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Guide to Part III of the Local Government Act 2000

Local authorities

Confidence in local democracy

This guide

This guide provides an introduction to Part III of the Local Government Act 2000. It is for monitoring officers of district, unitary, metropolitan, county and London borough councils as well as monitoring officers of the Greater London Authority, City of London and Isles of Scilly. It has been prepared in consultation with the Local Government Association, Association of Council Secretaries & Solicitors, Society of Local Authority Chief Executives and the Association of London Government.

The new rules of conduct contained in the Act apply to members and co-opted members although this guide uses the term 'member' to refer to both of them. The Standards Board does not oversee the conduct of council employees.

Responsibilities

Part III of the Act gives the full council, individual members, the standards committee and the monitoring officer specific roles. These are set out below.

The council

Setting up a standards committee

Your council is required to establish a committee called a 'standards committee'.¹

If your council already has a standards committee² and its job includes promoting and maintaining high standards of conduct, then there is no need to set up a new one. Your council's existing standards committee can be treated as one set up under Part III of the Act³, so long as it includes at least one independent representative.

Every standards committee, including existing ones, must contain *at least* two members of the council and *at least* one independent representative. If your council chooses to have more than three people on it, at least 25% of the members must be independent. For example, if the standards committee has five members, two must be independent representatives.

An independent representative cannot be someone who, at the time of appointment:

- has been a member or officer of your council in the previous five years;
- is a relative or close friend of a member or officer of your council; or
- is a member or officer of *another* authority.

You can, however, have independent representatives who are also independent representatives on a standards committee of another authority.

Your council must advertise for its independent representative(s) in at least one local paper.

The standards committee does not have to reflect the political balance of the council. However, the Standards Board believes that councils should ensure there is appropriate political balance on it.

There can only be one executive member on the committee – it cannot be the mayor or leader and they may not chair it. However, the standards committee does not need to include a member of the executive.

Apart from county councils, if your council has town or parish councils in the area, it must ensure that there is town or parish council representation on its standards committee. To achieve this your council must appoint at least one member of a town or parish council to sit on its standards committee and he or she must be present when parish matters are discussed. Your council may also appoint a sub-committee to deal with town or parish council matters. In that case, the sub-committee must also include at least one town or parish council representative and at least one independent representative.

Once your council has set up a standards committee, it must send a copy of the committee's terms of reference to the Standards Board.

Adopting a local code

Your council must adopt a local code within six months of the model code being made by Parliament.⁴ It *must* include all of the compulsory provisions of the model code and these cannot be altered.

¹ Section 53 of the Act.

² Set up before 28 August 2001.

³ Regulation 5 of the Relevant Authorities (Standards Committee) Regulations 2001. These standards committees will be treated as such until 28 August 2003.

⁴ Section 51(1) of the Act.

Responsibilities continued

Your council may adopt additional provisions as long as they are consistent with the model code. However, a wide range of different local codes may cause confusion to local people and those who serve on more than one authority. The Standards Board also believes that members should all be judged to the same standards and therefore suggests that your council does not adopt additional provisions in its local code, at least initially.

If, however, your council does want to include additional provisions we recommend that the standards committee seek legal advice first.⁵ This should ensure that any additional provisions are consistent with the model code and are not in breach of other legislation.

Your council may develop specific guidance building on the rules in the local code e.g. the way members should treat confidential information or how they should deal with planning issues. However, any such guidance should not be considered as part of the local code, but as guidance on how to comply with it.

Once a local code has been adopted, your council must publish a notice in one or more local newspapers saying that a local code has been adopted and that it is available for public inspection. The Act says that if your council has its own paper and publishes a notice in that paper, it must also publish a notice in another local paper.

Your council must also send a copy of the local code to the Standards Board and we would be happy to receive this by e-mail.

If your council does not adopt a local code within six months, the model code will automatically apply to all members at the end of that period and will continue to apply until your council adopts its own local code of conduct.⁶

Importantly, from the time the local code is adopted or the model code applies to all members automatically, anyone (including members) may make a complaint to the Standards Board about breaches of the code. Complaints cannot, however, be retrospective. This means that a complaint cannot be made about anything that happened before the local code was adopted or the model code applied.

⁵ This may be from your monitoring officer or an external lawyer.

⁶ Refer to section 51(5)(a).

Members

Once your council has adopted a local code, all members are bound by it. In addition, they must agree in writing that they will observe the local code.

If any member fails to sign up to their local code within two months of it being adopted, then they cease to be a member of the council.⁷

To avoid this situation, the Standards Board recommends that, if possible, every member sign up to the local code at the *same time* it is adopted. Councils and monitoring officers in particular will need to manage the process carefully so that members do not get 'caught out' by this provision. New members will need to sign up to the local code before they take up their position.

Standards committee

Your standards committee is responsible for:

- advising on the adoption of a local code which sets out the standards of conduct expected from members;
- promoting and maintaining high standards of conduct within your council through assistance, advice and training; and
- monitoring the operation of the local code.

One of the first things your standards committee should do is advise the council on the adoption of a local code of conduct.⁸ A model code has been made by Parliament and this will form the basis of your council's local code.

Again, for those with a responsibility for town and parish councils in their area, standards committees have a responsibility to offer advice to those councils about adopting a local code.⁹ There is a separate model code approved by Parliament for town and parish councils.

Monitoring officers

Monitoring officers should make sure that all members are aware of the requirement to provide a written undertaking within two months of the local code being adopted.

⁷ Section 52(1)(b) of the Act.

⁸ Section 54(2) of the Act.

⁹ Section 55(1) and (2) of the Act.

Responsibilities continued

Monitoring officers have a duty to set up and maintain a register of members' interests. This register must be open to public scrutiny and easily accessible, for example on the council website. Members have a duty to let their monitoring officer know of any changes or additions to their interests and monitoring officers will need to update the register accordingly.

For those with a responsibility for town and parish councils in their area, monitoring officers are also under a duty to set up and maintain a register of interests for all members of those councils. They are also responsible for setting up and maintaining a public register of gifts and hospitality for those members.

Monitoring officers should make contact with town and parish clerks and county associations of local councils to discuss what is needed locally, if they have not already done so.

For a description of members' responsibility to register their interests, see the section 'Register of interests'.

Members' relationship with the Standards Board

The Standards Board will work with local government to ensure there is proper guidance available to members. We will promote best practice.

We recognise that most members already uphold high standards of conduct and take their duty to the public very seriously. It is our job, however, to receive written complaints about the conduct of individual members.

The Standards Board has a duty to consider all written complaints which it receives. Our procedures will be quick and fair to all involved.

If members want advice on their local code, we recommend that they talk to their monitoring officer or the standards committee. We cannot give advice on a particular case because we may have to investigate it later.

If a complaint about a member comes directly to your council and it involves the rules within your local code, it should be passed on to us for action.

The local code

As mentioned above, the local code must include all of the compulsory provisions of the model code, which set out the minimum standards of conduct that members must observe. There are two very important provisions, by which members will be bound at all times. These are:

1. they should not do anything which brings their council or office into disrepute; and
2. they should not misuse their official position to their own advantage or to the advantage or disadvantage of others.

As a member

Otherwise, the local code will only apply whenever members are conducting the business of their council or office. This is in their 'official role' as a representative of the public, for example, at meetings of the council, with other members and officers and public meetings and forums where they are there as a member.

Where they are also a member of another authority they will be subject to the code which applies to the authority whose business they are carrying out at the time. So for example, if a councillor is also a member of a police authority they will be bound by the police authority's local code when carrying out police authority business.

As a representative

The local code will also apply when members represent their council on other bodies. However, where the other body is bound by legal obligations which conflict with the local code, then the rules of that other body apply.

What members have to do

A. General duties

The local code will place a positive duty on members to:

- promote equality by not discriminating against others;
 - respect confidential information;
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What members have to do continued

- listen to the advice of the council's monitoring officer and chief finance officer where it relates to possible illegal decisions or spending; and
- inform the Standards Board if they reasonably believe another member has broken the code.

There are also a number of things that members should *not* do. These are:

- bring their council or office into *disrepute*;
- misuse their official position to their own advantage or to the advantage or disadvantage of others;
- unduly influence any person who works for the council;
- stop somebody seeing or getting copies of documents they are allowed to have; or
- misuse council resources or authorise their misuse, in particular for unauthorised party political purposes.

B. Register of interests

Under the new rules, each member will have to provide a fuller record of their interests in a public register.

Members must tell their monitoring officer in *writing* of any interests that they have which fall within the categories set out in the local code. These categories include:

- their job(s);
- the name of their employer, the name of any firm in which they are a partner and the name of any company for which they are a director;
- the name of any person who has made a payment to them in respect of their appointment as a member or expenses they have incurred in carrying out their duties;
- the name of any corporate body in which they have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100th in the company;
- any contracts for goods, services or works between the authority and the member, their firm (if they are a partner) or company (if they are a director or if they have a £25,000 shareholding (face value) or stake of more than 1/100th in the company);

- landholdings in the area;
- land leased or licensed from the authority; and
- membership of, or position of control or management in:
 - other bodies where they represent the authority;
 - other public authorities;
 - companies, industrial and provident societies and charitable bodies;
 - private clubs;
 - bodies whose main purpose is to influence public opinion or policy; and
 - trade unions or professional associations.

Members must also let the monitoring officer know, in writing, of any changes or additions which should be made to their entries in the register.

C. Declaration of interests

Alongside the register of interests, the local code will also require the declaration of interests at meetings of the council. Members can use the register as a trigger to decide which of their interests need to be declared at meetings.

Members have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial. The old distinction between 'pecuniary' and 'non-pecuniary' interests is no longer relevant.

A personal interest is an interest that affects the member more than most other people in the area. People in the area include those who live, work or have property in the area of the council. Members will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area.

If they do have a personal interest, they must declare it and say what that interest is before any meeting where the issue is to be discussed or as soon as it comes to light. However, they can still take part in the meeting and vote unless the personal interest is also a prejudicial interest.

What members have to do continued

A prejudicial interest is a matter of judgement for each member. What members have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the member’s interest was so important that their decision would be affected by it. If a member has a prejudicial interest then they must declare what that interest is (if they have not already done so) and withdraw from the meeting (by leaving the room).

If there is an executive member with a prejudicial interest, they cannot take part in decisions about that interest.

There are two exceptions to the rules about prejudicial interests:

- members can still take part in an overview and scrutiny committee meeting unless it is a prejudicial interest of a financial nature or if it is about a decision they have taken at an area committee or joint committee meeting; and
- similarly, they can take part in an area or joint committee meeting unless the prejudicial interest is of a financial nature or the meeting is taking a decision delegated from the executive or the council about the issue.

This means that members are encouraged to bring their personal experience to bear when considering matters but they should not be involved in taking decisions if they have a prejudicial interest.

Subject to regulations being made, the standards committee may grant members a dispensation to take part in a meeting even though they have an interest.

D. Gifts or hospitality

The local code will also require members to tell the monitoring officer, in writing, of any gifts or hospitality (over £25) received. These must be held on a public register.

Glossary

Act	the Local Government Act 2000.
A co-opted member	a person who is not an elected member but who, as a member of any committee or sub-committee of the council, is entitled to vote at meetings. This includes any independent representatives on your standards committee.
Local code of conduct	your council must adopt its own local code which must at least include all of the compulsory provisions of the model code.
Model code of conduct	the model code of conduct will be approved by Parliament and contains a set of compulsory provisions that must be included in the local code of conduct.
Monitoring officer	a person who has functions under section 5 of the Local Government and Housing Act 1989 as amended.
A personal interest	exists where a decision on the matter at hand would affect: <ul style="list-style-type: none"> (a) the member, their partner, relatives or close friends; (b) a body employing those persons; or (c) any corporate body in which the member holds shares above £25,000 or in which the member has a stake of more than 1/100th in the company to a greater extent than other people in the area.
A prejudicial interest	exists where a member of the public (who has knowledge of the circumstances) would view the member’s personal interest as being so significant that it is likely to prejudice the member’s judgement of the public interest.
Standards Board	the Standards Board for England. A national body set up to oversee the implementation of the new measures under Part III of the Act.
Standards committee	a committee with a number of statutory functions relating to the new measures as set out in Part III of the Act.



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