

CODE OF CONDUCT

The following notes accompanied the DVD issued by the Standards Board for England to explain the revised Code of Conduct for members of local authorities.

The Code of Conduct has been revised.

Members, officers and organisations contributed opinions and ideas.

The Code is now:

- clearer and more enabling
- better suited to the needs of local government.

When does the Code apply?

- at formal meetings
- when acting in your official capacity as a councillor
- in your private capacity, but only in relation to criminal activity, and only when that activity has led to conviction by a court (this part of the code only comes into effect when legislative amendments are made).

In this programme, three parts of the Code are explored

- (a) being a community advocate and having personal and prejudicial interests
- (b) guidance on disclosing confidential information
- (c) bullying

Remember to read the detailed guidance (*this has already been issued to members*)

(a) Community advocacy

Personal Interests

1. Those that are registered or
2. those that arise where the well-being or financial position of certain people or bodies is affected more than are the majority of people in the ward affected by the decision.

Personal Interests

If the area does not have wards:

- it's the authority's area (as it was under the old Code)
- London (Greater London Authority) - the constituency affected by the decision

Personal Interests – what to do at a meeting

Declare the existence and nature of the interest, **unless**

- an exemption applies - then you need only declare if you are going to speak
- the interest is sensitive – then there is no need to declare the nature of it

What is a prejudicial interest?

1. It is a personal interest, **and**
2. it could reasonably be deemed by a member of the public who knows the relevant facts as so significant that it would prejudice your judgement of the public interest, **and**
3. it affects your interests financially, or it is a regulatory matter that affects you.

Remember:

Just because you do not have a prejudicial interest, it does not mean you can participate.

Check common law issues such as bias and predetermination.

Prejudicial interests – the tests

1. Is there a personal interest?
If not, you don't have a prejudicial interest
2. If you have a personal interest, does it fall within one of the exempt categories?
If it does, you don't have a prejudicial interest.
3. Does the decision relate to the financial position of the interest or to a regulatory matter?
If it doesn't, you don't have a prejudicial interest.
4. If it does, what would an informed member of the public think?

Prejudicial interests – what to do

Attend the meeting, but only to make representations, answer questions or to give evidence, **provided that** the public have the same right.

Then leave the room.

Other options open to you are to:

- make written representations in your private capacity
- use a professional representative to act on your behalf
- ask another member to represent the views of your constituents.

(b) Confidential information

Confidential information can be disclosed if:

- consent is given
- it is required by law
- it is made to third party for professional advice
- it is in the public interest

Disclosing confidential information in the public interest

The disclosure must meet **all four** requirements:

- be reasonable
- be in the public interest
- be made in good faith
- comply with reasonable requirements of the authority

Meeting the requirements

1. Reasonable -

- Is the information true?
- Is there any personal gain for you?
- Whom are you making the disclosure to?
- How serious is the information?

2. Public interest -

- Has a criminal offence been committed?
- Will you or your authority fail to comply with legal obligations by not disclosing?
- Are you deliberately concealing information that is in the public's interest?

3. In good faith -

- There must not be an ulterior motive
4. Compliance with the reasonable requirements of your authority
- Comply with your authority's policies and protocols
 - Raise your concerns through the proper channels

Disclosing confidential information

Remember

- carefully consider the implications
- explore all other options first
- seek advice

(c) Bullying

What is bullying?

Bullying can be

- offensive
- intimidating
- malicious
- insulting
- humiliating

There is a difference between bullying and a legitimate challenge about policy or performance

The effects of bullying

- are detrimental to a person's confidence or capabilities
- adversely affect a person's health

Bullying can happen once or it can be part of a pattern of behaviour over a period of time

What you should do

- raise issues in the correct way
- use the proper forum

Don't: let criticism become personal or offensive