

Guide to Part III of the Local
Government Act 2000
Parish and town councils

This guide

This guide provides an introduction to Part III of the Local Government Act 2000. It is for clerks of parish and town councils and has been prepared in consultation with the National Association of Local Councils, Association of Larger Local Councils and the Society of Local Council Clerks.

The new rules of conduct contained in the Act apply to members and co-opted members although this guide uses the term 'members' to refer to both of them. The Standards Board does not oversee the conduct of council employees.

Responsibilities

Part III of the Act gives the council, individual members, the standards committee and the monitoring officer specific roles. These are set out below.

The council

Standards committee

Whilst the Standards Board is a national body overseeing the conduct of members throughout the country, a standards committee is a local committee established to support local members.

The Act does not require parish and town councils to establish a standards committee.¹ However, the Act says that the standards committee for each district, unitary or metropolitan council will also be the standards committee for every parish and town council within its area. In this guide references to district councils include unitary and metropolitan councils.

Therefore, in this guide, a reference to 'your standards committee' is a reference to the standards committee of your local district council.

Parish and town council representation on standards committees

A standards committee is made up of a number of members from the council as well as one or more 'independent representative(s)'.²

The district council must ensure that parish and town councils are represented on its standards committee. At least one member of a parish or town council in the area must be appointed to the standards committee.

In addition, the standards committee may appoint a sub-committee to deal with town and parish council matters. Any such sub-committee must also include at least one member of a parish and town council in the area.

Your district council is required to consult with every parish and town council in the area on the arrangements for parish and town council representatives on its standards committee and sub-committee.²

Ideally parish and town councils should collectively agree (perhaps through the County Association in your area) with their district council the process for

¹ Section 53(2) of the Act.

² Section 55(4) of the Act.

Responsibilities continued

nomination and the number of parish and town members to be appointed to the standards committee and sub-committee.

Adopting a local code

Your council must adopt a local code within six months of a model code being made by Parliament.

Your standards committee is responsible for advising your council on the adoption of a local code of conduct. The Standards Board recommends that your council make arrangements (if it has not already done so) with your district council so that it receives proper advice when adopting a local code.

The local code *must* include all of the compulsory provisions of the model code and these cannot be altered.³

Your council *may* adopt additional provisions as long as they are consistent with the model code. However, a wide range of different local codes may cause confusion to local people and those who serve on more than one authority. The Standards Board also believes that members should all be judged to the same standards and therefore suggests that your council does not adopt additional provisions in its local code, at least initially.

If, however, your council does want to include additional provisions in the local code we recommend that your council seek advice first. This may be advice from your standards committee, monitoring officer or from an external lawyer. This should ensure that any additional provisions are consistent with the model code and are not in breach of other legislation.

Your council may develop specific guidance building on the rules in the local code e.g. the way members should treat confidential information or how they should deal with planning issues. However, any such guidance should not be considered as part of the local code but as guidance on how to comply with it.

Once a local code has been adopted, your council must publish a notice in one or more local newspapers saying that the local code has been adopted and that it is available for public inspection.⁴ The Act says that if your council has its own paper and publishes a notice in that paper, it must also publish a notice in another local paper. Your council must send a copy of the local code to the Standards Board and we would be happy to receive this by e-mail.

If your council does not adopt a local code within six months, the model code will automatically apply to all members at the end of that period and will continue to apply until your council adopts its own local code of conduct.⁵

Importantly, from the time the local code is adopted or the model code applies to all members automatically, anyone (including members) may make a complaint to the Standards Board about breaches of the code. Complaints cannot, however, be retrospective. This means that a complaint cannot be made to the Standards Board about anything that happened before that time.

Members

Once your council has adopted a local code, all members are bound by it. In addition, they must agree in writing to the council that they will observe the local code.

If any member fails to sign up to their local code within 2 months of it being adopted, then they cease to be a member of the council.⁶

To avoid this situation, the Standards Board recommends that, if possible, every member sign up to the local code at the same time it is adopted. Councils will need to manage the process carefully so that members do not get 'caught out' by this provision. New members will need to sign up to the local code before they take up their position.

³ Section 51(4)(a) of the Act.

⁴ Section 51(6)(b) of the Act.

⁵ Refer to section 51(5)(a).

⁶ Section 52(1)(b) of the Act.

Responsibilities continued

Monitoring officers

The monitoring officer for your district council is also the monitoring officer for parish and town councils in the area.

There are two registers which your monitoring officer is required to establish and maintain for all parish and town councils in the area:

1. a register of members' interests; and
2. a register of any gifts or hospitality (over £25).

Clerks may be asked to assist the monitoring officer in compiling and maintaining these registers.

Town/parish clerks

Clerks should make sure that all members know they have to provide a written undertaking to the council within two months of the local code being adopted.

Clerks should also speak to their monitoring officer about setting up the registers of interests and gifts or hospitality received (over £25).

Members' relationship with the Standards Board

The Standards Board will work with local government to ensure there is proper guidance available to members. We will promote best practice.

We recognise that most members already uphold high standards of conduct and take their duty to the public very seriously. It is our job, however, to receive written complaints about the conduct of individual members.

The Standards Board has a duty to consider all written complaints which it receives. Our procedures will be quick and fair to all involved.

If members want advice on the local code, we recommend that they talk to their clerk or monitoring officer. We cannot give officers or members advice on a particular case because we may investigate it later.

If a complaint about a member of your council comes directly to your council and it involves the rules within your local code, it should be passed to us for action.

The local code

As mentioned above, the local code must include all of the compulsory provisions of the model code, which set out the minimum standards of conduct that members must observe.

There are two very important provisions, by which members will be bound by at all times. These are:

1. they should not do anything which brings their council or office into disrepute; and
2. they should not misuse their official position to their own advantage or to the advantage or disadvantage of others.

As a member

Otherwise, the local code will only apply whenever members are conducting the business of their council or office. This is in their 'official role' as a representative of the public, for example, at meetings of the council, with other members and officers and public meetings and forums where they are there as a member of your council.

Where they are also a member of another authority (which has its own local code) they will be subject to the code that applies to the authority whose business they are carrying out at the time.

As a representative

The local code will also apply when members represent their council on other bodies. However, where the other body is bound by legal obligations which conflict with the local code, then the rules of that other body apply.

What members have to do

A. General duties

The local code will place a positive duty on members to:

- promote equality by not discriminating against others;
- respect confidential information; and
- inform the Standards Board if they reasonably believe another member has broken the code.

There are also a number of things that members should not do. These are:

- bring their council or office into disrepute;
- misuse their official position to their own advantage or to the advantage or disadvantage of others;
- unduly influence any person who works for the council;
- stop somebody seeing or getting copies of documents they are allowed to have; or
- misuse council resources or authorise misuse, in particular for unauthorised party political purposes.

B. Register of interests

Under the new rules, each member will have to provide a record of their interests in a public register.

Members must tell their monitoring officer (perhaps through their clerk) in writing of any interests that they have which fall within the categories set out in the local code. These categories include:

- their job(s);
- the name of their employer, the name of any firm in which they are a partner and the name of any company for which they are a director;
- the name of any person who has made a payment to them in respect of their appointment as a member or expenses they have incurred in carrying out their duties;
- the name of any corporate body in which they have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100th in the company;

- any contracts for goods, services or works between the council and themselves, their firm (if they are a partner) or company (if they are a director or if they have a £25,000 shareholding (face value) or stake of more than 1/100th in the company);
- landholdings in the area;
- land leased or licensed from the council; and
- membership of, or position of control or management in:
 - other bodies where they represent the council;
 - other public authorities;
 - companies, industrial and provident societies and charitable bodies;
 - private clubs;
 - bodies whose main purpose is to influence public opinion or policy; and
 - trades unions and professional associations.

Members must also let the monitoring officer know, in writing, of any changes or additions which should be made to the entries in the register. Again, clerks may need to assist in this process.

C. Declaration of interests

Alongside the register of interests, the local code will also require the declaration of interests at meetings of the council. Members can use the register as a trigger to decide which of their interests need to be declared at meetings.

Members have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial. The old distinction between 'pecuniary' and 'non-pecuniary' interests is no longer relevant.

A personal interest is an interest that affects the member more than most other people in the area. People in the area include those who live, work or have property in the area of the council. Members will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area.

What members have to do continued

If they do have a personal interest, they must declare it and say what that interest is before any meeting where the issue is to be discussed or as soon as it comes to light. However, they can still take part in the meeting and vote unless the personal interest is also a prejudicial interest.

A prejudicial interest is a matter of judgement for each member. What members have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the member's interest was so important that their decision would be affected by it. If a member has a prejudicial interest then they must declare what that interest is (if they have not already done so) and withdraw from the meeting (by leaving the room).

Subject to regulations being made, your standards committee may grant members a dispensation to take part in a meeting even though they have an interest.

D. Gifts or hospitality

The local code will require members to tell the monitoring officer, in writing, of any gifts or hospitality (over £25) they have received. These must be held on a public register. Again, local arrangements may be in place to facilitate this.

Glossary

Act	the Local Government Act 2000.
A co-opted member	a person who is not an elected member but who, as a member of any committee or sub-committee of the council, is entitled to vote at meetings.
Local code of conduct	your council must adopt its own local code which must at least include all of the compulsory provisions of the model code.
Model code of conduct	the model code of conduct will be approved by Parliament and contains a set of compulsory provisions that must be included in the local code of conduct.
Monitoring officer	for parish and town councils, is that of your district, unitary or metropolitan council.
A personal interest	exists where a decision on the matter at hand would affect: (a) the member, their partner, relatives or close friends; (b) a body employing those persons; or (c) any corporate body in which the member holds shares above £25,000 or in which the member has a stake of more than 1/100th in the company to a greater extent than other people in the area.
A prejudicial interest	exists where a member of the public (who has knowledge of the circumstances) would view the member's personal interest as being so significant to that it is likely to prejudice the member's judgement of the public interest.
Standards Board	the Standards Board for England. A national body set up to oversee the implementation of the new measures under Part III of the Act.
Standards committee	a committee with a number of statutory functions relating to the new measures as set out in Part III of the Act.



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