

Leicester
City Council

Standards Committee

7 September 2011

The future of the Standards framework in Leicester

Report of the Monitoring Officer

1. Purpose of report

To inform discussions of the Standards Committee on the future of the Standards framework in Leicester, pending the coming into force of the Localism Bill.

2. Recommendations

- 2.1 Standards Committee considers and comments on the briefing note attached and rationale for a new local code set out.

3. Report

3.1 A local code and how to “police” it?

- 3.2 At the request of the Standards Committee which had an initial discussion about a local code of conduct for Leicester at its last meeting, I met with two of the three independent members of the Committee and considered the attached briefing note (appendix 1). Our discussions included what might be included in a local code, who would “police” it and how it might be enforced?

Our discussions suggested that one approach was to amend and update the Political Conventions (appendix 2) but to add some of the aspects of the current Code of Conduct (appendix 4). This together could form the basis of a new code. I have set out the choices the Committee could consider to amend the Political Conventions at appendix 5 and to include from the Code of Conduct at appendix 6.

We discussed the inclusion of the City Mayor in such a local code. We also discussed the benefit of having an increased number of independent members on any future committee to counter balance a large ruling party and also a City Mayor with increased powers compared to the previous Leader. This predated some research I undertook that suggests the inclusion of

independent members in the future would have to be as co-opted non-voting members.

3.3 The law

The Localism Bill which is making its way through Parliament is anticipated to become law in the autumn. The Bill following debate and amendment retains the following proposals:

- to abolish “Standards for England” the national body that oversees the current standards regime.
- to abolish the legislation relating to standards committees and the local assessment of complaints.
- Giving the choice to Councils to adopt a local code of conduct or not as they see fit.
- A general duty to promote and maintain high standards of conduct by members.
- A new criminal offence regarding the declaration of financial interests will be introduced.

Before 2000 when standards committees were put on a statutory footing there were some attempts to monitor member behaviour through standards committees which were tested in the courts. It would be worth bearing these cases in mind.

They suggest that a standards committee can investigate conduct, name and shame a councillor, propose removal from a committee but that any restrictions must be proportionate. These provisions would need to accord with natural justice.

3.4 Rationale for having a new local code

Councillors have indicated that they wish to retain some form of local code and that wish has been repeated by this Committee. Some of the additional reasons for having a local code include:

- The statutory duty the Council will have to maintain standards
- The council’s liability for the action of its members
- To counter the risk of reputational damage
- A counter balance to an increasingly powerful City Mayor
- A counter balance to a large ruling group

3.10 What other factors ought to be considered and further research

Any new Standards Committee would be a non-executive committee of the Council. Under current constitutional and legal rules it would be made up of Councillors. Any “independent”/non councillors members would be co-opted non-voting members. It could be chaired by an “independent” chair.

The sanctions that could be imposed are likely to be limited to:

- “Naming and shaming”
- Suspension from a committee for a limited and proportionate time

It has been suggested that since the new code is envisaged to include the City Mayor, given that he was directly elected by the people of Leicester, they should be consulted on the development of the new code.

1. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

1.1. Financial Implications

There are no direct financial implications arising from this discussion report.
Steve Charlesworth, Head of Finance (Financial control)

1.2. Legal Implications

There are no additional legal implications other than those highlighted in the report.
Perry Holmes, Director of Corporate Governance

1.3. Climate Change Implications

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council’s climate change targets.
Helen Lansdown, Senior Environmental Consultant - Sustainable Procurement

2. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	N	
Policy	N	
Sustainable and Environmental	N	
Crime and Disorder	N	
Human Rights Act	N	
Elderly/People on Low Income	N	
Corporate Parenting	N	

Health Inequalities Impact	N	
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3. Background Papers – Local Government Act 1972

The political conventions – contained in the Constitution

The Code of Conduct for members – contained in the Constitution

R v Portsmouth City Council ex parte Gregory (1990) 2 Admin L.R. 681

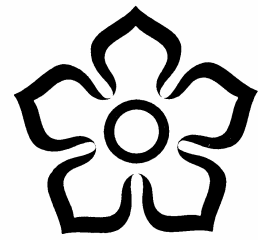
Lashley, R (on the application of) v Broadland District Council (2001) EXCA Civ 179

4. Report Author

Perry Holmes

Monitoring Officer.

Appendix 1



Leicester
City Council

BRIEFING NOTE

Possible approaches to drafting proposals for the future of Standards

The Standards Committee has asked for proposals to be brought forward for the future of a Standards framework at Leicester if, as expected, the Localism Bill when enacted abolished the current framework.

Options for a “new rulebook”

1. Adopt an amended/updates version of the Political Conventions

Advantages – mature code, certain amount of councillor buy in, already applies to the City Mayor,

Disadvantages – not new, could be seen as too Leicester centric, currently has not real teeth, misses some of the parts that councillors might want including from the Code of Conduct.

2. Write a new “Code of Conduct for Leicester Councillors in addition to the Political Conventions

Advantages – fills the gaps that the PC leaves include some of current Code features, new – would be seen to include the new councillors with no knowledge in the PC

Disadvantages – additional burden on councillors

3. No local Code just the current Political conventions

Advantages – less burdensome on elected councillors, just the criminal offences around declaration of financial interests and the group discipline of the Political Conventions.

Disadvantages – no accountability of City Mayor for complaints about conduct, contrary to commitment expressed by the previous Council and the City Mayor about having appropriate measures in place building on the work of the Standards Committee.

4. Adopt the Political Conventions and add some of the current Code features

Advantages – accountability for all Councillors and the Mayor, builds on the mature conventions, adds useful/non-controversial features of the Code such as “respect”, “bullying” “have regard to advice” – query only when on council business

Disadvantages – possibly seen as too Leicester centric

Issues for a new “standards framework”

- Who will be on the Committee? Independents/councillors
- What form should the receipt of complaints take?
Written/verbal/anonymous
- How should complaints be investigated? Pace/whole committee?
- What sanctions will there be? Censure/publicity?

The timetable

Independent Members & MO draft proposals	18 August 2011
Draft proposals @ Standards Committee	7 September 2011
Localism Bill enacted	Autumn
Consultation?	Autumn
Cabinet?	Autumn
Report to Council to approve changes	Autumn

NOTE: for the purposes of the Political Conventions, any rights and responsibilities of Councillors will also be applicable to the City Mayor. This does not apply to the Code of Conduct.

CONVENTIONS FOR COUNCILLOR/OFFICER RELATIONSHIPS

INTRODUCTION

Councillors are democratically accountable and have political affiliations. Officers must serve the whole Council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, Councillors and Officers must have mutual trust and respect for each other's requirements and duties. There must also be transparent consistency in everyday working relationships.

Ten General Principles of Conduct for Councillors and co-opted members of local authorities have been prescribed by legislation (*Appendix 3*). There is also a Model Code of Conduct (*Appendix 4*) which sets out the minimum standards Councillors and co-opted members must observe. These Conventions operate within that framework and provide the Council's local ground rules.

Councillors, co-opted members and officers agree to observe the General Principles, and the Model Code and these Conventions, and to be guided by them in the interests of fair treatment and good government.

The Conventions are the Council's way of applying the following basic principles:

- **Members have a right to information and support on a “need to know” basis.**

The “need” is so that they can perform their role as Councillor. It can be limited by conflict of interest, confidentiality and practicality.

- **Officers must serve the whole Council objectively.**

They must therefore provide “*unified advice*” at all times. This is advice which is objective, consistent and points out all relevant factors. Different points of view between Officers should be resolved or presented in a balanced way which helps Councillors to choose between them.

- **Political processes and different roles for Councillors are a legitimate part of local democracy.**

Officer advice and support can be tailored accordingly. A party group is entitled to the confidentiality of Officer advice on developing policies and may decide

when to publish a proposal. The overall arrangements for Officer advice must be transparent.

Observance of the General Principles, the Model Code and these Conventions is essential to the maintenance of high standards of probity and integrity.

1. OFFICER NEUTRALITY

Convention	Councillors	Officers
<p>1.1 Every Officer appointment and every employment decision must be on merit alone (by law). The Council has no political assistants.</p>	<p>Councillors appoint officers to the following posts and above only: Divisional Directors, other officers who are directly accountable to a Strategic Director / Chief Executive for all or most of their duties (excluding officers whose duties are solely secretarial / clerical / support).</p> <p>Councillors have a formal role in certain employment appeals.</p> <p>Party political factors cannot be taken into account.</p>	<p>Policy support to Councillors must conform to the “<i>unified advice</i>” principle. It must be for Council, and not for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as a pending election).</p>
<p>1.2 Certain posts are politically restricted, including all senior posts.</p>		<p>Politically restricted Officers cannot be Councillors or MPs. They cannot “<i>speak or publish written work to the public at large or a section of the public, with the apparent intention of affecting public support for a political party</i>”. They can speak or publish “<i>to such an extent as is necessary for the proper performance of their duties</i>”.</p>
<p>1.3 Officers serve the whole Council and must be politically neutral at work.</p>	<p>Councillors should respect Officers’ right to private political opinions. These should not be used against an Officer who remains neutral at work and observes the relevant codes.</p>	<p>The Council’s employment procedures and Codes of Conduct must be observed. Failure to do so could be a disciplinary matter.</p>
<p>1.4 Any questions about neutrality or improper conduct by an officer should be raised in private with the</p>	<p>Public accusation (direct or indirect) is potentially defamatory and such questions should not be raised in</p>	<p>Officers must be prepared to correct an inadvertent failure to declare an interest, or to justify a decision not</p>

Convention	Councillors	Officers
relevant Director, Monitoring Officer or committee adviser.	public meetings. Advice should be taken before meetings. If an issue arises in a meeting, an adjournment may be appropriate to consider how to deal with it. Challenging a deliberate decision not to declare an interest should also be done off agenda.	to declare an apparent interest. Prior employment is not automatically a declarable interest, but it may be in certain cases.
1.5 Close personal relationships between Councillors and Officers should be declared to the relevant Party Whip and Director, and entered in the voluntary register of interests. The test is whether a member of the public might reasonably consider the relationship likely to influence the Councillor or Officer in their respective roles.	The Councillor concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence (depending on domestic arrangements and other circumstances). The Party Whip should consider how working contact between the Councillor and Officer should be avoided or managed to dispel perceived bias, taking advice from the Monitoring Officer if necessary.	The Officer concerned should judge when to make a declaration. The Director should consider how to avoid or manage working contact to dispel perceived bias, taking advice from the Monitoring Officer if necessary.
1.6 Mutual respect and due courtesy between Councillors and Officers is expected by the Council.	Unwarranted criticism of Officers should be avoided, particularly when they cannot respond on equal terms, such as at Council meetings. Bullying by a Councillor could potentially expose the Council to a claim of constructive dismissal.	Officers should avoid unwarranted criticism of Councillors and should respect their rights under these Conventions. Officers should not only be neutral, they should appear neutral. Any matter which might cause doubt should be raised with the relevant Director to consider what steps are needed to provide reassurance.

2. PROVISION OF INFORMATION TO COUNCILLORS

Convention	Councillors	Officers
<p>2.1 Each Councillor has a right to the information reasonably required to perform his or her role as Councillor (the “<i>need to know</i>”) but <u>not</u> where:</p> <ul style="list-style-type: none"> • The information is primarily needed for a non-Council purpose; or • There is a conflict of interest; or • There is an over-riding individual right of confidentiality (for example, in a children’s or employment matter); or • The resources needed to supply the information would be unreasonable. 	<p>Councillors need not state a need to know when requesting information, unless one of the restrictions applies, in which case entitlement should be demonstrated. Any relevant interests or non-Council capacity should be declared at the time of the request. If dissatisfied with a refusal, the Director should be approached. If still dissatisfied the Monitoring Officer may be asked to determine entitlement.</p>	<p>Officers should assume a Councillor has a need to know unless one of the restrictions may apply. The Councillor should then be asked to demonstrate entitlement and, in cases of doubt, the Monitoring Officer may be consulted. An Officer should seek clearance from his or her manager before embarking on a significant amount of work to provide information.</p>
<p>2.2 Councillors are normally entitled to be given information on a confidential basis, the exceptions being:</p> <ul style="list-style-type: none"> • An over-riding Council interest (for example, protecting its legal and financial position); and • Natural justice (for example, giving an individual the chance to respond to allegations). 	<p>Councillors should ensure that the need for confidentiality is made clear to officers.</p>	<p>The Councillor must be told immediately if an exception applies.</p>
<p>2.3 Councillors must respect the</p>		

Convention	Councillors	Officers
<p>confidentiality of confidential Council information and must use confidential information only for the purpose it is given (for example, information supplied in confidence to a Cabinet Member or Scrutiny Chair cannot be used to pursue a special Ward interest).</p>		
<p>2.4 Councillors with a particular role have a special need to know arising from that role, for example:</p> <ul style="list-style-type: none"> ● City Mayor; ● Cabinet Member: matters relating to his or her portfolio; ● Scrutiny Chair and Vice-Chair: matters relating to their terms of reference and committee business; ● Ward Member: matters with special implications for the Ward (ie significantly more than the general implications for the City); <p>Working Party Members: matters relating to the role of the Working Party.</p>	<p>A Scrutiny Chair or Vice-Chair is not entitled to information in that capacity without it being known to and available to the other.</p>	<p><i>“Managed Access”</i> may be offered when information is particularly sensitive or needs interpretation. This involves inspection of the file combined with a briefing. Names and supporting evidence may need to be withheld.</p>

3. ENTITLEMENT TO BRIEFING

Convention	Councillors	Officers
<p>3.1 Councillors are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information (Convention 2.1). Councillors with a particular role may expect to be briefed about relevant matters without having to make a request.</p>	<p>Councillors should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, the Director should be approached. If still dissatisfied, the Monitoring Officer may be asked to determine entitlement.</p>	<p>Officers should be clear about the capacity in which the Councillor is being briefed and the implications of any interest. In cases of doubt, the Monitoring Officer may be consulted. The Officer should always make it clear if a briefing is not based on unified advice, (ie is still subject to consultation with other Officers). Otherwise the Councillor is entitled to assume unified advice is being given.</p>
<p>3.2 A Party Group meeting may be briefed, provided:</p> <p>The Chief Executive knows of and approves the briefing;</p> <p>All Groups are informed and offered the same briefing;</p> <p>More than one Officer attends;</p> <p>Officers withdraw after briefing and any questions, and before political discussion;</p> <p>Officers do not write reports for Groups, leaving it for Councillors to present draft Committee reports or briefing notes.</p>		
<p>3.3 The content of briefings is confidential to the Councillors</p>		

Convention	Councillors	Officers
concerned. Confidentiality extends to the questions asked by the Councillors.		
3.4 Cabinet Members, individually and collectively are entitled to regular confidential briefing on matters relevant to their portfolios and in support of the policies they are developing prior to them formulating formal proposals.	The relevant Cabinet Member or the Cabinet collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage of formal proposals is reached, supporting Officer advice becomes publishable in conjunction with the proposals.	A briefing to help a Councillor respond to a question at Council may be in the form of suggested a reply. It should be confined to factual and professional matters and to explanations of existing policy, leaving the Councillor to add any political comment.
3.5 Committee Chairs and Vice-Chairs are entitled to regular and confidential briefing on matters relating to Committee business.	A Chair or Vice-Chair is not entitled to be briefed in that capacity without the briefing being shared with both Chair and Vice-Chair at a joint meeting or otherwise. Confidential briefing in a different capacity (for example, developing policy options on behalf of a party group) may still be appropriate	
3.6 Councillors must respect the confidentiality of information supplied in briefing and must use it only for the purposes for which they would have been entitled to receive it (for example, information supplied as Cabinet Member or Scrutiny Chair may not be used to pursue a special Ward interest, if it would not have been supplied to the Ward Councillor).		

4. CABINET AND COMMITTEE MEETINGS

Convention	Councillors	Officers
<p>4.1 Each Cabinet and Committee report should be in the name of a Director or the Chief Finance Officer (both if it has major financial significance) who must ensure that:</p> <ul style="list-style-type: none"> • It is made clear what stage in the process has been reached and what is required from Councillors; • There is a clear recommendation or options presented in a way which enable Councillors to choose between them; • It is clear who is responsible for action and to what timetable (including further reports); • All relevant factors are included and the issues are presented with professional objectivity; and • Associated briefings and presentations are also professionally objective. 	<p>Cabinet Members may introduce reports at Cabinet. Officer advice should be obtained before the meeting on any alternative recommendation to be moved to ensure that operational, financial and legal factors are taken into account.</p>	<p>The principle of unified advice requires that meaningful and timely consultation is completed before finalising a report (particularly on financial and legal implications, on which the consultees should be named). Officers may take account of policies of the Council. Options, indeed recommendations, may reflect political realities, provided all realistic options are addressed in a way which is professionally objective and sustainable. It is not always necessary to recommend the course of minimum risk, provided risks and reasons for taking them are made clear.</p>
<p>4.2 Cabinet Members, individually or collectively, may determine the timetable for developing their</p>	<p>Deferring a report is a Cabinet decision and responsibility. A Scrutiny Committee may ask</p>	<p>Withdrawing a report is an Officer decision and responsibility, in consultation with Cabinet Lead.</p>

Convention	Councillors	Officers
<p>policies, including:</p> <ul style="list-style-type: none"> • The point at which confidential ideas become formal proposals for publication; • Who to consult and to what deadline; • The timing of Cabinet reports. <p>The relevant Director or the Chief Finance Officer must ensure that all essential decisions are requested by necessary deadlines.</p>	<p>for more time, information or other views before responding to Cabinet consultation, provided:</p> <ul style="list-style-type: none"> • The Cabinet Lead Member agrees to additional time and consultation (these being matters for the Cabinet); and • The relevant Director agrees that further information can be provided at reasonable cost and use of Officer time. 	
<p>4.3 It is for a full Scrutiny Committee to determine its programme for scrutinising the implementation of decisions and for recommending policy changes to Cabinet. It is expected that reports commissioned and evidence requested will:</p> <ul style="list-style-type: none"> • Avoid cutting across work in support of developing Cabinet policies; and • Involve reasonable cost and use of officer time. 	<p>Where the Cabinet and a Scrutiny Committee are considering the same service area, the Cabinet Lead Member, Scrutiny Chairs and Vice-Chairs and Director should agree a joint programme of work and the order in which reports should be consulted upon and presented.</p>	<p>Work for and evidence to a Scrutiny Committee is determined by the relevant Director (since the Committee has no decision-making powers). If the Committee insists on work or evidence the Monitoring Officer should be consulted on how to resolve the impasse.</p>
<p>4.4 Any Member of a Scrutiny Committee may place an item on its agenda by giving at least three</p>	<p>The Chair and Vice-Chair will be notified of a notice and asked whether a report should</p>	<p>The Monitoring Officer should immediately copy the notice to the Chair and Vice-Chair and the relevant Director</p>

Convention	Councillors	Officers
<p>weeks' notice to the Monitoring Officer of the item and why the Committee is being asked to consider it. This right does not apply when the matter has already been dealt with under the "six months rule" in Procedure Rules.</p>	<p>be prepared to accompany the item. A report will be prepared if a majority agree. If not, the Committee may still, when considering the report, request a report at their next meeting.</p>	<p>and Cabinet Members and ask the Chair and Vice-Chair whether a report should accompany the item. The Director may offer a report in any event.</p>
<p>4.5 Guidance to Officers on all matters of Scrutiny Committee business and procedure (apart from Chaining meetings) shall, subject to full committee decisions, be determined by a majority of the Chair and Vice-Chair including:</p> <ul style="list-style-type: none"> • Agendas; • Dates and times of meetings with a presumption that meetings on Mondays and Fridays will be avoided wherever practicable; • Evidence to be presented at a future meeting; and • Interested parties to be invited to attend and participate at future meetings. 	<p>There is a standing offer by and invitation to the relevant Cabinet Lead Member and Director to attend Scrutiny Committee meetings with a view to explaining matters relevant to the agenda. A specific request to the Chair and Vice-Chair or invitation to the Cabinet Lead or Director should be made, giving reasonable notice, where:</p> <ul style="list-style-type: none"> • The Cabinet Lead would like to explain a particular matter; or • The Chair and Vice-Chair would like to explore a particular matter with the Cabinet Lead or Director. <p>It is expected that the Cabinet Lead would normally attend a Scrutiny Committee which is considering proposals at the request of the Cabinet or the Cabinet Lead.</p>	<p>Each Scrutiny Committee has a Lead Officer responsible for co-ordinating its overall programme and individual agendas in consultation with:</p> <ul style="list-style-type: none"> • The Chair and Vice-Chair; • Relevant Cabinet Members (in relation to Cabinet policies in development); • Directors.

Convention	Councillors	Officers
	<p>A Councillor who has been consulted on an officer decision is accountable to the Scrutiny Committee for the views expressed.</p>	
<p>4.6 The Chair is expected to conduct Scrutiny Committee meetings so as to ensure:</p> <ul style="list-style-type: none"> • The basis of any participation by non-Members of the Committee is made clear at the outset (for example, question and supplementary, statement, or participation in debate); • The questioning of Cabinet Members, Officers and others is properly structured, and conducted in a courteous, seemly and constructive manner; <p>Questions are properly directed to the Cabinet Lead (for example, justifying policy) or Director (for example, progress with implementation), inviting both to attend where necessary.</p>		
<p>4.7 The Chair and Vice-Chair should be jointly briefed on questions from the public. After the Chair has</p>		

Convention	Councillors	Officers
responded, the Vice-Chair may add comments.		

5. REGULATORY AND COUNCIL COMMITTEES

Convention	Councillors	Officers
<p>5.1 Development control, licensing and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements, and in particular:</p> <ul style="list-style-type: none"> • The appearance of decisions being based on party political consideration must be avoided; • If Officer recommendations are not accepted, care should be taken to ensure that any departures can be justified and that they are consistent over time. <p>The Code of Practice in <i>Appendix 3</i> must be followed.</p>	<p>Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary avoid participation. Potential interests should be raised with Officers before meetings. Any Cabinet Member would have an interest in a planning application by the Council.</p>	
<p>5.2 Only Councillors who have received appropriate training may participate in decisions relating to regulatory decisions and Employees' Committee Appeal Hearings.</p>	<p>Any untrained Councillor asked to participate in a decision should request training, which will be fast-tracked if necessary.</p>	
<p>5.3 Reports to Regulatory meetings should comply with Convention 4.1 except that political considerations are inappropriate. The Chair and Vice-Chair shall be briefed and guide Committee business and procedure in line with the above</p>		

Convention	Councillors	Officers
convention 4 relating to Scrutiny Committees.		

6. WORKING PARTIES

Convention	Councillors	Officers
<p>6.1 Non-statutory Working Parties of Councillors may be set up by the Cabinet, or by the Monitoring Officer in consultation with the relevant Councillors of all Groups, for the purpose of:</p> <ul style="list-style-type: none"> • Providing an all-party forum to assist in developing particular policies; • Providing a forum for consulting interested parties on particular services or issues; • Pursuing all-party consensus on an issue prior to a formal decision; • Enabling Cabinet and Scrutiny Members jointly to review a matter. 	<p>Panels for statutory purposes and single-party groups are outside this Convention. The term “<i>Working Party</i>” defines the status of the body within the Council’s structures. It need not necessarily be used in the body’s title.</p>	
<p>6.2 A Working Party should:</p> <ul style="list-style-type: none"> • Be politically balanced unless the Groups unanimously agree otherwise. • Have clear terms of reference. 		

Convention	Councillors	Officers
<ul style="list-style-type: none"> • Be defined as a standing body or a task and finish group. 		
<p>6.3 Any co-opted members of the Working Party shall be determined by the Monitoring Officer or the Cabinet on the advice of the Working Party.</p>		
<p>6.4 The Cabinet will be asked to review annually the need for each Working Party.</p>		

7. COUNCILLOR INVOLVEMENT IN CASEWORK

Convention	Councillors	Officers
<p>7.1 Officers must implement Council policy within agreed procedures. An individual Councillor cannot require an Officer to vary this and cannot take a decision or instruct an Officer to take action. The Councillor's role in relation to casework is:</p> <ul style="list-style-type: none"> • To be briefed or consulted where there is a need to know; • To pursue the interests of individuals by seeking information, testing action taken and asking for the appropriateness of decisions to be reconsidered. <p>A Councillor's entitlement to be involved is based on the "<i>need to know</i>" and determined in accordance with Conventions 2 and 3.</p> <p>Access to files may need to be denied or restricted if one of the exceptional circumstances in Convention 2.1 and 2.2 applies. Any access then allowed may need to be "<i>managed access</i>" (as described in Convention 2).</p>	<p>Councillors should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures. Involvement in legal proceedings and audit investigations carries special dangers of prejudicing the case, and of personal embarrassment. The District Auditor has warned of the dangers of individual Councillors intervening in the processes of the Council without full knowledge of the facts.</p> <p>A Councillor lobbied on an issue (especially planning policy) should explain that any views expressed are personal and they cannot commit or anticipate the Council's decision. Any lobbying should be referred to at meetings to consider the policy.</p>	<p>Officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:</p> <ul style="list-style-type: none"> • Councillors legitimately adopt different approaches • Councillors may legitimately pursue non-Ward issues (for example, a City-wide community of interest) • The special local knowledge of particular Councillors may be useful to a particular case. <p>Officers should point out to the Councillor when a restriction on the need to know may apply, explore entitlement with the Councillor and, in cases of doubt, consult the Monitoring Officer.</p> <p>Directors should ensure that their staff know how to obtain appropriate senior management support (particularly out of hours) when the extent of a Councillor's involvement in an issue needs to be clarified.</p>
7.2 A Councillor pursuing a Ward	A close relationship should be	

Convention	Councillors	Officers
<p>matter on behalf of a close family member or friend should declare the relationship and consider whether to ask another Councillor to pursue the matter.</p>	<p>judged as in Convention 1.4.</p>	
<p>7.3 Councillors should not act as an individual's <i>"friend"</i> or provide a reference in relation to staffing matters within the Council (except in exceptional circumstances). They should avoid involvement in staff lobbying outside formal procedures.</p>	<p>The main procedures for Councillor involvement in staffing matters are:</p> <ul style="list-style-type: none"> • Formal machinery for taking individual staffing decisions. • Arrangements for staff representatives to submit views when staffing issues are before Councillors. 	
<p>7.4 Staff may raise issues with their Councillor as citizens. They must not lobby Councillor on personal employment or budgetary matters except within the proper management and representative procedures (in the interests of balanced, unified advice to Councillors).</p>	<p>Councillors should refuse to respond to inappropriate lobbying and inform the relevant Director who should direct the staff towards the appropriate channels. This applies if the approach is superficially to a Ward Councillor, but in reality amounts to an employment matter.</p>	<p>Directors should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.</p>
<p>7.5 A Councillor's right of access to Council premises and to bring in guests is based on the <i>"need to know"</i> (that is, to perform the Councillor's role). In addition to</p>	<p>When visiting Council premises, a Councillor should:</p> <ul style="list-style-type: none"> • Make prior arrangements whenever possible for visits 	<p>Directors should ensure that their staff are aware of these requirements and know how to obtain appropriate senior management support (particularly out of hours).</p>

Convention	Councillors	Officers
<p>the general restrictions, it is subject to ensuring:</p> <ul style="list-style-type: none"> • Operational continuity; • Confidentiality; • Compliance with Health & Safety arrangements; • Compliance with security requirements. 	<p>outside NWC;</p> <ul style="list-style-type: none"> • Check in on arrival with reception or the site manager; • Observe the site manager's requirements in relation to health and safety and so on. • Expect to be denied access or asked to leave in circumstances where compliance with the requirements cannot be guaranteed or the Councillor's behaviour might bring the Council into disrepute. 	
<p>7.6 Councillors' guests should:</p> <ul style="list-style-type: none"> • Be properly checked in and out; • Explain the purpose of their visit, if requested; • Observe the site manager's requirements; <p>Not be admitted after normal business hours, except for notified evening meetings and by special arrangement for particular purposes.</p>		<p>Directors should ensure their staff are aware of these requirements and how to obtain appropriate senior management support (particularly after hours). They should also ensure staff are aware exactly when guests may be admitted outside normal opening hours.</p>

Convention	Councillors	Officers

8. MEDIA RELATIONS AND PUBLISHED MATERIAL

Convention	Councillors	Officers
<p>8.1 Statements and published material on behalf of the Council (including the Council's website) must not be party political and must comply with the Statutory Code of Practice (<i>Appendix 4</i>).</p>	<p>Councillors are the Council's principal spokespersons on policy. As individuals, they may make party political comment, but the Council may not publish such comment.</p>	<p>Officers may publish factual, professional and technical comment. Reports, presentations and publications must be professionally objective in language, content and tone. Directors must ensure that Officers who publish statements and material are competent for the role and understand the requirements of these Conventions.</p>
<p>8.2 News releases on behalf of the Council may only be issued through the Communications Unit. Official statements to the media should only be made after consultation with the Communications Unit. This is to ensure consistency and compliance with the Code.</p>		<p>The Communications Unit is responsible for promoting and protecting the Council's overall interests in relation to the media.</p> <p>Directors are responsible for informing relevant Councillors when a media statement is proposed.</p>
<p>8.3 The Communications Unit will support and issue news releases in relation to the business of the Cabinet and Scrutiny Committees. In this it will be guided:</p> <ul style="list-style-type: none"> • By the relevant Cabinet Lead Member (on Cabinet matters) • By the Scrutiny Chair and Vice-Chair acting unanimously (on Scrutiny matters). 	<p>Chair and Vice-Chair unanimity is essential, since its absence would usually imply a party political issue. The Scrutiny Chair is responsible for obtaining agreement. A statement may be in the name of the Chair if the Vice-Chair agrees.</p> <p>Another Councillor may act on behalf of a Chair and Vice-Chair member if unavailable.</p>	<p>News releases on behalf of a Scrutiny Committee may include:</p> <ul style="list-style-type: none"> • Their reasons for considering a matter; • Their findings and recommendations; • Majority and minority views.

9. ELECTION PERIODS

Convention	Councillors	Officers
<p>9.1 From the notice of a Parliamentary or local election until election day:</p> <ul style="list-style-type: none"> • Nothing should be published (including the Council’s website) on a politically controversial issue, or which identifies views or policies with those of individual Councillors or party Groups; • In Parliamentary elections, nothing should be published which mentions or includes a picture of any prospective candidate; • Any publicity should be strictly objective, concentrating on facts or explanations; • During local elections, no Council newspaper, corporate or departmental should be published; • Councillors and Officers should take particular care to keep Officers distant from party political matters. • Councillors requesting information should make their “<i>need to know</i>” 		<p>Subject to this Convention, publicity is permitted of a Councillor speaking on behalf of the Council about an approved policy.</p> <p>External comments should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.</p> <p>Where the Council ought to be represented as stakeholder at an event with a potentially political dimension, officers should:</p> <ul style="list-style-type: none"> • Ensure that all contributions to any discussion are factual and based on approved Council policy. • Avoid expressing opinions or views which may be perceived as containing a party political dimension.

Convention	Councillors	Officers
<p>clear and the “<i>need to know</i>” principle should be strictly observed.</p> <ul style="list-style-type: none"> • Prospective Parliamentary candidates (including current MPs) should be treated equally. • Officers should avoid even the appearance of political bias. 		<ul style="list-style-type: none"> • Avoid engaging in any media activity relating to the event (that is avoid TV or radio interviews, comment to the media, inclusion in photographs or TV filming).
<p>9.2 During such election periods the Town Hall and New Walk Centre shall not be used for political meetings (other than normal private meetings on Council business). This prohibition shall extend to the Town Hall Square Concourse, but the rest of the Town Hall Square may (subject to prior booking) be used for political meetings.</p>		

10. PARTNERSHIPS

<u>Convention</u>	<u>Councillors</u>	<u>Officers</u>
10.1 Any partnership in which the Council participates must be asked to adopt the General Principles of Conduct (<i>Appendix 1</i>) or to justify any departures.		
10.2 The partnership must be asked to observe the rules in <i>Appendix 5</i> and to have an item on all agendas requesting that interests be declared.		

11.RESOLVING PROBLEMS

Convention	Councillors	Officers
11.1 Councillors and Officers should try to interpret and apply the Conventions consistently. Those concerned should first try to resolve any problems between themselves.	Councillors should raise unresolved problems with the relevant Assistant Director or Director. If necessary the Group Whip or Monitoring Officer should be consulted.	Officers should raise any unresolved problem with their Assistant Director or Director who will advise or take the matter up with the relevant Councillors. If necessary, the Monitoring Officer should be consulted. The Monitoring Officer may involve the relevant Group Whip.

LOCAL GOVERNMENT ACT 2000
(Relevant Authorities [General Principles] Order 2001)

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 Judgment

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 always act in a way that secures or preserves public confidence.

CODE OF CONDUCT

Appendix 4

CODE OF CONDUCT FOR ELECTED MEMBERS
ADOPTED BY THE CITY COUNCIL ON 20TH JUNE, 2007.

WITH EFFECT FROM 30TH SEPTEMBER, 2007

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
 - (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.
 - (5) In relation to a parish council, 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.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

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(a)

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 officer,
where 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 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;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (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 (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 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.

(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 regulations made by the Secretary of State under section 22 of the Local Government Act 2000(a)

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 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.

Prejudicial interests arising in relation to overview and scrutiny committees

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

(a) 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; 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.

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;

(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 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.

Suggested amendments to the Political Conventions

Page	Addition or amendment
255	Add introductory comment about the democratic accountability of the City Mayor
255	Remove reference to the Ten General Principles ?
255	Remove reference to the Code of Conduct and Appendix 2
255	Change the sentence "These Conventions operate....rules."
255	Add a basic principle to reflect the advent of a City Mayor?
255	Retain the other three basic principles?
261	Amend "Chief Executive" to read "Head of Paid Service or relevant Strategic Director/Divisional Director"?
262	Amend "Cabinet Members" to read "The City Mayor, Deputy and Assistant Mayors"?
264	Amend the references to Scrutiny to reflect the new scrutiny arrangements and consider changing them in consultation with the Chair of Scrutiny?
274	Amend 9.1 to include Mayoral elections and prospective mayoral candidates.

Appendix 6

Suggested additions from the Code of Conduct

Page	Addition
281	Retain something about the new code only applying to Councillors when they are on official Council duty.
282	Retain something about respect, bullying
282	Amend the provision of information to Councillors part of the Conventions to make clear the need to protect confidential information
283	Include disrepute?
283	Include misuse of position?
283	Include "have regard to officer advice"?
284	Include give reasons for decisions?
262	Amend "Cabinet Members" to read "The City Mayor, Deputy and Assistant Mayors"?