

## STANDARDS COMMITTEE – 14<sup>TH</sup> DECEMBER 2004

### LOBBY GROUPS, DUAL-HATTED MEMBERS AND THE CODE OF CONDUCT

Report of the: Monitoring Officer

Status: For Information

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#### **Executive Summary:**

The Report summarises the guidance produced for Members by the Standards Board for England (the Standards Board) entitled “Lobby groups, dual-hatted members and the Code of Conduct” and explains the rules governing such problem areas.

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**This report supports the Key Aim of** achieving compliance in respect of the Code of Conduct.

**Portfolio Holder** Cllr. N. Dean

**Head of Service** Christine Nuttall

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#### **Recommendation:**

Members are requested to note this report.

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#### **Introduction**

1 The guidance produced by the Standards Board in September 2004 is reproduced as an Appendix to this Report and can be downloaded from the Standards Board’s web site on [www.standardsboard .co.uk](http://www.standardsboard.co.uk) The guidance gives practical advice on three areas that have up to now caused particular difficulty to Members and include:

- Membership of lobby groups
- Dual-hatted members
- The Code of Conduct in particular the question of prejudicial interests

#### **Membership of Lobby Groups**

2 The Standards Board takes the view that The Code of Conduct requires you to declare a personal interest in any matter that relates to an interest you must include in your register of interests. Therefore you are required to declare a personal interest if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority. You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your

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decisions. You can continue to participate unless the interest is also prejudicial.

- 3 Your interest will also be prejudicial if the issue is so significant that a member of the public with knowledge of the relevant facts would reasonably think that your judgement of the public interest is likely to be prejudiced. Every case should be evaluated on its own merits. The guidance sets out situations to help you decide whether or not your personal interest is also prejudicial. These situations are divided into two broad categories:-
  - Will the matter have a direct impact on a lobby or campaign group you belong to?
  - Will the matter have an indirect impact on a lobby or campaign group you belong to?
- 4 If the matter to be discussed will have a direct impact on a lobby or campaign group you belong to, you are likely to have a prejudicial interest. However, the position is more difficult to evaluate if the matter will have an indirect impact on a lobby or campaign group you belong to and the guidance sets out factors to consider when making the evaluation. The more focused your group is on a particular issue, the more involved and active you have been, and the more committed you appear to a particular outcome; the more likely it is that your interest will be prejudicial. The nature of the matter is one of the most important factors to consider and one to which The Standards Board gives particular weight.
- 5 Members are advised to adopt a particularly cautious approach to planning and licensing matters. Membership of a group that campaigns for or against a particular planning or licensing application may well constitute a prejudicial interest.
- 6 The guidance sets out hypothetical examples to help illustrate the Standards Board's general views. The guidance also cautions against reaching a final conclusion on an issue before you come to take a decision on it. "This application will only get approval over my dead body" was given as an example to illustrate a circumstance where someone was not open to persuasion.

**Dual-Hatted Members**

- 7 The guidance covers the interpretation of paragraph 10(2) of the Code of Conduct or in the case of parish council's paragraph 9(2) (the paragraphs).
- 8 The paragraphs set out situations where a Member may regard himself as not having a prejudicial interest in a matter. The paragraphs that require great care because they apply to a broader set of situations, where members belong to outside bodies are as follows:

A Member may regard himself as not having a prejudicial interest in a matter if that matter relates to:

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- a. another relevant authority of which he is a member;
  - b. another public authority in which he holds a position of general control or management;
  - c. a body to which he has been appointed or nominated by the authority as its representative;
- 9 The guidance states that many interests that arise from service on other public bodies or as a representative of the authority will not be prejudicial. However, in some cases a reasonable member of the public might consider that such an interest is prejudicial. The provisions set out in the above paragraphs do not exempt you from the rules governing prejudicial interests.
- 10 The guidance goes on to consider the situation when a Member considers a matter at more than one authority. The Code of Conduct does not automatically prevent you from considering the same issue at more than one tier of local government, including speaking and voting in both tiers. The guidance recommends that if an issue comes up for discussion at both the parish and district level, and you sit on both authorities, you should:
- at the parish level, make it clear that you will reconsider the matter at the district level, taking into account all relevant evidence and representations at the district tier;
  - at the district level, declare a personal (but not prejudicial) interest arising from your membership of the parish council which has already expressed a view on the matter, and make it clear that the parish council's view does not bind you and that you are considering the matter afresh.
- 11 However, the advice is that you should not sit on decision making bodies, such as planning and licensing committees, when they decide applications from an authority on which you also serve. Other examples are given to help one evaluate whether involvement in an outside bodies could in a particular circumstance be interpreted by an outside member of the public as a prejudicial interest.

**Prejudicial Interests**

- 12 The guidance sets out things you can and things you cannot do if you have a prejudicial interest. Briefly these are as follows:

What you can do -

- you can make written representations
- use a professional representative to make a planning application on your behalf
- arrange for another member of your authority to represent the views of your constituents

What you cannot do -

- you cannot be present in the public gallery or speak as a member of the public
- you should not make written representations to Members of the relevant committee (you should submit them only to the relevant officers).

**Conclusion**

- 13 The guidance goes some way towards clarifying some areas of the Code that have caused particular problems to both District and Parish Council Members.

**Sources of Information:** Lobby Groups, dual-hatted members and the Code of Conduct Guidance for members - The Standards Board for England

**Contact Officer(s):** Christine Nuttall - ext. 7245

**Corporate Services Director**  
**Pav Ramewal**

**RISK ASSESSMENT STATEMENT**

The guidance will minimise the risk of breaches of the Code of Conduct.