



**REPORT TO  
ANNUAL COUNCIL**

**TO BE HELD ON  
17 MAY 2007**

**Strategic  
Theme:**

**All**

**Key Decision**

**NO**

**Forward Plan Ref No**

**N/A**

**REPORT OF: CORPORATE DIRECTOR, CORPORATE SERVICES AND  
MONITORING OFFICER**

**WARDS AFFECTED: All**

**1. SUBJECT: ADOPTION OF NEW MEMBER CODE OF CONDUCT**

**2. PURPOSE OF REPORT**

2.1 To inform Members of revisions to the Model Code of Conduct for Members and seek approval to adopt the new Code from midnight on 17<sup>th</sup> May 2007.

**3. RECOMMENDATIONS**

3.1 That the Council

- (i) Adopt the Model Code of Conduct without amendment, issued by the Secretary of State for Communities and Local Government as set out in the Local Authorities (Model Code of Conduct) Order 2007, together with a preamble incorporating the ten general principles governing the conduct of Members in place of its existing Code to come into force from midnight on 17<sup>th</sup> May 2007.
- (ii) Note that consequential changes to the Council's existing Codes and Protocols in the Constitution needed as a result of the adoption of the Code will be made by the Corporate Director (Corporate Services) and the Service Director for Legal and Democratic Services in consultation with the relevant Portfolio Holder.
- (iii) Note that training sessions on the new Code of Conduct will be held in June 2007.

**THIS REPORT AND BACKGROUND INFORMATION ARE OPEN TO  
INSPECTION BY MEMBERS OF THE PUBLIC.**

#### **4. REASON FOR RECOMMENDATIONS**

- 4.1 The Standards Board for England recommends that Councils adopt the revised Code of Conduct at their Annual meetings. When a new Model Code of Conduct is published, it is a requirement of the Standards Committee to consider the Code prior to submitting a recommendation to Full Council on adoption of the new Code of Conduct.

#### **5. BACKGROUND INFORMATION**

- 5.1 On 22<sup>nd</sup> January 2007 the Department for Communities and Local Government issued a Consultation Paper on proposed revisions to the Member Code of Conduct. The Standards Committee responded to the Consultation Document, a copy of which was circulated to all political group leaders on the Council.
- 5.2 Following the consultation process, the Secretary of State for Communities and Local Government made a Local Authorities (Model Code of Conduct) Audit 2007 on 2<sup>nd</sup> April 2007. A copy of the new Model Code is attached at Appendix 1. Under Section 51 of the Local Government Act 2000, it is the duty of the Local Authority to adopt the new Model Code within six months of the making of such an Order.
- 5.3 The Standards Board for England (SBE) is issuing general Guidance on the Code and the current recommendation from the SBE that Local Authorities should adopt the new Code in its model form without amendment. This is to give certainty to Members and the public as to what standards are expected; ensure consistency throughout England, and minimise the legal risk of adopting additional provisions that are unenforceable. The SBE however, do recommend that Local Authorities include a preamble to the Code which outlines the ten general principles governing the conduct of Members. The suggested preamble is attached at Appendix 2.
- 5.4 The Standards Committee on 26th April 2007 considered the new model Code. The Committee endorsed the recommendation of the SBE that the Council and Town and Parish Councils within the District should consider adopting the Code without amendment at their respective annual meetings, together with a preamble incorporating the ten general principles covering the conduct of Members.

#### ***The New Model Code***

- 5.5 The new Model Code attached at Appendix 1 applies to all elected and co-opted Members. This now consolidates into one Code, the four former model codes covering Local Authorities, Parish Councils, National Park and Broads Authorities and Police Authorities.
- 5.6 All provisions in the new Code are mandatory for Metropolitan Councils

such as Wakefield. However, for Town and Parish Councils, there is a discretion in respect of adopting Paragraph 7 and paragraph 12(2). Paragraph 7 relates to receiving Officer advice prior to reaching a decision. Paragraph 12(2) provides in certain circumstances for a member with a prejudicial interest to attend a meeting.

- 5.7 Members are reminded that where local codes have been adopted i.e. Licensing and Planning, these are deemed to form part of the Code of Conduct for Members as local codes. The Standards Board for England are recommending that the new model Code as published, is adopted by all Local Authorities.

***What's new in the Code?***

- 5.8 Comparing the existing Code and the New Code the main changes are:

- (i) the language used is gender-neutral;
- (ii) amended rules not to do anything to cause their Authority to breach equality legislation;
- (iii) amended rules relating to prejudicial interests, so that a Member only has a prejudicial interest where their interest is greater than that of the majority of people in the Ward affected by the matter, rather than greater than the interest of other people in the council's area;
- (iv) in certain circumstances the Code of Conduct will apply to Members' conduct in their private capacity where such conduct has resulted in a criminal conviction;
- (v) Members with a prejudicial interest can speak at a council meeting providing this is to solely to allow them to make representations, answer questions or give evidence, but not to vote.
- (vi) Members must disclose at a meeting any gifts or hospitality received over the value of £25 during the previous three years.
- (vii) With the agreement of the Monitoring Officer, a Member need not publicly disclose details of sensitive information in the Register of Interests where it is likely to create a serious risk of violence and intimidation.

The main changes made to the Code as a result of the consultation responses are:-

- (viii) To delete references to 'public service interests' and extend the more relaxed provisions proposed for those with a public service interest to all Members. This will mean that no Member will have a prejudicial interest unless the matter affects their financial position or

that of their family or those they have a close association with, or if the matter relates to the determining of any approval, consent or licence in relation to themselves, their family or those they have a close association with.

- (ix) To provide revised drafting to ensure that Members with a prejudicial interest should have the same right to attend meetings so as to make representations, give evidence or answer questions as would apply to a member of the general public.
- (x) To provide clearer drafting to ensure that the remit of the Code in respect of conduct in a Member's private capacity is restricted to behaviour for which a criminal conviction has been received.

In summary the main provisions in the Code are:

### **Part 1 – General Provisions**

#### *Paragraph 1*

- states that all elected Members must comply with the Code.

#### *Paragraph 2*

- provides that the Code applies whenever a Member is acting in his or her official capacity.
- in relation to conduct in a Member's private capacity the Code only applies where such conduct has resulted in a criminal conviction.
- 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*

- states 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.

#### *Paragraph 4*

- provides that a Member is able to disclose Confidential Information where the disclosure is reasonable or in the public interest and made in good faith and does not breach any reasonable requirements of the authority. (Guidance from the SBE will follow on

this issue).

*Paragraph 5*

- provides that a Member must not conduct themselves in a manner which could bring their Authority into disrepute.

*Paragraph 6*

- provides that a Member must not use or attempt to use their position improperly to gain an advantage or confer a disadvantage or use resources improperly for political purposes.

*Paragraph 7*

- 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. *(Note this provision is not mandatory for Town/Parish Councils).*

**Part 2 - Interests**

*Paragraph 8*

- provides a list of matters which constitute a personal interest. There is now a requirement for Members to disclose at a meeting any gifts or hospitality received over the value of £25 during the previous 3 years.

*Paragraph 9*

- provides that generally a Member with a personal interest in any business of their Authority must disclose that interest at any meeting at which the business is considered.

*Paragraph 10*

- 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 their judgement of the public interest. In specified circumstances a Member may regard themselves as not having a prejudicial interest, this should help strengthen the Members representational role.

*Paragraph 11*

- 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*

- provides that a Member with a prejudicial interest may attend a meeting to make representations, answer questions or give evidence provided that the public are allowed to attend the meeting for the same purpose.

### **Part 3 – Registration of Members Interests**

#### *Paragraph 13*

- requires a Member to register interests within 28 days and notify the Monitoring Officer of any change within the same period.

#### *Paragraph 14*

- allows a Member with the agreement of the Monitoring Officer, not to publicly disclose details of sensitive information in the register of interests where it is likely to create a serious risk of violence and intimidation. However, a Member must indicate a personal interest at the meeting but need not disclose the sensitive information.

### **Next Steps**

#### 5.9 Adopting the Code

There is no provision to carry forward existing registrations of interests made by Members under the old Code of Conduct. It will therefore be necessary for every Member to re-register their interests within 28 days of the Council adopting the new Code of Conduct. A revised form incorporating the new registration requirements detailed in paragraph 8 of the new Code will be circulated to Members to complete and return. To assist Members a copy of their existing registrations will be provided.

#### 5.10 Training

It is important that awareness raising sessions for Councillors and Clerks on the provisions of the Code are held as soon as reasonably practicable.

Arrangements will be made for Member training seminars to be held to help Members understand the revisions to the new Model Code and their obligations.

A training session will be organised for all Parish Clerks to highlight administrative requirements

Training seminars will also be arranged for Town and Parish Councillors on

the new Code.

## **6. OPTIONS APPRAISAL**

- 6.1 The Council must adopt the Local Code within 6 months from 3<sup>rd</sup> May to include all of the compulsory provisions of the Model code. Failing to do so will result in the model Code being applied. It is important that all Members receive training to reduce the risk of Members breaching the Code.

## **7. STRATEGIC IMPLICATIONS**

- 7.1 There are no specific strategic implications associated with this report.

## **8. ENGAGEMENT**

- 8.1 The Standards Board for England carried out a detailed consultation exercise during 2005 before beginning the review of the Code of Conduct, collecting opinions and views from over 1200 individuals, local authorities and other organisations whilst speaking with nearly 1000 Members and Officers during a series of 11 road shows at locations across England.

## **9. CORPORATE IMPLICATIONS**

- 9.1 Under Section 51 of the Local Government Act 2000, each Authority must adopt a Code of Conduct applying to its Members and Co-Opted Members which must incorporate any mandatory provisions of the model code. Where an authority fails to adopt such a code within six months of the Order coming into force, the mandatory provisions of the model code will apply to the members by default until it adopts its own code.
- 9.2 It is important that all Members receive training to reduce the risk of Members breaching the Code.
- 9.3 Once Councils have adopted a local code, all Members are bound by it. Newly elected Members when signing their declaration of acceptance of office agree to abide by the Code in operation at that time.
- 9.4 When the local code has been adopted, there is a requirement to publish a Notice in one or more local newspapers saying that a local code has been adopted and that it is available for public inspection. Furthermore, a copy of the local code must be sent to the Standards Board for England.

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## Background Papers:

Local Authorities (Model Code of Conduct) Order 2007

Report to Standards Committee 26 April 2007

## Wakefield Metropolitan District Council

### MEMBERS 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
- (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.

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### 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.

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## 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);
    - (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.
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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;

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- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You—
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,where that officer is acting pursuant to his or her statutory duties.

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- (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);

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- (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

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- (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.

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- (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.

### 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;

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- (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;

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

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### **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.

## APPENDIX 2

### Annexure – The Ten General Principles

#### ***Selflessness***

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

#### ***Honesty and Integrity***

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

#### ***Objectivity***

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

#### ***Accountability***

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

#### ***Openness***

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

#### ***Personal Judgement***

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

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### ***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, sexualorientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### ***Duty to Uphold the Law***

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

### ***Stewardship***

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

### ***Leadership***

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