Members should act.
18. Compliance with the principles is not of itself a statutory obligation but a failure to act in accordance with the principles could result in a breach of the Code as constituting, for example, conduct which could bring a Member's office or authority into disrepute.

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19. Members could decide not to include the preamble. This would not change the nature of the obligations under the Code but would remove the context and basis within which the Code has been drafted and how it is likely to be perceived.

Scope

20. The Code is intended to apply when a Member is acting in an official capacity. Although not well phrased paragraph 2.3 of the Code states that in some circumstances the Code will also apply to conduct in a private capacity, but only where a criminal conviction has been imposed as a result of it. The three instances set out in the Code where this is the case are in relation to intimidation (paragraph 3.2 c); bringing the office or authority into disrepute (paragraph 5); and improperly seeking an advantage (paragraph 6 a). The last two instances were also included within the previous Code.
21. Until the proposed amendments to section 52 of the Act, which are currently before Parliament, reinstate the situation prior to the decision in the Livingstone case, only in very limited circumstances will the Code apply to conduct outside of a member's official capacity.
22. The Code as drafted provides that any criminal conviction must be of a serious nature (i.e. an imprisonable offence) in order to be taken into account in determining if a Member is bringing the authority into disrepute. There may be local variations of interpretation on the weight to be given to various criminal convictions when local filtering is introduced. It appears that the Code will have no application where there is no conviction as, for example, where a caution is received for a violent crime.

General Obligations

23. A Guide for Members issued by the Standards Board for England is attached as Appendix 4.
24. The positive obligation to treat others with respect remains (paragraph 3.1). Rather than being required to promote equality as under the existing Code, however, the new Code requires Members not to do anything that may cause the Authority to breach any of the equality enactments (paragraph 3.a). A new requirement not to bully any person has been inserted (paragraph 5.2.b).
25. The provisions regarding confidentiality have been changed to allow disclosure of confidential information if it is reasonable and in the public interest to do so and if disclosure is made in good faith and in compliance with the reasonable requirements of the Authority (paragraph 4 a iv).
26. A new obligation is placed on Members to have regard to the Code of Recommended Practice on Local Authority Publicity (paragraph 6 c). Members will be familiar with this as it has been the subject of previous advice issued by the Monitoring Officer prior to the recent local elections period.
27. The obligation to have regard to any relevant advice given by the Monitoring Officer and Chief Finance Officer has been retained (paragraph 7. (1)).
28. The new bullying provision is likely to be the subject of further Guidance from the Standards Board which will stress that offensive, intimidating or insulting behaviour is

likely to constitute a breach of the new Code. This should be contrasted with legitimate challenges to fellow members or officers as to why they hold their views or have given particular advice. Personal criticism or attack however is likely to be seen as unacceptable behaviour.

29. Further guidance is to be issued by the Standards Board on the new confidentiality provisions as to the nature of a “public interest” test that should be satisfied before disclosure together with an emphasis on the need to raise concern through the proper channels before such disclosure takes place. It is recommended that Members be advised to contact the Monitoring Officer for advice before they release any confidential information and have regard to such advice. As the Committee noted in its comments on the draft Code, it would be undesirable for this provision to provide cover for deliberate leaks.

Declarations of Interests – Personal Interests

30. The new list of personal interests required to be registered (paragraph 8.1 a) is similar to the current list. However, there has been added a new personal interest: namely where it relates to or is likely to affect the interests of any person who is in receipt of at least £25 worth of gift or hospitality (paragraph 8 1 viii). Although such gifts or hospitality did need to be registered under the current Code, receipt did not constitute a personal interest and did not need to be declared at meetings.
31. A personal interest should be declared at a meeting if it is registered in the Register of Members’ Interests. A personal interest should also be declared where the matter under discussion might reasonably be regarded as affecting the well being or financial position of the Member, or “a relevant person”, to a greater extent than the majority of other council tax payers, rate payers or inhabitants of the ward affected by the decision.
32. The list of “relevant people” including family or any person with whom you have a close personal association as well as employers of those people. A Member is only liable to declare the interest if he or she is aware or might reasonably be aware of its existence.
33. Personal interests (paragraph 8.1.a) should be registered in the Register of Members’ Interests, which is maintained by the Monitoring Officer, and changes notified within 28 days, as now (paragraph 13). If a personal interest arises at a meeting, then the existence and nature of the interest should generally be declared at the outset whether or not the Member intends to speak (paragraph 9.1).
34. If the personal interest relates to a body to which a Member has been nominated or appointed by the Council, or relates to a body exercising functions of a public nature, then the new Code proposes that the personal interest need only be declared at meetings where the Member actually speaks on the relevant issue (paragraph 9.2).
35. There are detailed provisions with regard to the disclosure of a particular interest; Members will need to acquaint themselves with these in the event that any apply to their own circumstances. “Sensitive information” which could create a serious risk of violence or intimidation need not be disclosed (paragraph 9.5) or registered (paragraph 14) provided the Monitoring Officer agrees.

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36. The new Code has removed the reference to “friend” and uses a wider term covering a person with whom a Member has a “close association”. The term “family” is no longer defined.

PREJUDICIAL INTERESTS

37. The basic test remains the same; namely that where there is a personal interest, then the interest is also prejudicial where it is one which a member of the public with the knowledge of all the relevant facts, would reasonably regard it as so significant that it is likely to prejudice a Member’s judgement of the public interest (paragraph 10.1).
38. The new Code adds (paragraph 10.2) that a Member does not have a prejudicial interest where:
- the matter under discussion does not affect the financial position of a Member, or any person or body described in paragraph 8 in relation to whom a Member may have a personal interest;
 - the matter does not relate to the determining of any approval, consent, licence, permission or registration in relation to the Member, or any person or body described in paragraph 8 in relation to whom a Member has a personal interest;
 - the matter relates to specific exceptions such as housing; school meals; school transport and travel expenses; statutory sick pay; members’ allowances payments or indemnities; ceremonies honours; or setting the Council tax.

The exceptions do need to be carefully studied as a number of them are different from the current position and Members need to ensure they are familiar with them.

EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION

39. The new Code permits a Member with a prejudicial interest to make representations, answer questions or give evidence at a meeting open to the public, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. After speaking, the Member must immediately withdraw from the room or chamber and not participate further nor take part during any debate, vote or recommendation made by the Authority.
40. The Member will have the same right as a member of the public to address the meeting even if that Member has a prejudicial interest. This will allow Members who belong to special interest groups or who were elected on a particular issues to make representations at a meeting open to the public.
41. The new Code does not address the issue of “bias or predetermination”; Members will need to answer separately from the Code whether they are approaching an issue with an open mind and able to take part in the discussion even if they do not have a prejudicial interest because the outcome would have no effect on their financial position.

SUMMARY

42. There are a number of significant changes from the current Code. The balance between the freedom of Members to act as local advocates and the need to ensure

Further information on the subject of this report is available from Alan McLaughlin,
Head of Legal and Democratic Services on (01432) 260200

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that decisions are made without the improper influence of personal interests has been re-examined in the new Code and greater participation by Members with prejudicial interests has been allowed.

43. There will be consequential changes needed to the Council's existing Code and Protocols as a result of the adoption of the Code. Any consequential changes to the Council's existing Codes and Protocols needed as a result of the adoption of the Code be reviewed by the Committee with the aim of early approval by Council. The Committee will review any consequential changes required to the following protocols

- Planning
- Member/Officer Protocol
- Resources

before the end of the year

RISK MANAGEMENT

44. Not to adopt the new Code will mean that the new Code will apply in any event by default.
45. All Members and co-opted members of Herefordshire Council be encouraged to attend appropriate training sessions on the new Code which are likely to take place before the end of the year.

RECOMMENDATION

THAT Council be recommended to adopt the Model Code of Conduct as set out in the Local Authorities (Model Code of Conduct) Order 2007 ("the Code") (Appendix 2) together with a preamble incorporating the ten principles governing the conduct of Members, in place of its existing Code;

Council be recommended to include the following optional provisions of the revised Code of Conduct:-

- (i) inclusion of paragraph 6 (c) relating to the Code of Publicity**
- (ii) inclusion of paragraph 10 (2) (c) (i) (ii) and 11 relating to executive arrangements and scrutiny.**
- (iii) Inclusion of paragraph 12 (2) enabling Members who have a prejudicial interest to make representations to meetings as a member of the public**

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All Members and co-opted members of Herefordshire Council be encouraged to attend appropriate training sessions on the new Code which are likely to take place during July and September 2007.

PREAMBLE TO THE MEMBERS' CODE OF CONDUCT

The Ten General Principles of Public Life

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

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

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

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

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

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

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

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

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

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

(Relevant Authorities (General Principles) Order 2001 (S.I.2001/1401)

MEMBERS' CODE OF CONDUCT

Part 1

General Provisions

1. Introduction and interpretation

- (1) This Code applies to **you** as a member of this authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State and attached as a preamble to this Code.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:

“meeting” means any meeting of:

- (a) the authority ;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees or area committees;

“member” includes a co-opted member and an appointed member

2. Scope

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

and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2) (c), 5 and 6 (a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

3. General Obligations

- (1) You must treat others with respect.
- (2) You must not:
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or likely to be –
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct or;
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

- 5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

- 6.** You:
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority:
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7.**
- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
 - (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officerwhere that officer is acting pursuant to his or her statutory duties.
 - (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by our authority.

Part 2

Interests

Personal Interests

- 8.**
- (1) You have a personal interest in any business of your authority where either :
 - (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

- of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who had made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties.
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of a least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as they case may be, affected by the decision.

(2) In sub-paragraph (1) (b), a relevant person is:-

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

9. Disclosure of personal interests

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.

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

Prejudicial interest generally

10.

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

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

11. Prejudicial interests arising in relation to overview and scrutiny committees

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or a sub-committee of such a committee) where:

- (a) that business relates to a decision (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

12. Effect of prejudicial interests on participation

(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:-

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it become apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to

attend the meeting for the same purpose, whether under a statutory rights or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13.

(1) Subject to paragraph 14, you must, within 28 days of:-

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a) by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer

Sensitive information

14.

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

THE MODEL CODE OF CONDUCT FOR PARISH AND TOWN COUNCILS

Part 1

General provisions

Introduction and interpretation

1.—(1) This Code applies to **you** as a member of an authority.

(2) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexure to this Code).

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) any of the authority’s committees or sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

(5) References to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3.—(1) You must treat others with respect.
- (2) You must not—
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
4. You must not—
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. Paragraph 7 does not apply to your authority.
-

Part 2

Interests

Personal interests

- 8.—(1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9.—(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
 - (i) this sub-paragraph does not apply to your authority;
 - (ii) this sub-paragraph does not apply to your authority;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

11. Paragraph 11 does not apply to your authority.

Effect of prejudicial interests on participation

12.—(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

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

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

Part 3

Registration of Members' Interests

Registration of members' interests

13.—(1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Annexure - The Ten General Principles

The general principles governing your conduct under the *Relevant Authorities (General Principles) Order 2001* are set out below:

Selflessness

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

Honesty and Integrity

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

Objectivity

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

Accountability

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

Openness

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

Personal Judgement

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

Respect for Others

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

Duty to Uphold the Law

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

Stewardship

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

Leadership

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

THE CODE OF CONDUCT

Guide for members
May 2007



Standards Board
for England



Preface

This guide from the Standards Board for England provides an overview of the revised Model Code of Conduct. The Code of Conduct applies to all members and co-opted members of local authorities, and all members are required to sign up to it as part of their declarations of acceptance of office. The Code of Conduct does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

The following pages aim to provide you with a general understanding of the Code of Conduct and its requirements. Chapter 1 provides an introduction, whilst Chapter 2 outlines your obligations under the Code of Conduct, referencing specific paragraphs of the Code of Conduct for further information. Chapters 3 and 4 deal with general issues surrounding interests, and aim to clarify a number of provisions which you will find in Parts 2 and 3 of the Code of Conduct. You can obtain a copy of the Code of Conduct by downloading it from www.standardsboard.gov.uk or to purchase a printed copy, contact The Stationery Office by visiting www.tsoshop.co.uk or calling 0870 242 2345.

Ultimately, however, it is your responsibility to take specific advice from your monitoring officer where appropriate and to make a decision as to the most suitable course of action.

This guide is issued by the Standards Board for England under the *Local Government Act 2000* for elected, co-opted and appointed members of:

- district, unitary, metropolitan, county and London borough councils
- parish and town councils
- English and Welsh police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

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1.

Introduction

Adopting the Model Code of Conduct

Your local authority will have until 1 October 2007 to adopt the Code of Conduct. After this time, members of authorities that have not adopted it will be automatically covered by it. To avoid confusion with the previous Code, the Standards Board for England ('the Standards Board') encourages your local authority to adopt the Code of Conduct at its first opportunity.

It is also important that the Code of Conduct is adopted in its model form, without amendment. This will give certainty to members and the public as to what standards are expected. It will ensure consistency throughout local authorities, avoiding confusion for members on more than one authority and for the public. It will also minimise the legal risk of your authority adopting additional provisions which are unenforceable.

However, there is one important exception. The right to make representations, answer questions and give evidence like a member of the public when a member has a prejudicial interest is not a mandatory provision for:

- parish and town councils
- English and Welsh police authorities
- fire and rescue authorities (including fire and civil defence authorities)

- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority

Therefore, this right will only apply to the above authorities if paragraph 12(2) of the Code of Conduct is adopted by them. Simply adopting the mandatory provisions will not incorporate this important change.

The Ten General Principles of Public Life

The Standards Board recommends that your local authority includes a preamble to the Code that it adopts, which outlines the ten general principles governing the conduct of members of local authorities. These ten general principles are set out in the *Relevant Authorities (General Principles) Order 2001*. They are based on the Seven Principles of Public Life set out by the Committee on Standards in Public Life, and appear in full in **Table 1**.

These principles define the standards that members should uphold, and serve as a reminder of the purpose of the Code of Conduct.

As these principles do not create a statutory obligation for members, the Standards Board cannot accept allegations that they have been breached.

However, you should be aware that a failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be “conduct which could reasonably be regarded as bringing a member’s office or authority into disrepute” as stated in paragraph 5 of the Code of Conduct.

Deciding when the Code of Conduct applies to you

The Code of Conduct applies to you:

1. Whenever you act in your official capacity, including whenever you conduct the business of your authority or act, claim to act, or give the impression you are acting, in your official capacity or as a representative of your authority.
2. At any time¹, where your behaviour has led to a criminal conviction. However, only paragraphs 3(2)(c), 5 and 6(a) have effect in these circumstances when you are acting in your private capacity. Otherwise, the Code of Conduct does not apply to your private life.

Where you act as a representative of your authority on another relevant authority, you must, when acting for that other authority, comply with their Code of Conduct.

You may also act as a representative of your authority on another body, for example as a school governor. When acting for that other body, you must comply with your authority's Code of Conduct, unless it conflicts with lawful obligations of the other body.

¹ Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

Table 1 The Ten General Principles of Public Life

Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

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

Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

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

Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

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

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

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

Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

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

2.

General obligations under the Code of Conduct

Treating others with respect

See Paragraph 3(1)

You must treat others with respect.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Complying with equality laws

See Paragraph 3(2)(a)

You must not do anything which may cause your authority to breach any equality laws.

Equality laws prohibit discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age.

The provisions of these laws are complex. In summary, there are four main forms of discrimination:

- Direct discrimination: treating people differently because of their sex, race, disability, religion or belief, sexual orientation or age.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their sex, race, disability, religion or belief, sexual orientation or age, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of sex, race, disability, religion or belief, sexual orientation or age, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on certain authorities.

Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

Bullying and intimidation

See Paragraphs 3(2)(b) and 3(2)(c)

You must not bully any person including other councillors, council officers or members of the public.

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

Compromising the impartiality of officers of the authority

See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Disclosing confidential information

See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.

- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
 - The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
 1. the disclosure must be reasonable
 2. the disclosure must be in the public interest
 3. the disclosure must be made in good faith
 4. the disclosure must be made in compliance with any reasonable requirements of your authority
- In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.
1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
 - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, 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 the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
 - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
 - The seriousness of the matter. The more serious the matter disclosed, 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, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to re-occur.
 - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more 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) A criminal offence is committed.
 - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
 - (c) A miscarriage of justice occurs.
 - (d) The health or safety of any individual is in danger.
 - (e) The environment is likely to be damaged.
 - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

Preventing access to information

See Paragraph 4(b)

You must not prevent anyone getting information that they are entitled to by law.

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act 2000* or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting www.ico.gov.uk or by calling 0845 630 6060.

Disrepute

See Paragraph 5

You must not bring your office or authority into disrepute while acting in your official capacity, or at any time through criminal activity that leads to a criminal conviction.²

² Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

Using your position improperly

See Paragraph 6(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

In addition to paragraph 6(a), paragraph 12 is also relevant to the proper use of your position. Paragraph 12 supports your role as a community advocate, representing and speaking for the concerns of your community, even where you have a prejudicial interest. This right applies to you at meetings where you have a statutory right

to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If your authority does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, paragraph 12 will not apply to you unless you have a statutory right to speak on the matter.

You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 12 of the Code of Conduct, you may be found to have improperly influenced the decision.

The authority's resources

See Paragraph 6(b)(i)

You must only use or authorise the use of the resources of the authority in accordance with its requirements.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use

these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code of Conduct.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

Using resources for proper purposes only

See Paragraphs 6(b)(ii) and 6(c)

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act 1986*.

You should never use council resources for

purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.

Considering advice provided to you and giving reasons

See Paragraph 7

Please note: paragraph 7 is not mandatory for parish councils. However, your parish may choose to include an obligation to take account of your clerk's advice in the Code your authority adopts.

You must have regard to advice from your monitoring officer or chief finance officer where they give it under their statutory duties.

If you seek advice, or advice is offered to

you, for example, on whether or not you should register a personal interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.

You must give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision.

3.

Personal and prejudicial interests

Personal interests

Key points:

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:

- a) An interest that you must **register**.
- b) 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 division affected by the decision (in the case of authorities with electoral divisions or wards)
 - 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)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a **prejudicial interest**.

What constitutes a prejudicial interest is outlined in the next section on page 22.

Effect of having a personal interest in a matter

You must declare that you have a personal interest, and the nature of that interest, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies. When an exemption may be applied is explained opposite.

Exemption to the rule on declaring a personal interest to the meeting

An exemption applies where your interest arises solely from your membership of, or position of control or management on:

1. any other body to which you were appointed or nominated by the authority
2. any other body exercising functions of a public nature (for example another local authority)

In these exceptional cases, provided that you do not have a prejudicial interest, you only need to declare your interest if and when you speak on the matter.

Example: if you are attending a council debate on education policy and are also a local education authority appointed governor, you would only need to declare an interest if and when you decided to speak during the debate. If you do not want to speak to the meeting on the decision, you may vote on the matter without making a declaration.

If you have sensitive employment, which you would like to withhold from the register of interests, please see page 31 for more information.

a) Interests you must register

Key points:

All members have to provide a record of their interests in a public register of interests.

You must tell your monitoring officer in writing (in the case of a parish councillor, perhaps through your clerk) within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct, outlined below.

You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public

know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

As previously mentioned, you must tell your monitoring officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct. These categories include:

- Your membership or position of control or management in:
 - any other bodies to which you were appointed or nominated by the authority
 - any bodies **exercising functions of a public nature** (described below), or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party or trade union
- Your job(s) or business(es).
- The name of your employer or people who have appointed you to work for them.
- The name of any person who has made a payment to you in respect of your election, or expenses you have incurred in carrying out your duties.
- The name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company.
- Any contracts between the authority and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register.
- Any gift or hospitality over the value of £25 that you receive as a member and the person you believe to be the source of the gift or hospitality.
- Any land and property in the authority's area in which you have a beneficial interest (or a licence to occupy for more than 28 days) including, but not limited to, the land and house you live in and any allotments you own or use.

If you have sensitive employment, which you would like to withhold from the register of interests, please see page 31 for more information.

What is “a body exercising functions of a public nature”?

The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer ‘yes’ to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: regional and local development agencies, other government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice on this matter, please contact your monitoring officer.

b) Interests that are not on your register

Key points:

You have a personal interest in a matter if that matter affects the **well-being or financial position** of you, members of your **family**, or people with whom you have a **close association**, more than it would affect the majority of people in the **ward or electoral division** affected by the decision, or in the authority’s area or constituency.

You must also look at how any matter would affect your interests or those of members of your family or close associates. This includes:

- your and their jobs and businesses
- your and their employers, firms you or they are a partner of, and companies you or they are a director of
- any person or body who has appointed you, members of your family or close associates, to any position
- corporate bodies in which you or they have a shareholding of more than £25,000 (nominal value)

What does “affecting well-being or financial position” mean?

The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

Who is a member of your family or close associate?

A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

What if I belong to an authority without wards?

If you are a member of an authority that does not have wards, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you, your family, or

people with whom you have a close association, more than it would affect other people in your authority's area.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest.

Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

Prejudicial interests

1. What is a prejudicial interest?

Key points:

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions.
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of the public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

An explanation of each of these points follows.

a) Exempt categories of decisions

Paragraph 10(2)(c) of the Code of Conduct states that a member will not have a prejudicial interest if the matter relates to any of the following functions of their authority:

- Housing: if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease.
- School meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends.
- Statutory sick pay: if you are receiving this, or are entitled to this.
- An allowance, payment or indemnity for members.
- Any ceremonial honour given to members.
- Setting council tax or a precept.

b) Financial interests and licensing or regulatory matters

You can only have a prejudicial interest in a matter if it falls into one of the following two categories:

- a) The matter affects your financial position or the financial position of any person or body through whom you have a personal interest.

Examples: an application for grant-funding to a body on your register of interests; a contract for services between the authority and that body; or leasing a property to or from a close associate or member of your family. Your financial position can be affected directly or indirectly, favourably or unfavourably, substantially or marginally.

- b) The matter relates to an approval, consent, licence, permission or registration that affects you or any person or body with which you have a personal interest.

Examples: considering a planning or licensing application made by you or a body on your register of interests; Licensing Act licences; pet shop and dog breeding licensing; petroleum licences; street trading licences; taxi

licensing; consent, approval or permission pursuant to a contractual document such as a lease or commercial contract; street collection permit; or lottery registration.

c) What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest.

You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of family or close associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

Example: you would have a prejudicial interest in a planning application proposal if a member of your family lives next to the proposed site. This is because your family member would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward affected by the decision (or authority, if your authority does not have wards) and this gives you a personal interest in the issue. The existence of the close family tie means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

2. What to do when you have a prejudicial interest

Even where you have a prejudicial interest, the Code of Conduct supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

However, this right is not mandatory for certain types of authorities (including parish councils and police authorities). For such authorities it will only apply if paragraph 12(2) of the code is expressly adopted by your authority and the public are allowed to speak to meetings of your authority. Simply adopting the mandatory provisions will not incorporate this important change. See page 4 for a full list of authorities in this category.

Key points:

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 that interest becomes apparent to you.

You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose.

However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

In addition, you must not seek to **improperly influence** a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage.

Do I have a statutory right to speak to the meeting?

The Code of Conduct does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code of Conduct recognises. If so, you will be allowed to exercise that right to speak. Your monitoring officer should be able to confirm whether this is relevant to your case.

If I don't have a statutory right, will I be allowed to speak to the meeting?

The Code of Conduct aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial

interest in the item. You may not take part in the discussion or observe the vote.

When must I leave the room where the meeting is held?

You must leave immediately after you have made your representations, given evidence or answered questions, and before any debate starts.

If the meeting decides that you should finish speaking, despite your intention to say more, you must comply with the meeting's decision. Although members of the public may be allowed to observe the discussion and vote on the matter, you are not allowed to do so and must leave the room immediately. Failure to do so may be viewed as an attempt to **improperly influence** the meeting.

What does improperly influencing a decision mean?

You must not use your position or attempt to use your position improperly to further your own interests in a way that is not open to ordinary members of the public. Clear examples of improper influence would be using coercion, harassment, inducement or pressure to influence a matter.

It may also be improper if you refuse to leave the meeting, or continue to speak to a

meeting, on a matter in which you have a prejudicial interest, after the meeting has decided that you must stop speaking and leave.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so if you have a prejudicial interest. You must leave the room where the debate is being held and not seek to influence the debate in any way.

This may be the case, for example, where your authority is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your authority. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

If I have a prejudicial interest, how else can I influence the decision?

You can still present your views to the meeting through other means and influence the decision in a way that is not improper. For example, you can:

- Make written representations in your private capacity. The Standards Board recommends that the existence and nature of the interest should be disclosed in such representations. You should not seek preferential consideration for your representations. Such written representations should be addressed to officers rather than other members of the authority.
- Use a professional representative to make, for example, a planning application on your behalf.
- Arrange for another member of your authority to represent the views of your constituents on matters in which you have a prejudicial interest.

3. Dispensations

If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?

Key points:

You can apply in writing to your local standards committee for a dispensation on one of the following grounds:

- over 50 per cent of the authority or committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- the political balance at the meeting would be upset¹

You must apply for a dispensation individually and not as a group or authority. If the standards committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

Only the standards committee can grant the dispensation and will do so at its discretion. The standards committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. If failure to grant a dispensation will result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

The Standards Board cannot grant dispensations or advise on whether or not they should be granted. For further advice on dispensations, you should contact your monitoring officer.

¹ Please note there is currently a problem with the drafting of the Dispensation Regulations. The political balance criterion is linked to an authority being unable to comply with its duty under section 15(4) of the *Local Government and Housing Act 1989*. This duty requires the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings either of the authority or its committees. For this reason it is difficult to envisage circumstances in which the criterion would be met. Until such time as the appropriate amendments are made to the Regulations it is not likely that dispensations would be granted on the basis of the political balance criterion.

4.

Special categories of interests

1. Gifts and hospitality

Key points:

You must register any gifts or hospitality **worth £25 or over** that you receive **in connection with your official duties as a member**, and the source of the gift or hospitality.

You must register the gift or hospitality and its source within 28 days of receiving it.

Like other interests in your register of interests, you automatically have a **personal interest** in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a **prejudicial interest**.

Once three years have passed since you registered the gift or hospitality in your register of interests, your obligation to disclose that interest to any relevant meeting ceases.

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 clerk where appropriate.

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 perceived as something given to you because of your position or if your authority requires you to.

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 may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to £25 or over should be registered.

2. Overview and scrutiny committee meetings

Please note: this section will not apply to parish and town councils, English and Welsh police authorities, fire and rescue authorities (including fire and civil defence authorities), the London Fire and Emergency Planning Authority, passenger transport authorities, the Broads Authority, national park authorities and the Greater London Authority.

You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- That business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees.
- You were a member of that decision-making body at that time and you were present at the time the decision was made or action taken.

If the overview and scrutiny committee is checking a decision which you were involved in making you may be called to attend the meeting to give evidence or answer questions on the matter. However, you will not be able to attend the meeting in this manner unless your authority's

constitution or standing orders allow members of the public to attend the overview and scrutiny committee for the same purpose.

You will, however, be able to attend the meeting to give evidence or answer questions if you are a leader or cabinet member of an authority operating executive arrangements, provided you follow the normal rules for executive members who have personal and prejudicial interests.

3. Executive or cabinet roles

Please note: this section will not apply to parish and town councils, English and Welsh police authorities, fire and rescue authorities (including fire and civil defence authorities), the London Fire and Emergency Planning Authority, passenger transport authorities, the Broads Authority, national park authorities, the Greater London Authority or any other authorities that do not have executive arrangements.

If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests.

If your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions as long as you declare your interest. You can also exercise

delegated powers in the matter as long as you record the existence and nature of your personal interest.

If you are an executive member who can take individual decisions, and you have a prejudicial interest in a decision, your authority may make other arrangements as set out in sections 14-16 of the *Local Government Act 2000*. This means that the decision can be taken by an officer, another cabinet member, the full executive, or a committee of the executive.

Although you have a prejudicial interest in a matter, you may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but you are barred from decision-making about that matter individually or in cabinet. You also should not participate in any early consideration of it, or exercise any delegated powers in relation to it. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence.

4. Sensitive information

Key points:

You may be exempt from having to include sensitive information on your register of interests. If your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest but you will not have to give any details about the nature of that interest.

Sensitive information may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create a serious risk of violence or intimidation against you or someone who lives with you.

You should provide this information to your monitoring officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your monitoring officer agrees. Ultimately, you must decide what information to include on your publicly available register of interests.

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CODE OF RECOMMENDED PRACTICE

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.

2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.

3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.

4. In considering the subject areas in which publicity is to be issued, the following matters will be important:

- (i) the publicity should be relevant to the functions of the authority.
- (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.

7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.

8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.

9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.

10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.

- (ii) where it is statutorily required, the purpose to be served by the publicity.
- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.

12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.

16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.

18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.

19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view

on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.

24. Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.

25. Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.

26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.

27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.

29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of

explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.

31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.

33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.

34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.

35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.

37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.

38. Advertisements for staff should not be placed in party political publications.

Publicity about individual members of an authority

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.

40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.

41. For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments

made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.

42. This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

Timing of Publicity

43. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
- (b) make the observance of that guidance a condition of the grant or other assistance;
- (c) undertake monitoring to ensure that the guidance is observed.

45. It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

REPORT OF THE PLANNING COMMITTEE

Meeting Held on 13th July, 2007

Membership:

Councillors: TW Hunt (Chairman), RV Stockton (Vice-Chairman), ACR Chappell, PGH Cutter, Mrs H Davies, GFM Dawe, DW Greenow, JW Hope, B Hunt, G Lucas, RI Matthews, R Mills, Mrs PM Morgan, Mrs JE Pemberton, AP Taylor, DC Taylor, WJ Walling, PJ Watts and JD Woodward.

REFERRED PLANNING APPLICATIONS

1. The following Planning Applications were determined by the Committee because (i) they relate to the Council's own development or to the development of land owned by the Council; (ii) they are applications referred to the Committee by the Head of Planning Services because the Area Planning Sub-Committees are mindful to approve/refuse them contrary to officer recommendations and Council's Policies; or (iii) they are applications by Members or their relatives.
 - (a) DCNC2006/3364/F - proposed temporary mobile health facilities (temporary for seven years) at Broad Street Car Park, Leominster – refused and applicants asked to look at alternative sites;
 - (b) DCNC2007/0586/O - site for dwelling for a rural enterprise at The Old Blacksmith's Shop, Docklow, Leominster – approved contrary to recommendation with conditions tying it to the enterprise;
 - (c) DCNC2007/0667/O - site for the erection of an additional building for provision of care to the elderly mentally infirm at Pencombe Hall, Pencombe, Bromyard – deferred for a site inspection;
 - (d) DCNW2007/1271/F - proposed replacement dwelling including garage at Southview, Winforton, Hereford - approved as recommended;
 - (e) DCNE2006/3998/F - reconfiguration of existing dwelling into 3 units and associated works to include a new vehicular access at Stanley Hill Court, Bosbury, Ledbury – delegated to Officers to determine at the expiry of the consultation period, subject to no material planning considerations being raised;
 - (f) DCSE2007/0852/F - change of use of farm building to B1 use with treatment plant and ancillary works at Everstone Farm, Peterstow – refused contrary to recommendation.
 - (g) DCSE2007/0995/F - proposed 4 no. four bedroom detached dwellings, Long Orchard, The Lea - approved as recommended; and
 - (h) DCSE2007/1018/F - conversion of leisure buildings to a retirement dwelling with garaging and annex and with new accesses to the highway, Wye Lea Country Manor, Bridstow, Ross-On-Wye - approved contrary to recommendation.

AREA PLANNING SUB-COMMITTEES

2. Information reports have been received from the three Area Planning Sub-Committees which have dealt with the following matters:

(a) Northern Area Planning Sub-Committee

- applications approved as recommended – 9
- applications refused as recommended – 0
- applications refused contrary to recommendation but not referred to Planning committee – 4
- applications minded to approve contrary to recommendation and referred to Planning Committee – 2
- applications deferred for further information - 5
- number of public speakers – 8 Parish Council; 9 objectors and 13 supporters
- appeals - 11 appeals received, 3 dismissed and 1 upheld

(b) Central Area Planning Sub-Committee

- applications approved as recommended - 9
- applications refused as recommended - 3
- applications deferred for site inspection - 5
- applications deferred for further consultation - 1
- number of public speakers - 10 (parish - 1, objectors – 5, supporters - 4)
- appeals - 10 appeals received and 3 dismissed.

(c) Southern Area Planning Sub-Committee

- applications approved as recommended - 19
- applications refused as recommended - 0
- applications minded to approve 1 (referred to Planning Committee)
- applications minded to refuse 10 (2 referred to Planning Committee)
- number of public speakers – 4 Parish Council; 10 objectors and 13 supporters
- appeals - 6 appeals received, 4 dismissed, 4 upheld and 1 withdrawn.

CONSERVATION AREA APPRAISALS FOR BOSBURY, CRADLEY, MUCH MARCLE , ORLETON AND SUTTON

3. In April 2006 the Committee recommended the consultation arrangements regarding a programme for the preparation of appraisals and management proposals for sixteen Conservation Areas in Herefordshire. . The results of the consultation process have helped to formulate the management proposals which form part of the next stage of work in relation to the particular Conservation Areas. The Appraisals which have been approved for consultation so far are Hampton Park, Almeley, Weobley, Ross On Wye, Mordiford, Dillwyn and Aylestone Hill.

4. It was agreed that the Cabinet Member (Environment) should be requested to accept the appraisals for Bosbury, Cradley, Much Marcle , Orleton And Sutton and the issues raised in association with these for the purpose of instigating the initial consultations with interested parties. It was also agreed that prior to consultation commencing, the Team Leader (Building Conservation) should first meet with the Cabinet Member (Environment and Strategic Housing) and the Ward Councillors of the Conservation Areas.

PLANNING WHITE PAPER AND ASSOCIATED DOCUMENTS

5. The publication of the Planning White Paper sets out the Government's proposals for the future of the Planning system. The main elements of the White Paper relate to Planning Performance Agreements, Planning Fees in England, changes to permitted development and improving the appeal process. There is a batch of Consultation documents about these elements and the Officers have put forward a number of suggestions about the response that should be made to the Government.
6. Central to the various consultation documents are the following future issues:-
 - the challenge of climate change;
 - supporting sustainable economic development;
 - increasing the supply of housing;
 - protecting and enhancing the environment and natural resources;
 - improving local and national infrastructure; and
 - maintaining security of energy supply
7. The papers identify the recent improvements that have been introduced into the planning system which include the introduction of Local Development Frameworks, improvement in development control performance and the establishment of specialist agencies. The documents indicate in particular that
 - national policy is not sufficiently clear and responsive;
 - the planning system is too bureaucratic, takes too long and is unpredictable;
 - individuals and communities find it difficult to be heard;
 - planning systems are confusing and unclear; and
 - decisions are not always taken at the right level
8. The Committee has noted the summaries of the various consultation papers and endorsed the proposed responses. It was agreed that the officers submit further responses to the Department of Communities and Local Government on operational questions and issues raised in the various papers, in consultation with the Cabinet Member (Environment and Strategic Housing).

**T.W. HUNT
CHAIRMAN
PLANNING COMMITTEE**

BACKGROUND PAPERS

- Agenda for the meeting of the Planning Committee held on 13th July, 2007.

REPORT OF THE ANNUAL MEETING OF WEST MERCIA POLICE AUTHORITY HELD ON 12 JUNE 2007

P C Ricky Gray

1. It was with very deep sadness that the death of PC Richard Gray was reported to the Authority's Annual Meeting. Silence was observed for PC Gray and other officers who had died in the line of duty.
2. PC Gray was killed whilst responding to a firearms incident at Shrewsbury on 6 May 2007, where two colleagues were being held at gunpoint.
3. PC Gray's actions to provide aid to his fellow officers by placing himself at personal risk stood as a supreme example of extreme heroism and selfless service to others. His actions were entirely in character for an officer who had gained no less than five commendations in his relatively short service with West Mercia.

Chair and Vice Chair

4. Mr Paul Deneen (Ross on Wye, Herefordshire) has been appointed Chair of the Police Authority for the ensuing year.
5. Reflecting the increasing workload of members and a desire to have a greater influence at the national level the Authority has agreed to appoint two Vice Chairs.
6. Mr Alan Thompson (Bringsty, Worcestershire) has been appointed Vice Chair (APA) and Mrs Margaret Winckler (Bridgnorth, Shropshire), Vice Chair (Local). Mr Deneen and Mr Thompson are both lay justice members and Mrs Winckler is a councillor member.

Membership

7. The Authority placed on record its appreciation of the service Mr Robert Forster (Telford), Mr Jim Hicks (Telford), Dr G Nathan (Redditch) and Mrs K Tomlinson (Telford) had given to the Authority.
8. The Authority also welcomed their successors; Mr Robin Bennett (Bridgnorth), Mr Keith Grumbley (Herefordshire) Mr Kuldip Sahota (Telford) and Colonel Tony Ward (Offenham, Evesham).
9. Mr Robert Rogers (Blakemere, Herefordshire) has also been appointed as an independent member of the Standards Committee.

Ministerial Visit

10 Tony McNulty MP, the Secretary of State for Policing, Security and Community Safety visited West Mercia in May and received a briefing on the performance of the force and current initiatives being undertaken. He was also informed of plans to develop the Hindlip Estate and presented certificates to several members of staff.

Policing West Mercia

11. A document summarising how West Mercia Police Authority and Constabulary “are working with communities and partners to make the area an even better place” is being distributed to all households during June 2007.

12. Five versions of the summary, one for each police division in West Mercia, have been produced and they contain generic information and specific information relevant to each of the divisional areas.

13. The summary includes details of local police station opening times and the Local Policing Teams etc.

Annual Report 2006/07

14. The Authority has agreed the Joint Annual Report for 200/2006, a copy of which will be available on the Internet at www.westmerciapoliceauthority.gov.uk.

15. Notable achievements during the past year include:

- The introduction of 145 Local Policing Teams, together with new methods of community engagement branded as Partners and Community Together (PACT), which will ensure increased police visibility, improved communication and strengthened relationships with local communities. The Authority has received very positive feedback on these new initiatives from local communities.
- A 3.8% reduction in total crimes recorded, with 3,258 fewer victims.
- In comparison with its family of most similar forces, West Mercia is the best performing force for: total recorded crime and violent crime and for sanction detection rates for these types of crime and racially aggravated crime.

There has also been a challenging recruitment campaign, which resulted in:

- 95 new posts created, with 66% filled. This is part of our two-year plan to strengthen, develop and enhance the force’s serious crime investigation, counter terrorism and civil protection capabilities. It is anticipated that the recruitment process will be completed, as planned, by March 2008.
- 270 Community Support Officers (CSOs) recruited or in post by April 2007. During the year the Government accelerated funding to enable further

recruitment and as a result we were able to exceed our original plan to recruit an additional 118 CSOs, which would have brought the total number to 190 CSOs.

Gender Equality Scheme

16. Both the Constabulary and Police Authority have published Gender Equality Schemes and copies are available on the Internet at www.westmercia.police.uk and www.westmerciapoliceauthority.gov.uk respectively.

17. The Schemes were developed in consultation with police officers and staff, local people and representative groups and set out how the promotion of gender equality will be central to the way the organisations operate.

Local Government in Shropshire

18. The Government invited the Police Authority to express views on a consultative paper regarding the possibility of Shropshire becoming single Unitary Council.

19. In considering this issue it was recognised that the lay justice and independent members of the Authority had not been involved in the proposed changes and had little knowledge. The Police Authority, therefore, resolved to have no view one-way or the other and would remain neutral. It was further agreed that the Authority would work with whatever Local Government structure emerged as a result of the Government's Review.

Professional Standards update

20. The first six months of 2006/07 (April-September) saw an increasing volume of complaints, whereas the following five months (October-February) saw a steady decrease.

21. In comparison with Most Similar Forces, West Mercia records the highest number of complaints, although the differential is less extreme on figures for complaints recorded per 1000 staff. Many complaints are lower level incivility, which are not recorded in many other forces.

22. The Independent Police Complaints Commission's national work continues to seek to standardise recording practices and a report was expected shortly. Direction and Control complaints were now recorded on the central database.

Police officer recruitment update

23. The Authority received the Police Officer Recruitment Update. The overall strength at 1st March 2007 was 2436 (2413.5 Full Time Equivalents) in post. 1.4% (34) were from a black and minority ethnic background and 25% (603) were female.

Building Protective Services

24. The Authority was updated on the Building Protective Services programme. The original investment of £2.9m into protective services agreed by the Police

Authority in 2006-2007 allowed for the provision of 95.5 additional personnel for this area. At the end of the first year of the two-year programme the Force had filled 63 of the 95.5 new posts.

25. The greatest challenge had been the transfer of experienced, specialist staff from divisions whilst maintaining appropriate levels of experience in front-line policing.

26. Local performance measures and a benefit register were being established to measure performance, national performance measures had not yet been established.

Protective Services Demonstrator Sites

27. The Chief Constable presented a report on Protective Services Demonstrator Sites and related the limitations of the funding surrounding these demonstrator sites and indicated that the final stages of submissions were still being finalised.

28. The Authority has supported the submission of the following funding bids:

- i) An intelligence-led project that would build on West Mercia's current use of Analyst Workstation software by extending the joined up use of the system to Staffordshire, Warwickshire and West Midlands.
- ii) A data warehouse to share general information.

29. A project has been commenced to develop the capacity of the Constabulary's multi-media unit in producing interactive presentations of media evidence in court. The project would aim to work with partners to develop a long-term sustainable partnership model. Partners were being approached and may include Suffolk and Warwickshire. This project was also being discussed with the Office for Criminal Justice Reform, who had expressed an interest in working with West Mercia.

West Mercia/Wales Cross Border Concordat

30. The Authority received a report on the West Mercia/Wales Cross Border Concordat to establish joint working along the West Mercia Constabulary and Welsh borders. The Authority endorsed the report and the draft agreement to be signed by the Chief Constables of West Mercia, Dyfed Powys and North Wales Police.

Special Priority Payments

31. The Police Reform Programme provides for a local scheme for Special Priority Payments targeted at front line and operational police officers in particular. The Scheme requires annual ratification by the Police Authority and Home Office.

32. In developing the Scheme for 2007 special consideration has been given to police officers who work significantly longer hours and who undertake frequent periods of stand-by.

33. West Mercia's Scheme allows for payments of between £500 and £3000 (or £5000 in exceptional cases). The cost is anticipated to be £1.6m and will be met by the Home Office although the specific grant is no longer separately identifiable as it has been consolidated into several grants.

Stop Search and Encounters

34. The Authority received an update on Stop Search and Encounter Records for the period 1st April 2006 to 31st March 2007. A total of 12,911 Stop Searches had been recorded which was a 1.7% increase on the previous year.

35. A significant increase had been made in stop searches related to ANPR (Automatic Number Plate Recognition). The Force's percentage of stop searches leading to arrests was slightly higher than the national average (13.8% against 13% nationally).

40th anniversary

36. The 1st October 2007 is the 40th anniversary of the formation of West Mercia Police Authority and West Mercia Constabulary, where in 1967 the Herefordshire, Shropshire, Worcestershire and Worcester City Constabularies were merged.

37. A series of events are being arranged to mark the occasion to include serving and former Police Officers and Staff and from the Police Authority and partner organisations.

Police/Community Consultative Groups (PCCGs)

38. The Authority has appointed the following members to attend meetings of PCCGs during 2007/2008.

Bridgnorth	Mr R Bennett/Mrs M Winckler
Bromsgrove	Mrs S Blagg
Bromyard and District	Mr B Hunt
Droitwich Spa	Mr E Sheldon
Evesham and Pershore	Mr Z Padda/Col. A Ward
Hereford	Mr P Dunford/Mr K Grumbley
Herefordshire Rural	Mr P Deneen/Mr B Hunt
Kington	Mr B Hunt
Leominster	Mr K Grumbley
Malvern	Mr J Campion
North Shropshire	Mr R Bennett/Mr R Durham
Oswestry	Mr R Durham
Redditch	Mrs S Blagg
Shrewsbury	Mr M Kenny/Ms Pready-James
South Shropshire	Mr R Bennett/Mr M Kenny/ Ms Pready-James
Telford and Wrekin	Mr K Sahota
Worcester	Mr R Peachey
Wyre Forest	Mr R Bennett

Questions on Police Matters at Council Meetings

39. The Authority is required to nominate a member to answer questions on the discharge of the functions of the Police Authority at meetings of the relevant councils and the following members were appointed for 2007/2008:

Herefordshire Council	Mr B Hunt
Shropshire County Council	Mr M Kenny
Telford and Wrekin Council	Mr K Sahota
Worcestershire County Council	Mr E Sheldon

Signed on behalf of the
West Mercia Police Authority

P Deneen
Chair

Further Information

Any person wishing to seek further information on the subject matter of this report should contact David Brierley or Ian Payne on Shrewsbury (01743) 344314.

Further information on the West Mercia Police Authority can also be found on the Internet at www.westmerciapoliceauthority.gov.uk.

List of Background Papers

In the opinion of the proper officer (in this case the Director of the Police Authority) the following are the background papers relating to the subject matter of this report:

Agenda papers for the Annual Meeting of the West Mercia Police Authority held on 12 June 2007.

REPORT OF THE HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY TO THE CONSTITUENT AUTHORITIES

Meeting Held on 11 June 2007

OPERATIONAL ACTIVITY

1. During 2006/07, a total of 9771 incidents were attended within Hereford & Worcester compared with 8882 in 2005/06, an overall increase of 10%. The Service had attended an unusually large number of primary fires, false alarms and special service incidents in the second quarter of the year due to a number of factors including hot and dry weather and flash floods. More statistics and details of notable incidents have been reported to the Authority and can be found on the Service's website (www.hwfire.org.uk).

INTEGRATED RISK MANAGEMENT PLAN

2. The Authority noted progress made towards the objectives set out in the 2007/08 Integrated Risk Management Plan (IRMP). The Authority also approved the 2008/09 IRMP for consultation. The consultation process will run for 12 weeks in line with statutory guidelines, starting from 1st July 2007. The results of the consultation process and any amendments / recommendations for the plan will be reported to the Authority for approval.

CORPORATE PLAN 2007/08

3. The Authority approved the Corporate Plan for 2007/08.

HUMAN RESOURCES

4. The Authority agreed not to adopt the National Firefighter Selection Tests for the recruitment of Firefighters in its current selection procedures, and would review this position in future.
5. An update on the Service's 2007 Wholetime recruitment campaign was noted.

MEMBERS ALLOWANCES

6. The Authority agreed to continue to keep Members Allowances at their present levels as adjusted in line with the Retail Price Index (RPI).

EMERGENCIES AND RESPONDING TO CLIMATE CHANGE

7. As a consequence of the many issues surrounding changes to climate, the Authority has agreed to the development of an overarching environmental strategy which is to be considered and approved at a future meeting of the Authority. Also, that the Authority's Integrated Risk Management Plan (IRMP) Steering Group has been requested to consider any operational issues and make any recommendations for action and developing them through future IRMP processes. National developments with regard to climate change will also be monitored with appropriate reports to the Authority.

SUPPEMENTARY CREWING PILOT

8. The Authority agreed to endorse further development of the Supplementary Crewing Pilot which was run successfully in Redditch as an initial pilot for 8 months between August 2006 and March 2007. Supplementary Crewing of second appliances utilises crews on an immediate turn out basis rather than using the current retained provision.

EQUALITY SCHEME

9. The Authority has adopted a new generic Equality Scheme. This follows on from the positive duties under the Race Relations (Amendment) Act 2000 (which put a duty on public authorities to publish a Race Equality Scheme outlining how these duties would be met) and the new equality duties under disability and gender legislation. It also incorporates good practice to support equality with regards age, sexual orientation and religion or belief.

REVIEW OF CODE OF CORPORATE GOVERNANACE

10. The Authority has endorsed updates to the Code of Corporate Governance. The Code describes the system by which the Authority directs and controls its functions and relates to its communities. The Code is subject to on going review to ensure the highest standards of Governance are maintained.

FIRELINK RADIO PROJECT

11. The Authority noted that the FireLink project will shortly move into a significant phase which is the installation within Hereford & Worcester Fire and Rescue Service of a radio infrastructure followed by initial vehicle fit outs which will be used for signal coverage and radio functionality testing purposes. It is envisaged the work will commence once the Service Level Agreement with the Airwaves service provider has been finalised, which is expected to be in June 2007.

ROAD SAFETY STRATEGY

12. The Authority has been informed of the launch of the Road Safety Strategy 2007 which is designed to accomplish the Authority's vision to make the roads in Herefordshire and Worcestershire the safest in the Country. The Strategy takes on board the new duties imposed on the Authority by the 'The Fire and Rescue Service Act 2004' to reflect increasing concerns regarding the levels of deaths and injuries on the roads. The Strategy focuses on two main themes:

- **Response and Intervention** - the Service will be collecting specific intelligence from crash scenes which will form the basis of a new service work stream focusing on intervention. This will be done collaboratively with working partners – Police, County and District Councils.
- **Prevention and Protection** – Through working more actively with partner agencies and encouraging use of the Fire Service's successful education strategies, the Fire Service hopes to contribute to the broader prevention agenda.

13. **PROVISIONAL FINANCIAL RESULTS**

The Authority has been informed of the Revenue and Capital expenditure and income positions for 2006/07. The Authority has agreed to transfer the revenue under-spend of £0.31million to general balances and also, subject to the approval of

the Budget Committee, to increase Capital budgets in 2007/08 arising from expenditure slippage from 2006/07.

PAUL HAYDEN
CHIEF FIRE OFFICER/CHIEF EXECUTIVE
HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY
JUNE 2007

FURTHER INFORMATION

Any person wishing to seek further information on this report should contact Committee Services on 0845 12 24454.

Further information on the Fire and Rescue Authority and the Fire and Rescue Service can also be found on the Internet at (www.hwfire.org.uk).

BACKGROUND PAPERS

Agenda papers of the meeting of the Fire and Rescue Authority held on 11 June, 2007.

