

CONSTITUTION - PART 5 - CODES AND PROTOCOLS

CONDUCT OF MEMBERS

Preamble

When a person has been elected as a councillor they are never a member of the general public in relation to any matter before the Council. Although this means they lose certain privileges available to the general public that is the consequence of holding public office. This situation continues until the Councillor ceases to be a member of Council at all times.

The General Principles

At all times regard shall be had to the general principles governing the conduct of Members and coopted Members of Council namely:-

Selflessness

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

Honesty and Integrity

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

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

Accountability

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

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

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

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

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

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

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.

1.0 Scope of Rules

- 1.1 These Rules apply to all decision making processes of the Council in which Members of Council are involved.
- 1.2 These Rules apply to coopted members of Committees in their position as such members and a copy of the Members' Code of Conduct including these Rules will be given to all coopted Members on cooption to a Committee or Board.
- 1.3 A record shall be kept by the Head of Legal and Democratic Services of all declarations of interest, wherever in the decision making processes of the Council the declaration is made, together with the record of the decision in relation to which the declaration is made.
- 1.4 The Model Code of Conduct as amended by this Council forms Appendix 1 to these Rules.
- 1.5 Where a Member has a prejudicial interest as defined in the Code in Appendix 1, except that defined in clause 11 of the code, in any matter which is the

subject of discussion at a meeting of the political grouping of which that Member is a part then the interest shall be declared at the group meeting as if it were a formal meeting of the Council and the Member shall leave the meeting during discussion of the matter.

- 1.6 Standards Committee guidance on the acceptance of gifts and/or hospitality is set out at Appendix 2 to these Rules.

2.0 Inspection of Land, Premises, Etc

- 2.1 Unless specifically authorised to do so by the Council or the executive, a member of the Council shall not issue any order respecting any works which are being carried out by or on behalf of the Council or claim by virtue of his membership of the Council or the executive any right to inspect or to enter upon any lands or premises which the Council or the executive have the power or duty to inspect or enter.

3.0 Special Interest Declarations by Cabinet Members

- 3.1 A Cabinet Member is deemed to have a prejudicial interest in relation to any matter within their portfolio where the decision of the individual Cabinet Member is required and

- i. the matter arises in their wards;
- ii. the matter arises in an adjoining ward and will significantly affect the Cabinet Member's ward whether the effect is beneficial or adverse,

and the Member shall so notify the Leader of the Council in accordance with these and the Executive Procedure Rules so that a substitute or deputy can be appointed to make or be involved in making any decision affecting the Member's Ward.

- 3.2 Any Cabinet Member with an interest arising under the law these Rules or the Code at Appendix 1 must declare that interest in the normal way and ensure it is recorded in accordance with these Rules.
- 3.3 In relation to matters falling within Rule 3.1 the Cabinet Member shall not make nor be involved in making any decision in relation to their Ward unless the decision is being made by Cabinet, when they shall be entitled to take part in the meeting and vote.
- 3.4 Where a Cabinet Member is precluded from making or being involved in making a decision because of an interest arising under Rule 3.1 they shall still be entitled to exercise their rights as the Ward Member.
- 3.5 Any interest declared under this rule must be notified, in writing, by the Cabinet Member with that interest to the Proper Officer who shall record the interest in accordance with these Rules.

4.0 Cabinet Member Attendances at Overview and Scrutiny

- 4.1 The failure of a Cabinet Member, without good reason, to attend an overview and scrutiny committee after a formal request in accordance with the Overview and Scrutiny Procedure Rules, is a disciplinary matter referable to the Standards Committee at the behest of the overview and scrutiny committee.

5.0 Legal Advice on Interests Issues

- 5.1 Where a Member has sought advice from a legal officer of the Council relating to whether to declare an interest and the officer has advised that an interest does exist under these Rules the Member will be expected to act on that advice.
- 5.2 If a Member fails to act on such advice then the legal officer shall inform the Monitoring Officer who shall consider whether a prima facie case exists for reference to the Standards Board.
- 5.3 Where such advice is sought from the Monitoring Officer and the Member is advised that an interest exists but the Member does not follow that advice, then the Monitoring Officer shall consider whether a prima facie case exists for reference to the Standards Board.
- 5.4 Where a Member does not take advice from any legal officer of the Council but seeks independent legal advice relating to whether to declare an interest, the view of the Monitoring Officer on the interpretation of the law, the Code of Conduct and these Rules shall prevail, if a complaint against the Member is made to the Monitoring Officer.

6.0 Complaints on Conduct of Members

- 6.1 Where a complaint has been made against a Member then the Member shall:-
- a. cooperate with the Monitoring Officer in consideration of the complaint at the initial stage;
 - b. cooperate with the Monitoring Officer during preparation of the report to the Standards Committee;
 - c. attend the meeting of the Standards Committee at which the report of the Monitoring Officer is to be considered.
- 6.2 At the Committee meeting the Member, against whom a complaint has been made which is the subject of a report to the Committee will be expected to:-
- a. answer questions put by the Committee;
 - b. generally cooperate in resolving the complaint

- 6.3 (i) Any Member who has made a complaint against another Member shall:-
- a. cooperate fully with the Monitoring Officer to bring forward the complaint expeditiously;
 - b. not give or make any statement concerning the existence of the complaint, the subject matter of the complaint, or details of the complaint either to the press or other media, or to the general public or their own political group or party except as set out below.
- (ii) Disclosure to a political group or party on the Council may be made confidentially if, and only if, the complaint involves a member of the same political group or party as the Member Complainant provided that that Member reasonably believes the complaint is so serious that it reflects on their political group or party on the Council and provided the provisions of Rules 6.4 and 6.5 are observed.
- 6.4 The political group on the Council of which a Member, against whom a complaint has been made to the Monitoring Officer, is part, may consider and take disciplinary action against that Member in advance of any decision of the Standards Committee if:-
- a. they are instructed so to do by their party organisation nationally; or
 - b. they are instructed so to do by the Ward organisation of the Member concerned or by the Ward organisation of any other Member of the same political group; or
 - c. the political group on the Council consider it necessary or expedient to uphold the good name or discipline of their political group or party or the Council.
- 6.5 If a political group of the Council gives notice to its members that it intends to consider whether to take disciplinary action or intends to take disciplinary action against one of its members pursuant to Rule 6.3 and/or 6.4 then no Councillor who is a member of the Standards Committee shall take part in any discussion or decision of their political group on the issue and shall absent themselves from any meeting during such discussion or decision making as if they had a prejudicial interest in the matter and the political groups of the Council shall make every effort to assist their members on the Committee in this. (This Rule will not normally apply to substitute members of the Standards Committee).

CODE OF CONDUCT

MEMBERS' CODE OF CONDUCT

INTRODUCTION

The Secretary of State for Communities and Local Government made the following Order (SI 2007 No 1159) 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.

In recommending the previous code for adoption Standards Committee did not make training compulsory but all Members should be aware that in the event of disciplinary action under the Code whether they have attended training will be taken into account in determining any disciplinary action against the Member.

The Council adopted the Code at its meeting on 19 July 2007 (Minute 34/07 (05) refers).

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.
- (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);
 - (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 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.

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.

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.

PART3

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.

SUPPLEMENTARY PROTOCOL

Disclosure of Confidential Information under Paragraph 4 of the Code

1. Councillors have access to confidential information, both from members of the public and from the Council's officers and records. It is vital that the confidentiality of this information is respected. Disclosure of confidential information may be a breach of the Members Code, or the Data Protection Act, or a tort actionable in damages at law.
2. However, a situation may arise where a member believes that disclosure of confidential information is necessary in the public interest; for example to prevent a crime, danger to health or safety, or a corrupt practice within the Council.
3. The Members Code provides an exception to the usual rule that confidential information must not be disclosed. Disclosure will not be a breach of the Code if:

- It is reasonable in the circumstances
 - It is made in good faith
 - It is in the public interest
 - It is in compliance with the reasonable requirements of the authority
4. It is a requirement of the authority that before disclosing confidential information, a member who wishes to make use of this exception should contact one of the following officers and discuss the circumstances with him or her.

The officers are:-

The Chief Executive
The Chief Financial Officer
The Monitoring Officer
The Head of Legal and Democratic Services
The Audit Manager

5. Whether or not disclosure is a breach of the Code will depend on the circumstances and ultimately on the view taken by the Standards Board/Committee. But officers will be able to give their view, and may be able to suggest ways of preventing any abuse which do not risk breaking the Code.
6. Disclosure of confidential information without a full prior discussion with one of these officers will not be in accordance with the Council's requirements.

HARROGATE BOROUGH COUNCIL

**GUIDANCE FOR MEMBERS ON THE
ACCEPTANCE OF GIFTS AND/OR
HOSPITALITY**

1. Introduction

- 1.1 The following guidelines supplement the law and the Council's Constitution in relation to the filling of any vacancies for an appointment under the Council whether an Officer or otherwise, or any contract with the Council or in any other circumstances.
- 1.2 It is essential to remember that dealings with Members of local authorities and other public bodies are subject to the provisions of special legislation with sanctions under the criminal law, designed to protect the public interest and public confidence. In consequence, any offer of hospitality or gifts to a Member even on a modest scale, needs to be approached with great caution.

The legislation is contained in:-

- the Public Bodies Corrupt Practices Act 1889;
- the Prevention of Corruption Act 1906;
- the Prevention of Corruption Act 1916.

Although these Acts are specifically addressed to corrupt practices, it is possible to commit an offence even if you innocently receive something which is given to you corruptly. In other words, you may not recognise what you are given as intended to be an inducement to do something or you may not recognise the corrupt intention of the person behind the gift. There is, of course, other legislation covering deliberate frauds of various sorts, but the ones listed above are specifically directed towards local government.

- 1.3 The legislation provides that anyone who corruptly gives, promises or offers, any gift, loan, fee, reward or advantage as an inducement to or a reward for any Member of a public body for doing or forbearing to do anything in respect of any matter or transaction, is guilty of a criminal offence. Similarly a criminal offence is committed by anyone who corruptly solicits, receives or agrees to receive for themselves or any other person such an inducement or reward. It does not matter that the corrupt intention is not achieved.

- 1.4 It is particularly to be noted that in any case where legal proceedings are brought, the giving or acceptance of any money, gift or other consideration, is deemed to have been given or received corruptly as such an inducement or reward, unless the contrary is proved. This represents a departure from the general principle that a person is innocent until proved guilty.

2. Gifts

- 2.1 There can be little doubt that the acceptance of gifts by Members, from persons who have or may seek to have dealings with the Authority, would be viewed by the public with suspicion and would make the Member concerned and the Council vulnerable to criticism. Members should, therefore, tactfully refuse any personal gift offered to them or to a member of their family directly or indirectly by any person or body involved, either actually or potentially, in any way with the Authority. Members should be particularly vigilant where the person or body involved has applied for planning permission or some similar sort of decision or may be intending to do so.
- 2.2 Small gifts of token value for example a calendar or diary which may be by way of an advertisement of a business or charity may be accepted as long as there is not a series of such gifts where the total value in any 12 month period would exceed £25.00. These may be received by Members at Christmas or New Year or, for example, if there has been a need for a visit to an organisations' premises for a particular reason.
- 2.3 Any gift offered or accepted above the value of £25.00 should be notified to the Director of Resources as Proper Officer on the pro forma provided to all Members. If a Member wishes to return a gift and would prefer it dealt with formally then they should bring the gift to the office and request the assistance of the Proper Officer.
- 2.4 Members may have concerns in two other types of circumstances:-
- a. Where a gift is offered by a ward constituent in gratitude to a Member for resolving an issue which had been of concern to the constituent.
- In such circumstances, the Member may choose:-
- i. to refuse the gift tactfully explaining that it would be improper to accept it but expressing gratitude for the thoughtfulness;
- ii. accept the gift but advise the constituent that it will be donated to the Mayor's charity or another charity.
- In any event, if the offered gift is valued at £25.00 or more the Member must notify the Proper Officer on the pro forma provided.
- b. Gifts from personal friends

Provided the Member is able to be clear whether the gift is a personal gift, say for a birthday or Christmas present, it can be accepted without reference to the Proper Officer. If the gift relates to some actual or perceived assistance from the Member in relation to a matter connected with the Authority, the Member should deal with the gift in exactly the same way as a gift from any other ward constituent and should declare the offer on the pro forma provided.

3. Giving and Receiving Hospitality

- 3.1 Any hospitality given by Members should be justified as in the public interest. The hospitality given should be on a scale appropriate to the occasion and parsimoniousness and extravagance alike are to be avoided.
- 3.2 Concerning offers of hospitality, there should be no cause for concern if the offer is made by another public body but, in all cases, offers of hospitality must be treated with caution.
- 3.3 Members must refuse offers of hospitality where any suggestion of improper influence is possible. Special caution is necessary where hospitality is offered by a person or body having or seeking business with or a decision from the authority, particularly where the offer is to an individual Member.
- 3.4 Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality.
- 3.5 The following are examples of hospitality which is acceptable and that which is not:-

Acceptable

- a. An offer of a drink following a site inspection; or
- b. Invitations to attend functions where the Member represents the Council (eg dinners where they are invited to speak, opening ceremonies, trade shows, etc) or to functions which they attend by virtue of their position within the Council; or
- c. Hospitality offered by other public bodies; or
- d. A working lunch of a modest standard provided to enable the parties to continue to discuss business.

Unacceptable

- a. Night Club visits or holidays;
- b. Personal invitations to have dinners with representatives from a company or firm which has dealings with the Council; or

- c. Offer of hotel and tickets for theatre in London or the use of a company flat; or
 - d. Invitations to hospitality and attendance at a race meeting or other sporting event except where these are part of the life of the local community or where the authority should be seen to be represented.
- 3.6 Hospitality provided by another local authority or being paid for by Harrogate Borough Council need not be declared.

4. Checklist and Register

- 4.1 The following checklist of questions should help Members to decide whether a gift or an offer of hospitality should be accepted or tactfully rejected:-
- 1. Is the donor, or event, significant in the community or in the Council's area?
 - 2. Are you expected to attend because of your position in the community?
 - 3. Will the event be attended by others of a similar standing in the community?
 - 4. What is the motivation behind the invitation?
 - 5. Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
 - 6. Could you justify the decision to the Council, press and public?
 - 7. Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
 - 8. How will you respond to the hospitality?
 - 9. Are you comfortable with the decision?
- 4.2 A register of hospitality offered to Members is maintained by the Director of Resources and Members should give notice on the appropriate form as soon as possible after receiving hospitality, of:-
- a. the name of the person or organisation offering hospitality;
 - b. the nature of the offer of hospitality, its estimated value and location;
and
 - c. the name or names of Members receiving such hospitality.

COMPLAINING TO THE STANDARDS COMMITTEE

Introduction:

The Standards Committee is the Committee established by the Council to consider complaints that a member of the Borough Council, or a member of one of the parish councils in the Borough Council's district has broken the rules in the Members' Code of Conduct. A list of the relevant city, town and parish councils is attached.

The Committee includes borough councillors, parish councillors and members of the public who do not belong to either the Borough Council or the parish councils, but have been appointed to ensure that the Committee's proceedings are fair. These are known as appointed independent members.

The Committee cannot consider all complaints, but only those which are covered by the Members' Code of Conduct. Other complaints, for instance those relating to the Council's officers or their administration will be dealt with under a separate procedure. This document sets out the Council's rules for dealing with a complaint to which the Members' Code of Conduct applies. You will find a copy of the official complaint form at the end of this document. The Council also publishes separate information about the procedure that applies at a full hearing in front of one of the Committee's panels.

Submitting a complaint and notification to the councillor:

There is a standard form for submitting a complaint which you should use unless you are disabled so that you need an alternative method of complaining. In that case, you should contact Andy West on 01423 556002 or Lesley Worrall on 01423 556005.

The complaint form goes to the Council's monitoring officer. When he has got it he will acknowledge it within 5 working days and he will send you a copy of this document. He may also ask you to clarify what you are complaining about. Once he is satisfied that he understands the general nature of the complaint, he will tell the councillor that a complaint has been made, and give him or her an outline of its general nature. If he thinks there is a serious risk that telling the councillor would be contrary to the public interest, or would prejudice an investigation, he will consult the Chair of the Standards Committee. Together they may decide not to notify the councillor before the hearing. The monitoring officer will not carry out interviews or investigations at this stage. He will make sure he understands the general nature of the complaint, and that it is covered by the Members Code of Conduct.

Anonymous complaints will only be referred if they include documentary or photographic evidence indicating an exceptionally serious breach of the Code has taken place.

If you request that your identity should be withheld from the councillor, that request will be considered together with the complaint by the initial assessment panel. Such requests will only be granted in exceptional circumstances which may include the following:-

- You have reasonable grounds for believing that you will be at risk of physical harm if your identity is disclosed.
- You are a council employee who works closely with the councillor and you are afraid of consequences to your employment if your identity is disclosed.

The Panels:

There are four types of panel which consider complaints under the Members' Code. These are; initial assessment, review, acceptance and full hearing. The initial assessment panel considers whether the complaint should be investigated. If they decide that it should not, you have a right of appeal to a review panel. If the complaint is investigated and the investigation finds that there was no breach, the investigator's report is considered by an acceptance panel. If the investigator's report concludes that there was a breach, the report is considered at a full hearing panel.

Each panel is selected from the members of the Standards Committee, by the member services manager in consultation with the monitoring officer and the Chair of the Standards Committee, who is an independent appointed member. The selection will be made on the basis of availability within the relevant time limits and compliance with the law.

Initial Assessment:

If the monitoring officer is satisfied that your complaint is covered by the Code he will refer it to a panel of the Standards Committee called the initial assessment panel. This decides whether to send your complaint for investigation. Wherever possible, the panel will meet within 20 working days of the date on which the monitoring officer is satisfied that he has sufficient information for the initial assessment to take place. The panel will not make any decision about what happened; it is only concerned with whether the complaint should be investigated.

The panel will have your complaint together with any documents submitted by you in support.

An initial assessment panel will decide to deal with the complaint in one of three ways:-

- a) They may refer it to the monitoring officer for local investigation or other action.
- b) They may refer it to the Standards Board.

- c) They may decide that no action should be taken on the complaint.

A complaint may be referred to the monitoring officer for other action where the panel believes that an investigation may not be the best option in the interests of good governance. Examples of other action include:-

Arranging for the councillor to attend a training course; arranging for you and the councillor to engage in conciliation; or instituting changes to the procedures of the authority if they have given rise to the complaint.

Complaints that have been referred to the monitoring officer for other action will not be referred back to the Standards Committee afterwards.

The panel may only refer the complaint to the Standards Board if they believe that it falls within the guidelines issued by the Standards Board for referral to them. For example a complaint might be considered for referral to the Standards Board if the panel believe that the status of the councillor, or the number of councillors involved, would make it difficult for the Standards Committee to deal with the complaint.

In most cases, within 5 working days of the panel's decision, the monitoring officer will send to you, the councillor, and where relevant the clerk of the town or parish council a summary of the panel's decision, recording the main points considered, the panel's conclusion, and the reasons for that conclusion. Where the matter is referred for investigation the monitoring officer will advise you as soon as possible who is responsible for the conduct of the investigation.

The meeting of the initial assessment panel will not be open to the public. The agenda and committee papers will not be open to public inspection and there will be no minutes. In most cases, the summary will be made available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the meeting.

The summary will usually name the councillor. The name of the councillor may be withheld where the panel decides that disclosing it would not be in the public interest or would prejudice subsequent investigation. Where the name of the councillor is withheld, the councillor will not be given a copy of the summary, and in those circumstances the summary will not be available for inspection by the public or be sent to the clerk of the relevant town or parish council.

d. Review of Initial Assessment

Where the panel decides to take no further action on the complaint, within 5 working days of that decision the monitoring officer will write to you, the councillor and if relevant, the clerk to the town or parish council setting out the decision and the reasons for it. You will be advised that you have a right to ask for a review of the decision. You will be told that you can exercise this right by writing to the Standards Committee with your reasons for requesting a review. You will be told the date by which the review should be requested. This date will be no less than 30 days from the date of notification.

If a request for review is received within the due date the monitoring officer will notify the councillor and if relevant the clerk to the town or parish council that a request has been received.

The monitoring officer will call a hearing of a panel to review the initial assessment ("a review panel"). In order to ensure that the review is fair and independent, no member of the initial assessment panel will take part in a panel reviewing that earlier decision.

The review panel will consider the complaint again together with any additional information submitted. Where the review panel decides to take no further action on the complaint, within 5 working days of that decision, the monitoring officer will write to you, the councillor and if relevant the clerk to the town or parish council setting out the decision and the reasons for it.

Local Investigation:

Where the complaint has been referred to the monitoring officer for investigation the monitoring officer will appoint an investigator to prepare a report on the complaint. The investigator can require advice and assistance from any member or officer of the council or parish council, and can require reasonable access to any documents in the possession of the local authorities concerned, if the monitoring officer believes that access is necessary for the purpose of the investigation.

You, the councillor and any person approached by the investigator for information will be asked to maintain confidentiality until the Standards Committee has determined the complaint. If a member fails to comply with this request, they may be in breach of of the Code.

At the discretion of the investigator, prior to completing the report, a draft may be sent to you, the councillor, or to persons who have provided statements referred to in the report. Any responses to the draft received within the stated period will be reported to the panel when the report is finalised.

The investigator will date the completed report and the monitoring officer will send copies to you, the councillor, and where relevant the clerk of the town or parish council. Where the monitoring officer considers that the report is likely to be heard in exempt session, the report will not be sent to the clerk of the town or parish council.

Acceptance Panel:

Where the investigator concludes that there has been no breach of the Code the monitoring officer shall, within 3 months of the date of the report, call a hearing of a panel to consider that conclusion (an acceptance panel). The purpose of the hearing will be to decide whether to accept the investigator's conclusion, to send the report to a full hearing, or to refer the matter to the Adjudication Panel of the Standards Board.

Where the panel concludes that there has been no breach of the Code, the panel shall as soon as possible given written notice of the finding to:-

- (i) you;
- (ii) the councillor;
- (iii) the clerk to any town or parish council concerned;
- (iv) the standards committee of any other authority concerned;
- (v) any ethical standards officer concerned;

The panel shall also arrange for a notice to be published within one month of the hearing, stating that the panel has found that there has been no failure on the part of the councillor, unless the councillor requests that the notice is not published. The notice must be published in at least one newspaper circulating in the district.

Pre-hearing Process:

If the investigating officer has concluded that there was a breach of the Code, or if the acceptance panel concludes that the matter should go to a full hearing, the monitoring officer has to fix a date. As soon as possible and at least 7 days before the date of the hearing, the monitoring officer will send to you, the councillor and the members of the panel notification of the following:-

- Confirmation of the date, time and place of the hearing;
- The findings of the report which are not agreed by the councillor;
- The procedure to be followed at the hearing, including the witnesses to give evidence.

Full Hearing:

Wherever possible a full hearing is open to the public. At the beginning of the meeting the panel will consider whether there is any good reason for excluding the public from the hearing. If they decide there is not, then you and other members of the public may attend. If you are to give evidence at the hearing, you will not be able to sit in the hearing until after you have given evidence. The panel will consider the evidence in private; at that point the public will be asked to leave the chamber.

So far as possible the hearing will consider only evidence submitted in writing before the hearing, together with the answers to any questions asked at the hearing. Any additional evidence must relate to the complaint which has been investigated and those findings of the investigators report which are in dispute. People who have given statements to the investigator which appear in the investigator's report will not usually be asked to attend.

The councillor may make representations to the hearing, either in writing or in person. The councillor may be represented by a solicitor or a barrister or with the prior consent of the panel, any other representative.

If the councillor fails to attend the hearing on the notified date the panel may either determine the matter in the councillor's absence, or, if they are satisfied that there is sufficient reason for the failure, they may adjourn the hearing to another date.

Unless otherwise directed by the Chair the hearing will follow the procedure set out in "Procedure at the Hearing".

The panel may at any stage before the hearing is concluded, adjourn and require the monitoring officer to seek further information or undertake further investigation on any point specified by the panel, but they may not adjourn the hearing more than once for this purpose.

At the conclusion of the hearing the panel will make one of the following findings;_

- (a) that the councillor has not failed to comply with the Code;
- (b) that the councillor has failed to comply with the Code but that no action needs to be taken;
- (c) that the councillor has failed to comply with the Code and that a sanction should be imposed.

The panel must also consider whether they wish to make recommendations to the Council with a view to promoting high standards of conduct among members.

As soon as reasonably practicable after the conclusion of the meeting the panel shall give written notice of the finding and the reasons for it to:-

- (a) you;
- (b) the councillor;
- (c) the Standards Board;
- (d) the clerk to any town or parish council concerned;
- (e) the standards committee of any other authority concerned;
- (f) at least one newspaper circulating in the district.

Where the panel has found that the councillor has not failed to comply with the Code, the notice shall say so and give its reasons for that finding. The councillor can decide that no notice should be published.

Where the panel has found that the councillor has failed to comply with the Code, but that no action needs to be taken, the notice shall give details of the breach, and give the reasons for the decision. The notice must also say that the councillor has the right of appeal.

Where the panel has found that the councillor has failed to comply with the Code, and has imposed a sanction, the notice shall give details of the breach, and the sanction, shall give reasons for the finding and state that the councillor may appeal against it.

Where the panel finds that the councillor did fail to comply and that a sanction should be imposed then

- a) if the councillor no longer belongs to a relevant authority, the panel will censure the councillor and
- b) in any other case, the panel will impose one or more of the sanctions below.
 - (i) censure

- (ii) restriction of the councillor's access to the authority's premises or resources for up to six months.
- (iii) partial suspension for up to six months
- (iv) suspension for up to six months
- (v) submission of a written apology in a form specified by the panel.
- (vi) training as specified by the panel
- (vii) participation in conciliation as specified by the panel
- (viii) partial suspension for up to six months or until the councillor submits a written apology in a form specified by the panel.
- (ix) partial suspension for up to six months or until the Councillor has undertaken training or conciliation as specified by the panel.
- (x) suspension for up to six months or until the Councillor submits a written apology in a form specified by the panel.
- (xi) suspension for up to six months or until the Councillor has undertaken training or conciliation as specified by the panel.

Appeal:

Where the panel has found that the councillor has failed to comply with the Code, the councillor may seek permission to appeal to the Adjudication Panel of the Standards Board. The application must be in writing and must be received by the Adjudication Panel within 21 days of the date the member received the notice of the panel's decision. The councillor may at the same time apply for any sanction imposed to be suspended until the appeal is determined.

PARISH GROUPINGS – STANDARDS SUB COMMITTEE

Ripon City Council
Knarebsorough Town Council

EASTERN AREA PARISH COUNCILS (25)

Arkendale & Coneythorpe & Clareton	Little Ribston
Bilton in Ainsty with Bickerton	Long Marston
Boroughbridge	Marton cum Grafton
Cattal, Hunsingore & Walshford	Moor Monkton
Follifoot & Plompton	North Deighton
Goldsborough & Flaxby	Nun Monkton
Great Ouseburn	Sickinghall
Green Hammerton	Spofforth with Stockeld
Kearby with Netherby	Tockwith & Wilstrop
Kirkby Overblow	Weeton
Kirk Deighton	Wighill
Kirk Hammerton	Whixley
Little Ouseburn	

WESTERN AREA PARISH COUNCILS (20)

Bewerley	Killinghall
Birstwith	Lower Washburn
Bishop Thornton & Warsill	Menwith with Darley
Clint cum Hamlets	Mid Wharfedale
Dacre	Newall with Clifton
Felliscliffe	Nidd
Hampthwaite	North Rigton
Hartwith cum Winsey	Ripley
Haverah Park & Beckwithshaw	Upper Nidderdale
High & Low Bishopside	Washburn

NORTHERN AREA PARISH COUNCILS (29)

Asenby	Littlethorpe
Azerley & Winksley	Markington with Wallerthwaite
Baldersby	Marton le Moor
Bishop Monkton	Masham
Burton Leonard	Melmerby & Middleton
Cundall & Norton le Clay	North Stainley with Slenningford
Dishforth	Rainton with Newby
Fearby, Healey & District	Roecliffe & Westwick
Fountains Abbey	Scotton
Grantley & Sawley	Scriven
Grewelthorpe	Sharow
Hewick & Hutton	Skelton Combined
Kirby Hill & District	Staveley & Copgrove
Kirkby Mazead, Laverton & Dallowgill	Wath & Norton Conyers
Langthorpe	

There are also 11 areas which are not parished but have parish meetings.