

Annual Council Meeting

Agenda and Reports

For consideration on

Tuesday, 15th May 2007

In the Council Chamber, Town Hall, Chorley

At 6.30 pm



Chief Executive's Office

Please ask for: Gordon Banks
Direct Dial: (01257) 515123
E-mail address: gordon.banks@chorley.gov.uk
Date: 4 May 2007

Chief Executive: Donna Hall

Chorley
Council

Town Hall
Market Street
Chorley
Lancashire
PR7 1DP

Dear Councillor

ANNUAL COUNCIL MEETING - TUESDAY, 15TH MAY 2007

You are invited to attend the Annual Council Meeting of the Chorley Borough Council to be held in the Council Chamber, Town Hall, Chorley on Tuesday, 15th May 2007 commencing at 6.30 pm for the following purposes.

AGENDA

1. **Apologies for absence**
2. **Declarations of Any Interests**

Members of the Council are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Council's Constitution and the Members Code of Conduct. If the personal interest is a prejudicial interest, then the individual Member should not participate in a discussion on the matter and must withdraw from the Council Chamber and not seek to influence a decision on the matter.

3. **Minutes (Pages 1 - 6)**

To confirm the minutes of the Council meeting held on 17 April 2007 as a correct record for signature by the Mayor (copy enclosed)

4. **Returning Officer's Report**

The Chief Executive as the Returning Officer will report that at the Council Elections held on 3 May 2007, the following persons were duly elected as Councillors for the Wards stated:

| Ward | Councillor Elected |
|------------------------|---------------------------|
| Adlington and Anderton | June Molyneaux |
| Astley and Buckshaw | Mark Perks |
| Chisnall | Edward Malcolm Smith |
| Chorley East | Terence Brown |
| Chorley North East | Marion Lowe |

Continued....

| | |
|---------------------------------------|------------------------|
| Chorley North West | Peter Malpas |
| Chorley South East | Patricia Mary Haughton |
| Chorley South West | Laura Jane Lennox |
| Clayton-le-Woods and Whittle-le-Woods | Gregory Ian Morgan |
| Clayton-le-Woods North | Michael John Devaney |
| Clayton-le-Woods West and Cuerden | Judith Ann Boothman |
| Coppull | Nora Theresa Ball |
| Eccleston and Mawdesley | Kevin Joyce |
| Euxton South | Peter Goldsworthy |
| Lostock | Doreen Dickinson |

5. **Election of the Mayor for the ensuing Municipal Year**

- (a) Election
- (b) Declaration of Acceptance of Office
- (c) Speech by the Mayor

6. **Election of the Deputy Mayor for the ensuing Municipal Year**

- (a) Election
- (b) Declaration of Acceptance of Office.
- (c) Speech by the Deputy Mayor

7. **Presentation and Vote of Thanks to Past Mayor**

- (a) The Mayor will present Councillor Mary Wilson (Past Mayor) with a portrait, medallion and plaque bearing the Borough Coat of Arms as a token of thanks for her year of office.
- (b) Vote of Thanks to Past Mayor
- (c) Speech by Past Mayor

8. **Mayoral Announcements**

9. **Review of Political Composition and Appointment of Executive Cabinet, Committees and Other Bodies 2007/08**

- (a) To appoint the Executive Leader, Deputy Leader and other members of the Executive Cabinet for the ensuing Municipal year
- (b) To appoint the Lead Members for the ensuing Municipal year
- (c) To appoint the members of the various Committees, Sub-Committees and

other Bodies in accordance with the political balance rules and their Chairs and Vice-Chairs for the ensuing Municipal year.

- (d) To note the Shadow Executive Portfolio Holders.

(Schedule of nominations to be circulated prior to the meeting)

10. **Appointments to Outside Bodies 2007/08**

To appoint representatives on outside bodies including the appointment of substitute members where appropriate for the ensuing Municipal Year.

(Schedule of nominations to be circulated prior to the meeting)

11. **Programme of Ordinary Council Meetings 2007/08**

The Council is requested to confirm that Ordinary Meetings of the Council will be held on the following dates during the ensuing Municipal Year, in the Town Hall, Chorley, commencing at 6.30pm:

10 July 2007
18 September 2007
30 October 2007
18 December 2007
26 February 2008
22 April 2008

12. **Revised Model Code of Conduct for Local Authority Members (Pages 7 - 22)**

Report of the Director of Customer, Democratic and Legal Services (copy enclosed)

13. **Gambling Act 2005 - Implementation and Delegation (Pages 23 - 28)**

Report of the Director of Customer, Democratic and Legal Services (copy enclosed)

14. **Chorley Annual Report (Best Value Performance Plan)**

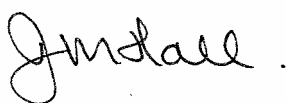
Report of the Director of Policy and Performance (copy to follow)

15. **Questions Asked under Council Procedure Rule 7 (if any)**

16. **To consider the Notices of Motion (if any) given in accordance with Council procedure Rule 8**

17. **Any other item(s) the Mayor decides is/are urgent**

Yours sincerely



Chief Executive

Distribution

To all Members of the Council and Chief Officers.

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپکی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

COUNCIL**Tuesday, 17 April 2007**

Present: Councillor Mary Wilson (Mayor), Councillor Adrian Lowe (Deputy Mayor), Councillors Peter Baker, Kenneth Ball, Thomas Bedford, Eric Bell, Terry Brown, Alan Cain, Mrs Pat Case, Alan Cullens, Magda Cullens, Francis Culshaw, Michael Davies, David Dickinson, Doreen Dickinson, Dennis Edgerley, Anthony Gee, Daniel Gee, Peter Goldsworthy, Mrs Marie Gray, Harold Heaton, Catherine Hoyle, Miss Margaret Iddon, Hasina Khan, Margaret Lees, Roy Lees, Marion Lowe, Peter Malpas, Thomas McGowan, Miss June Molyneaux, Greg Morgan, Michael Muncaster, Mark Perks, Geoffrey Russell, Rosemary Russell, Edward Smith, Mrs Iris Smith, Shaun Smith, Mrs Joyce Snape, Ralph Snape, Christopher Snow, John Walker and John Wilson

07.C.28 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Henry Counce, Keith Iddon and Mrs Stella Walsh.

07.C.29 DECLARATIONS OF ANY INTERESTS

No Members disclosed an interest in relation to matters under consideration at the meeting.

07.C.30 MINUTES

RESOLVED – 1) That the Minutes of the Council meeting held on 27 February 2007 be confirmed as a correct record and signed by the Mayor, subject to the following amendment to the Labour Group amendment on page 4 relating to free off peak concessionary travel:

delete ‘Borough’ and insert “NOW travel area”.

2) That the Minutes of the Council meeting held on 6 March 2007 be confirmed as a correct record and signed by the Mayor.

07.C.31 MAYORAL ANNOUNCEMENTS

The Mayor informed Members that on Sunday April 22 the Royal British Legion would be holding their annual service of remembrance to honour those who gave their lives during the Falklands Campaign and this year marks the 25th anniversary of the conflict.

All Councillors were invited to take part in the parade and to meet in the Council Chamber at 11.30am. The parade to march off at 12 noon and make its way to the monument in Astley Park for the memorial service which was due to finish at 12.45pm.

Following the service liquid refreshments would be served at the TA Centre in Devonshire Road.

Retirement of Councillors

The Mayor informed Members that five Councillors would not be seeking re-election at the forthcoming Council election and thanked the following councillors for their service to the Council and the people of Chorley:

Peter Baker – after 12 months service
Andrew Birchall – after 4 years service, and
Thomas Bedford – after 5 years service

Two other Councillors were also retiring after each giving 34 years dedicated service to the Council and the people of Chorley:

Frank Culshaw, and
John Wilson

Frank Culshaw was elected in May 1973 and was the Mayor of the Borough in 1990/91. He was the Chair of Planning from 1981 to 1985; Chair of Housing from 1985 to 1990 and was currently the Lead Member for Housing.

The Leader of the Council, Councillor Peter Goldsworthy, along with the following Group Leaders, Councillors Kenneth Ball and Ralph Snape each spoke of their appreciation of the work of Councillors Baker, Birchall and Bedford and a great debt of thanks going to Councillor Frank Culshaw. Councillor Frank Culshaw thanked Members and officers for their help and assistance over the year.

John Wilson was elected in May 1973 and was the Mayor of the Borough in 1986/87. He was the Leader of the Labour Group from May 1988 to October 2006 and the Leader of the Council from May 1990 to May 2006.

He was previously the Chair of the Lancashire Branch of the Association of District Councils and a former Member of the National Council of the Association of District Councils.

During the last 12 months, he has also been Mayor's Consort.

The Leader of the Labour Group, Councillor Edgerley as well as the Leader of the Council Councillor Peter Goldsworthy, and Councillors Kenneth Ball, Ralph Snape, Tony Gee, Deputy Mayor, Cath Hoyle, Frank Culshaw and Daniel Gee all expressed their appreciation for the work of Councillor John Wilson.

Members formally agreed to record a vote of thanks to Councillors Frank Culshaw and John Wilson and stood in appreciation for their long and dedicated service to the Council and the people of Chorley and, extended their best wishes to them both for the future.

07.C.32 PUBLIC QUESTIONS

No members of the public submitted to ask a question(s) on any item(s) on the agenda.

07.C.33 CAPITAL PROGRAMME 2006/07 - MONITORING

The Executive Member for Resources presented a report monitoring the performance of the 2006/07 Capital Programme and containing recommendations of the Corporate Improvement Board.

The report recommended changes to the 2006/07 Capital Programme Board, the effect of which was to reduce the programme from £13,767,340 to £12,324,570 as a result of the suggested slippage of £1,623,890 to 2007/08 and other changes totalling £181,120.

The recommended slippage of expenditure on a number of schemes to 2007/08 was detailed in Appendix A to the submitted report, with other changes to schemes explained in Appendix B. Appendix C to the report summarised both the capital receipt achieved to date and the anticipated receipts.

RESOLVED – 1) That the revised Capital Programme for 2006/07 in the sum of £12,324,570 be approved.

2) That the recommendation of the Corporate Improvement Board to endorse the delivery of the Music Café project by the South Lancashire Arts Partnership at the Chorley Community Centre instead of the originally proposed venue of the Chorley Interchange, be approved.

07.C.34 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FOULING OF LAND BY DOGS ORDER

The Executive Member for Streetscene, Neighbourhoods and Environment presented a report on the adoption of powers created by the Clean Neighbourhoods and Environment Act 2005, following the introduction of regulations to deal with dog fouling, which replaced regulations issued under the Dogs (Fouling of Land) Act 1996.

The report recommended the introduction of the New Order to prohibit the fouling of land by dogs to replace the current Order and the setting of the default fixed penalty notice charge of £75.00 with an early payment charge of £50.00 being allowed if payment was received within 10 days of receipt of the fixed penalty notice. The proposed Order had been advertised in the local press and an appendix to the submitted report listed the 20 generally supportive responses that had been received.

RESOLVED – That the Council's Constitution be amended to extend the Director of Streetscene, Neighbourhoods and Environment's delegated powers as listed in Appendix B in order to allow the proper authorisation of Officers to undertake enforcement work against persons suspected of committing offences under the terms of the new proposed Order and relevant sections of the Clean Neighbourhoods and Environment Act 2005.

07.C.35 SMOKE FREE IMPLEMENTATION

The Executive Member for Streetscene, Neighbourhoods and Environment presented a report on the likely impact of the Health Act 2006 which introduced the legal framework to make enclosed workplaces and public spaces smoke free from 1 July 2007, and proposing measures to assist the enforcement of legislation.

Attached to the report was a copy of the Directors report to the Executive Committee of the 29 March 2007 meeting making Members aware of all the relevant information on this topic.

The Executive Cabinet approved the recommendations to appoint a temporary Smokefree Enforcement Officer to undertake enforcement work with the Council and to help ensure that the public buildings and places affected by the legislation are compliant with the new law. The cost of the temporary post would be funded by a £42,000 Council grant towards the Council's initial implementation and enforcement costs in 2007/08.

RESOLVED - 1) That approval be given to amend the Council's Constitution by the addition of the implementation of appropriate provision of the Health Act 2006 to the Council's functions outlined in Appendix 2 of the submitted report.

2) That the Council's Constitution be amended by the extension of the Director of Streetscene, Neighbourhoods and Environment's delegated powers to implement appropriate provision of the Act, including the appointment of duly authorized Officers to undertake enforcement activity.

07.C.36 GENERAL REPORT

The Deputy Leader of the Council presented a report summarising the more significant items of business dealt with at a meeting of the Executive Cabinet held on 29 March 2007.

RESOLVED – That the report be noted.

07.C.37 AUDIT COMMITTEE

The Vice-Chair of the Audit Committee presented a report which summarised briefly the principal matters that had been considered at a meeting of the Audit Committee held on 29 March 2007.

RESOLVED – That the report be noted.

07.C.38 DEVELOPMENT CONTROL COMMITTEE

The Chair of the Development Control Committee presented a report on the significant planning proposals that were considered at meetings held on 13 March 2007 and 3 April 2007.

RESOLVED – That the report be noted.

07.C.39 GENERAL PURPOSES COMMITTEE

The Chair of the General Purposes Committee presented a report on matters dealt with at a meeting of the General Purposes Committee held on 15 March 2007.

RESOLVED – That the report be noted.

07.C.40 LICENSING AND SAFETY COMMITTEE

The Chairman of the Licensing and Safety Committee presented a report which summarised the principal matters which had been considered at a meeting of the Committee held on 28 March 2007.

RESOLVED – That the report be noted.

07.C.41 OVERVIEW AND SCRUTINY COMMITTEE AND PANELS

The Chair of the Overview and Scrutiny Committee presented a report which summarised briefly the principal matters that had been considered at a meeting of the

Overview and Scrutiny Committee held on 27 March 2007, as well as a brief summary of the recent activities and matters discussed at a meeting of the Environment and Community Overview and Scrutiny Panel held on 22 March 2007 and the Corporate and Customer Overview and Scrutiny Panel held on 20 March 2007.

RESOLVED – That the report be noted.

07.C.42 STANDARDS COMMITTEE

The Vice-Chairman of the Standards Committee presented a report which summarised the principal matters that had been considered at a meeting of the Standards Committee held on 7 March 2007 and the Local Hearing Sub-Committee held on 20 March 2007.

RESOLVED – That the report be noted.

07.C.43 HOUSING TRANSFER COMMITTEE

The Chairman of the Housing Transfer Committee presented a report which summarised the Committee's discussions and decisions relating to the meeting held on 22 March 2007.

RESOLVED – That the report be noted.

Mayor

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| Report of | Meeting | Date |
|---|---------------------------------------|----------------------|
| Director of Customer, Democratic and Legal Services | Standards Committee Annual Council | 11/05/07 15/05/07 |

REVISED CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS

PURPOSE OF REPORT

- The report sets out details of a revised Model Code of Conduct for Local Authority Members made by the Local Authorities (Model Code of Conduct) Order 2007 and seeks approval to the adoption of the revised code.

CORPORATE PRIORITIES

- There are no corporate priorities directly affected by this report.

RISK ISSUES

- The issue raised and recommendations made in this report involve risk considerations in the following categories:

| | | | |
|------------|---|------------------|---|
| Strategy | ✓ | Information | |
| Reputation | ✓ | Regulatory/Legal | ✓ |
| Financial | ✓ | Operational | ✓ |
| People | ✓ | Other | |

BACKGROUND

- In early 2007, the Department for Communities and Local Government consulted on a revised code of conduct. Following feedback, the Government tabled the Local Authorities (Model Code of Conduct) Order 2007 in Parliament on 4 April 2007 and it came into force on 3 May 2007.
- The Order applies to all elected and co-opted members and, all local authorities will have until the 1 October 2007 to adopt the revised model code set out in the Order. To ensure that members are subject to the same standards of conduct across the country, the Standards Board for England has requested local authorities to adopt the revised code at the earliest opportunity.
- The revised model code of conduct is set out in the appendix to this report.



MAIN CHANGES TO THE CODE

7. The main changes to the Code made by the Order are to:
- simplify and clarify the drafting of the code, including making the language in which it is written gender-neutral
 - amend the rules in the code relating to personal interests, so that a member only has a personal interest where his/her interest is greater than that of the majority of people in the ward affected by the matter, rather than merely greater than the interest of other people in the Council's area
 - provide that the code of conduct will apply to members' conduct in their private capacity where such conduct has resulted in a criminal conviction
 - allow members with a prejudicial interest to speak at a Council meeting providing that this is solely to allow them to make representations, answer questions or give evidence, but not to vote, providing that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise
 - extend the definition of personal interests by including a wider term covering any person with whom the member has a "close personal association" in addition to family and friends
8. As indicated above, Paragraph 12(2) of the revised code gives members with a prejudicial interest in a matter the same rights as members of the public to speak to a meeting on the matter. The Council Constitution currently sets out the procedures whereby members of the public may submit questions to meetings of the Council, Executive Cabinet and the Overview and Scrutiny Committee/Panels and, submit requests to speak at meetings of the Development Control Committee.

GUIDANCE FOR MEMBERS

9. The Member Development Steering Group have agreed that the Director of Customer, Democratic and Legal Services should give a presentation on the revised code in the Council Chamber, Town Hall on Thursday 17 May 2007 commencing at 6.00pm. All members are requested to attend this event.
10. The Standards Board for England will be publishing guidance on the revised code and copies will be distributed to all elected and co-opted members as soon as possible.

PARISH COUNCILS

11. The Clerks of Parish Councils have been notified that the Standards Board for England has produced a Model Code of Conduct for Parish and Town Councils which is available on its website. The Director of Customer, Democratic and Legal Services will give a presentation to the Parish Council Liaison meeting to be held on 18 July 2007.

COMMENTS OF THE DIRECTOR OF HUMAN RESOURCES

12. There are no HR implications arising from this report.

COMMENTS OF THE DIRECTOR OF FINANCE

13. There are no financial implications arising from this report.

RECOMMENDATION(S)

14. That the Council adopt the revised model code of conduct set out the appendix to this report.

ANDREW DOCHERTY
DIRECTOR OF CUSTOMER, DEMOCRATIC AND LEGAL SERVICES

| Background Papers | | | |
|--|--------------|-------------------------|----------------------------|
| Document | Date | File | Place of Inspection |
| The Local Authorities (Model Code of Conduct) Order 2007 | 4 April 2007 | Members Code of Conduct | Democratic Services |

| Report Author | Ext | Date | Doc ID |
|----------------------|------------|-------------|---------------|
| Steve Pearce | 5196 | 4 May 2007 | |

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S T A T U T O R Y I N S T R U M E N T S

2007 No. 1159

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Model Code of Conduct) Order 2007

| | |
|-------------------------------|-----------------------|
| <i>Made</i> - - - - | <i>2nd April 2007</i> |
| <i>Laid before Parliament</i> | <i>4th April 2007</i> |
| <i>Coming into force</i> - - | <i>3rd May 2007</i> |

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000(a).

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49(1) of that Act(b).

Citation, commencement and application

1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order 2007 and comes into force on 3rd May 2007.

(2) This Order applies—

- (a) in relation to police authorities in England and Wales; and
- (b) in relation to the following authorities in England—
 - (i) a county council;
 - (ii) a district council;
 - (iii) a London borough council;
 - (iv) a parish council;
 - (v) the Greater London Authority;
 - (vi) the Metropolitan Police Authority;
 - (vii) the London Fire and Emergency Planning Authority;
 - (viii) the Common Council of the City of London;
 - (ix) the Council of the Isles of Scilly;
 - (x) a fire and rescue authority;
 - (xi) a joint authority;
 - (xii) the Broads Authority; and

(a) 2000 c.22.

(b) See the Relevant Authorities (General Principles) Order 20001 (S.I. 2001/1401).

(xiii) a National Park authority,
and in this Order references to “authority” are construed accordingly.

Model Code of Conduct

2.—(1) The code set out in the Schedule to this Order (“the Code”) has effect as the model code issued by the Secretary of State under section 50 of the Local Government Act 2000 as regards the conduct which is expected of members and co-opted members of an authority.

(2) Subject to paragraphs (3) to (6), every provision of the Code in the Schedule to this Order is mandatory for an authority.

(3) Paragraph 6(c) of the Code is not mandatory for police authorities, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, fire and rescue authorities and joint authorities.

(4) Paragraph 7 of the Code is not mandatory for parish councils.

(5) Subject to sub-paragraph (6)(c) and (d) below, paragraphs 10(2)(c)(i) and (ii), 11 and 12(2) of the Code are mandatory only for county councils, district councils and London borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

(6) The following provisions of the Code are mandatory only for an authority which is operating executive arrangements—

- (a) in paragraph 1(4), in the definition of “meeting”—
 - (i) sub-paragraph (b);
 - (ii) in sub-paragraph (c), the words “or its executive’s” and “, or area committees”;
- (b) paragraphs 9(6), 9(7) and 12(1)(b);
- (c) in paragraph 11(a), the words “your authority’s executive or”
- (d) in paragraph 11(b), the word “executive,”; and
- (e) in paragraph 12(2), the words in brackets.

Disapplication of certain statutory provisions

3. The following provisions shall not apply (where they are capable of doing so) to an authority which has adopted a code of conduct or to which such a code applies—

- (a) sections 94 to 98 and 105 to the Local Government Act 1972(a);
- (b) section 30(3A) of the Local Government Act 1974(b);
- (c) regulations made or a code issued under section 19 and 31 of the Local Government and Housing Act 1989(c);
- (d) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995(d); and
- (e) any guidance issued under section 66 of the Greater London Authority Act 1999(e).

Revocation and savings

4.—(1) Subject to paragraphs (2) and (3), the following orders are revoked—

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001(f);
- (b) the Parish Councils (Model Code of Conduct) Order 2001(g);

(a) 1972 c.70.

(b) 1974 c.7. Section 30(3A) was inserted by section 32(1) of the Local Government and Housing Act 1989 (c. 42), with effect from 1st April 1990.

(c) 1989 c.42.

(d) 1995 c.25.

(e) 1999 c.29.

(f) S.I. 2001/3575.

(g) S.I. 2001/3576.

- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(a); and
 - (d) the Police Authorities (Model Code of Conduct) Order 2001(b).
- (2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with —
- (a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation relates to conduct which took place before the date when, pursuant to section 51 of that Act—
 - (i) the authority adopts a code of conduct incorporating the mandatory provisions of the Code in the Schedule to this Order in place of their existing code of conduct;
 - (ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the Code in the Schedule to this Order; or
 - (iii) the mandatory provisions of the Code in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;
 - (b) the adjudication of a matter raised in such an allegation; and
 - (c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.
- (3) Any order made under section 83 of the Local Government Act 1972(c) shall have effect for the purpose of prescribing the form of a declaration of acceptance of office in relation to a county council, district council, London borough council and a parish council.

Signed on behalf of the Secretary of State for Communities and Local Government

Phil Woolas
Minister of State

2nd April 2007

Department for Communities and Local Government

(a) S.I. 2001/3577.

(b) S.I. 2001/3578.

(c) Orders made under section 83 of the Local Government Act 1972 were disapplied, by the Orders mentioned in article 4(1)(a) and (b) of this Order, and are here being revived.

SCHEDULE
THE MODEL CODE OF CONDUCT

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^(a).
- (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) See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).

- (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—

(a) 2006 c.3.

- (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;

(a) 1986 c.10.

- (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).

(a) See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I 2000/3272).

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.

EXPLANATORY NOTE*(This note is not part of the Order)*

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. The Secretary of State has power to issue such a code under section 50 of the Local Government Act 2000. Under section 51 of that Act, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the Code. Under section 51(5), where an authority does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the Code will apply to the members of the authority until it adopts its own code.

Article 1 provides that this Order applies to specified authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

Article 3 disapplies the statutory provisions relating to the National Code of Local Government Conduct and members' interests.

Article 4 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001(a);

the Parish Councils (Model Code of Conduct) Order 2001(b);

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(c);
and

the Police Authorities (Model Code of Conduct) Order 2001(d).

These Orders continue to have effect in relation to misconduct committed before the date when the new code is adopted or applied to an authority.

Article 4(3) provides that orders made under section 83 of the Local Government Act 1972 shall have effect for the purpose of prescribing the form of a declaration of acceptance of office.

In the **Schedule to the Order**—

Paragraph 1 of the Code provides that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

Paragraph 2 of the Code provides that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 3 of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.

-
- (a) S.I. 2001/3575.
(b) S.I. 2001/3576.
(c) S.I. 2001/3577.
(d) S.I. 2001/3578.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

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| Report of | Meeting | Date |
|---|---------|-------------|
| Director of Customer, Democratic and Legal Services | Council | 15 May 2007 |

GAMBLING ACT 2005 – IMPLEMENTATION AND DELEGATION

PURPOSE OF REPORT`

1. A scheme of delegation is required under the Gambling Act 2005 to devolve powers from the Statutory Licensing Committee to Sub-Committees and officers.

CORPORATE PRIORITIES

2. There are no corporate priorities directly affected by this report.

RISK ISSUES

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

| | | | |
|------------|---|------------------|---|
| Strategy | | Information | |
| Reputation | ✓ | Regulatory/Legal | ✓ |
| Financial | | Operational | |
| People | | Other | |

4. The Council needs to be able to process applications under it's new responsibilities efficiently. A scheme of delegation is essential to ensure that unopposed applications are dealt with expeditiously. Failure to do so could lead to damage to the Council's reputation and also challenges the legislation.

BACKGROUND

5. As Members will be aware under the Gambling Act 2005, the Council, as Licensing Authority will be responsible for issuing various licences, permits and notices relating to the use of premises for gambling activities within the Borough.
6. The Council will need to be ready to start processing applications from 21 May 2007, (when the transitional period commences) and 1 September 2007 (when the transitional period ends and the new licences come into effect).
7. A scheme of delegation is therefore required to devolve powers under the Gambling Act 2005.

DELEGATION SCHEME

8. Section 154 of the Gambling Act 2005 provides that all decisions relating to premises licences are delegated to the Committee established under Section 6 of the Licensing Act 2003. (The Statutory Licensing Committee). However, there are three matters that Full Council have ambit over in terms of the Act. These are:
- approving the three-year Statement of Principles;
 - passing any resolution not to have a casino; and
 - setting fees
9. Decisions that are delegated to the Statutory Licensing Committee may be further delegated to a sub-committee of the Statutory Licensing Committee, which may arrange for them to be taken by officers of the Authority. However, there are a number of decisions that may not be made by an officer (ie they must be made by either the sub-committee of the Statutory Licensing Committee:
- determination of an application for a premises licence where representations have been made and not withdrawn;
 - determination of an application for a variation of a premises licence where representations have been made and not withdrawn;
 - determination of a transfer, following representations by the Gambling Commission;
 - determination of an application for a provisional statement where representations have been made and not withdrawn;
 - determination of an application for a review of a premises licence.
10. Decisions regarding temporary use notices are delegated to the Statutory Licensing Committee and may be delegated to a Sub-Committee or an officer. Any decision to give a counter notice cannot be delegated to an officer and so must be made by the full committee or sub-committee.
11. Decisions in relation to permits are delegated to the Statutory Licensing Committee and may be further delegated to a Sub-Committee or an Officer of the Authority. However, the following decision may not be made by an officer.
- determination of an application for a club gaming permit or club machine permit in respect of which objections have been made and not withdrawn;
 - cancellation of a club gaming permit.
12. A proposed scheme of delegation is attached to this report at Appendix 1. This indicates the lowest level of the authority, which will normally exercise the delegation. However, the Authority reserves the right, where appropriate, for any matter to be dealt with at a higher level whilst having due regard to the statutory requirements.

COMMENTS OF THE DIRECTOR OF HUMAN RESOURCES

13. There are no Human Resources implications associated with this report.

COMMENTS OF THE DIRECTOR OF FINANCE

14. There are no comments from the Director of Finance.

RECOMMENDATION (S)

15. That the Council approves the delegations set out in Appendix 1 of this report.

ANDREW DOCHERTY
DIRECTOR OF CUSTOMER, DEMOCRATIC AND LEGAL SERVICES

There are no background papers to this report.

| Report Author | Ext | Date | Doc ID |
|----------------------|------------|-------------|----------------|
| Claire Hallwood | 5160 | 2 May 2007 | LEGREP/0205LM1 |

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| MATTERS TO BE DEALT WITH | FULL COUNCIL | LICENSING SUB COMMITTEE | OFFICERS |
|--|--------------|---|--|
| Three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (When appropriate) | | X | |
| Application for a premises licence (Including applications for reinstatement) | | Where representations received and not withdrawn | Where no representations received / representations withdrawn |
| Application for a variation to a licence | | Where representations received and not withdrawn | Where no representations received./representations withdrawn |
| Application for a transfer of a licence | | Where representations received and not withdrawn from the Gambling Commission | Where no representations received are received for the Gambling Commission. |
| Application for a transfer of a licence | | Where representations received and not withdrawn | Where no representations received/representations withdrawn |
| Application for a provisional statement | | Where representations received and not withdrawn | Where no representations received/representations withdrawn |
| Review of a premises licence | | X | |
| Application for club gaming/club machine permits | | Where objections have been made and not withdrawn | Where no representations have been received/ representations have been withdrawn |
| Cancellation of club gaming permit / Club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | X | |
| Consideration of temporary use notice | | | X |

| | | | |
|--|--|---|--|
| Determination of whether to issue a counter notice to a temporary use notice | | X | |
| Power to serve notification of Intention to consider removal of exemption order section 284 | | | X |
| Power to order removal of exemption under section 284 | | X | |
| Representations from Licensing Authority on any applications as a Responsible Authority under section 161 Gambling Act 2005 | | | Director of CDLS Director of SNED Licensing Manager Authorised Officers |
| Imposition of conditions upon licences where no dispute between Applicant and Responsible Authorities | | | X |
| Power of the Licensing Authority, as a Responsible Authority to request a review | | | Director of CDLS Director of SNED Licensing Manager Authorised Officers |
| Power to determine representations which are vexatious, frivolous or will certainly not influence the Authority's determination of the Application | | | Director of CDLS Licensing Manager or delegated substitute |
| Power to authorise officers for the purpose of the Gambling Act 2005 | | | Director of CDLS Director of SNED |
| Administration of small society Lotteries | | | X |
| Refusal of an application to register Society lotteries | | X | |
| Power to revoke registration society Lottery | | X | |
| Power to attach a condition to a premises licence in accordance with section 169 (a) | | | DCDLS Licensing Manager |
| Power to revoke for non payment of annual fees | | X | |