
WELSH STATUTORY INSTRUMENTS

2001 No. 2289 (W.177)

LOCAL GOVERNMENT, WALES

**The Conduct of Members (Model
Code of Conduct) (Wales) Order 2001**

Made - - - - 21st June 2001

Coming into force - - 28th July 2001

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 50(2), 50(4), 81(2) and 81(3) of the Local Government Act 2000(1), and of all other powers enabling it in that behalf, having carried out such consultation as is required by virtue of section 50(5) of that Act and being satisfied that this Order is consistent with the principles for the time being specified in an order under section 49(2) of that Act(2) makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Conduct of Members (Model Code of Conduct) (Wales) Order 2001 and shall come into force on 28 July 2001.

(2) This Order applies to each relevant authority in Wales.

Interpretation

2. In this Order —

“the Act” (“*y Ddeddf*”) means the Local Government Act 2000; and

“relevant authority” (“*awdurdod perthnasol*”) means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire authority constituted by a combination scheme under the Fire Services Act 1947(3),
and
- (e) a National Park authority established under section 63 of the Environment Act 1995(4).

(1) 2000 c. 22.

(2) The Conduct of Members (Principles) (Wales) Order 2001 (S.I.2001/2276(W.166)).

(3) 1947 c. 41.

(4) 1995 c. 25.

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Model code of conduct

3.—(1) A model code as regards the conduct which is expected of a member or co-opted member of a relevant authority is set out in the Schedule to this Order.

(2) For the purposes of section 50(4) of the Act, the provisions of the model code are to be regarded as mandatory.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5).

21st June 2001

D. Elis-Thomas
The Presiding Officer of the National Assembly

SCHEDULE

Article 3

MODEL CODE OF CONDUCT FOR MEMBERS OF COUNTY, COUNTY BOROUGH AND COMMUNITY COUNCILS, FIRE AUTHORITIES AND NATIONAL PARK AUTHORITIES IN WALES

PART I

Interpretation

In this code —

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” (“*cyfarfod*”) means any meeting —

- (a) of the relevant authority;
- (b) of any executive or board of the authority;
- (c) of any committee, sub-committee, joint committee, joint sub-committee or area committee of the relevant authority or of any such committee or sub-committee of any executive or board of the authority; or
- (d) where members or officers of the authority are present.

“member” (“*aelod*”) includes a co-opted member.

PART II

Scope

General Provisions

1. Members must observe this code of conduct whenever they:
 - (a) conduct the business of the authority;
 - (b) undertake the role of member to which they were elected or appointed; or
 - (c) act as representatives of the authority.
2. This code of conduct shall, unless otherwise indicated, only apply to those activities which a member undertakes in an official capacity.
3. Where a member acts as a representative of the authority on another body, that member must, when acting in that capacity, comply with this code of conduct, unless it conflicts with any legal obligations arising as a consequence of service on that body. Where a member’s appointment to another body does not arise from the member’s position as a member of the authority, this code shall not apply to the member, who shall instead be subject to the code of the other body. Such a member

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will, however, be expected to have regard to the general principles of conduct⁽⁶⁾ and the requirement not to bring the office of member or the authority into disrepute.

Promotion of Equality and Respect for Others

4. Members of the authority:

- (a) must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others,
- (b) must not do anything which compromises, or which is likely to compromise, the impartiality of the authority's employees.

Accountability and Openness

5. Members:

- (a) must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) must not prevent any person from gaining access to information to which that person is entitled by law.

Duty to uphold the law

6.—(1) Members:

- (a) must not in their official capacity or otherwise commit a criminal offence or cause one to be committed;
- (b) must not in their official capacity or otherwise behave in a manner which could be reasonably regarded as bringing the office of member or the authority into disrepute;
- (c) must report to the Local Commissioner for Local Administration in Wales and to the authority's monitoring officer any conduct by another member which they believe involves or is likely to involve a failure to comply with this code of conduct;
- (d) must report, whether through the authority's confidential reporting procedure or direct to the proper authority, any conduct by another person which they believe involves or is likely to involve criminal behaviour;
- (e) must not in relation to (c) above make vexatious or malicious complaints against other persons.

(2) A member of the authority (other than a member who is the subject of an investigation by a monitoring officer in accordance with regulations made under section 73(1) of the Local Government Act 2000⁽⁷⁾) must comply with any requirement made by the monitoring officer of that authority in connection with such an investigation.

Selflessness and stewardship

7. Members:

- (a) must not, in their official capacity or otherwise, use their position improperly to confer on or secure for any person and in particular their family, friends or those with whom they

⁽⁶⁾ The Conduct of Members (Principles) (Wales) Order 2001.

⁽⁷⁾ The Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001 (S.I.2001/2281 (W171)).

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have a close personal association an advantage or disadvantage or to secure an advantage for themselves;

- (b) must, when using or authorising the use by another member of the resources of the authority, do so prudently and in accordance with the law and the authority's requirements; and
- (c) must ensure that the resources of the authority are not used improperly for their own private purposes, their family, friends and persons with whom they have a close personal association.

Objectivity and Propriety

- 8. A member when reaching decisions:
 - (a) must reach decisions on the basis of the merits of the circumstances involved and in the public interest;
 - (b) must reach decisions having regard to any relevant advice provided by the authority's officers – in particular by:
 - (i) the authority's Chief Finance Officer acting in pursuance of that officer's duties under section 114 of the Local Government Finance Act 1988⁽⁸⁾;
 - (ii) the authority's Monitoring Officer acting in pursuance of that officer's duties under section 5 of the Local Government and Housing Act 1989⁽⁹⁾;
 - (iii) the authority's Chief Legal Officer who should be consulted when there is any doubt as to the authority's power to act, or as to whether the action proposed lies within the policy framework agreed by the authority; where the legal consequences of action or failure to act by the authority might have important repercussions.
 - (c) must give reasons for decisions in accordance with the authority's requirements and, in the case of county and county borough councils operating executive arrangements, regulations made by the National Assembly for Wales⁽¹⁰⁾.

Integrity

- 9. Members:
 - (a) must observe the law and the authority's rules governing the claiming of expenses and allowances in connection with their duties as members;
 - (b) must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the authority) material benefits or services for themselves or any person with whom the member is living that would, or might reasonably appear to, place them under an improper obligation.

PART III

DISCLOSURE AND REGISTRATION OF INTERESTS

10. Members must in all matters consider whether they have a personal interest, and whether this code of conduct requires them to disclose that interest.

⁽⁸⁾ 1988 c. 41.

⁽⁹⁾ 1989 c. 42.

⁽¹⁰⁾ The Local Authority Executive Arrangements (Decisions, Documents and Meetings) (Wales) Regulations 2001 (S.I.2001/2290 (W.178)).

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11. A member has a personal interest in a matter if that member anticipates that a decision upon it might reasonably be regarded as likely to benefit or disadvantage:

- (a) the member, one of the member's family or a friend, or any person with whom the member has a close personal association, or
- (b) a body which employs those persons, or for which those persons have any degree of ownership, control or management,

to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area.

12. Members must regard themselves as having a personal interest in a matter to the extent that it relates to:

- (a) another relevant authority of which they are a member;
- (b) a body in which they hold a position of general control or management;
- (c) a body to which they have been appointed or nominated by the authority as a representative.

13. Members must regard themselves as having a personal interest in a matter to the extent that it relates to:

- (a) any full-time, part-time or intermittent employment, office, trade or profession carried on by them for profit or gain;
- (b) any person who employs or has appointed them, any firm in which they are a partner, or any company of which they are a remunerated director;
- (c) any person, other than a relevant authority, who has made a payment to them in respect of their election or any expenses incurred in carrying out their duties;
- (d) any corporate body which has a place of business or land in the authority's area, where the member has a beneficial interest in a class of securities of that body which exceeds £25,000 in value or one hundredth of the total issued share capital of that body (whichever is the lower);
- (e) any contract for goods, services or works made between the authority and the member, a firm in which the member is a partner, a company of which the member is a director, or a body falling within sub-paragraph (d);
- (f) any land in which the member or a member of the member's family has a beneficial interest and which is in the area of the authority;
- (g) any land of which the landlord is the authority and the tenant is a firm in which the member is a partner, a company of which the member is a director, or a body falling within sub-paragraph (d);
- (h) any land in the authority's area in which the member has a licence (alone or jointly with others) to occupy for a month or longer; and
- (i) any visit outside the United Kingdom for which the authority has paid or will pay.

14. Members must regard themselves as having a personal interest in a matter to the extent that it relates to any membership, or position of general control or management which they have in any organisation. Such organisations include any:

- (a) private club or society, such as the Freemasons, a recreational club, working men's club, or private investment club;
- (b) organisation whose principal purpose includes influencing public opinion or policy such as a lobby group;

- (c) trade union⁽¹¹⁾ or professional association;
- (d) company, industrial and provident society⁽¹²⁾ or other organisation which has charitable objects.

15. Members can regard themselves as not having a personal interest in a matter to the extent that it relates to:

- (a) the housing functions of the authority where the member may hold a tenancy or lease with the authority, provided —
 - (i) that they do not have arrears of rent of more than two months, and
 - (ii) there are in respect of the matter a significant number of tenants who are not members who would be affected in the same or a similar manner to the member in question;
- (b) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a parent with a child in full-time education, unless —
 - (i) the matter relates specifically to the school which the child attends, or
 - (ii) the matter relates solely to the member's own particular circumstances;
- (c) the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992⁽¹³⁾, where —
 - (i) the member is in receipt of, or is entitled to, such pay from a relevant authority, and
 - (ii) the matter does not relate solely to the member's own particular circumstances; and
- (d) the functions of the authority in respect of an allowance or payment made under Sections 173 to 176 of the Local Government Act 1972⁽¹⁴⁾ or Section 18 of the Local Government and Housing Act 1989.

16.—(1) A member who has a personal interest in a matter specified in paragraph 12 and who attends a meeting of the authority at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. In such a case that member may speak but must not vote on the matter.

(2) A member who has a personal interest in a matter specified in paragraphs 13 or 14 above and who attends a meeting of the authority at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. In such a case, that member must withdraw from consideration of the matter unless granted a dispensation by the relevant standards committee.

(3) A member who has a personal interest in a matter which is not specified in paragraphs 12, 13 or 14 above and who attends a meeting of the authority at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. If that personal interest is such that a member of the public might reasonably conclude that it would significantly affect the member's ability to act purely on the merits of the case and in the public interest if that member were to take part in the discussion of that matter, the member must also withdraw from consideration of the matter at that meeting unless granted a dispensation by the authority's standards committee.

17.—(1) In relation to a matter which a member has delegated authority to decide, the member will have a personal interest if a member of the public might reasonably perceive a conflict between the member's role in taking that decision on behalf of the authority as a whole and the member's role in representing the interests of constituents in the member's ward.

⁽¹¹⁾ "Trade union" is defined in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

⁽¹²⁾ Registered under the Industrial and Provident Society Acts 1965 to 1978.

⁽¹³⁾ 1992 c. 4.

⁽¹⁴⁾ 1972 c. 70.

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(2) A member with a personal interest in a matter which that member has delegated authority to decide must disclose the existence and nature of the interest, and withdraw from involvement in the decision, and refer it to a member or committee having power to take the decision. In the case of a county or county borough council operating executive arrangements, the fact that such a declaration has been made must be included in the record of the decision⁽¹⁵⁾.

18. For the purposes of paragraph 16(2) and (3), the standards committee shall not consider granting a dispensation unless the member has previously notified the monitoring officer of that interest, together with relevant details.

19. Any disclosed interests must be registered in the register maintained by the monitoring officer under Section 81(1) of the Local Government Act 2000.

20. Members must exercise personal responsibility in deciding whether they have a personal interest such that they should disclose it. They may seek advice from the authority's monitoring officer and must have regard to any advice from the relevant standards committee in doing so.

21. Members must notify the monitoring officer of any change to the interests registered under paragraph 19 within one month of their occurrence.

The registration of gifts and hospitality

22.—(1) Subject to sub-paragraph (2) below, a member must notify the authority's monitoring officer of the existence and nature of any gifts, hospitality, material benefits or advantage received by the member, or to the member's knowledge any person with whom the member is living, from any company, organisation or person and relating to or arising out of their position as a member, where the value of the item or benefit exceeds such amount as the authority shall from time to time determine.

(2) Any gift accepted by a member on behalf of that member's relevant authority need not be notified to that authority's monitoring officer.

EXPLANATORY NOTE

(This note does not form part of the Order.)

Part III of the Local Government Act 2000 ("the Act") establishes a new ethical framework for local government in Wales.

Section 50(2) of the Act provides that the National Assembly for Wales may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales.

The relevant authorities are county, community and county borough councils, fire authorities and National Park authorities but not police authorities.

A code of conduct issued by the National Assembly for Wales under section 50(2) of the Act must be consistent with the principles specified by the National Assembly for Wales under section 49(2) of the Act.

⁽¹⁵⁾ The Local Authorities Executive Arrangements (Decisions, Documents and Meetings) (Wales) Regulations 2001.

This Order issues a model code of conduct for members and co-opted members of relevant authorities in Wales.

The model code of conduct is in three parts.

Part I of the code deals with interpretation.

Part II of the code deals with the circumstances in which members and co-opted members must observe the code, together with issues of conduct concerning promotion of equality and respect for others, accountability and openness, the duty on members and co-opted members to uphold the law, selflessness and stewardship, objectivity and propriety and integrity.

Part III of the code deals with the circumstances in which a member or co-opted member of a relevant authority can regard themselves as not having a personal interest in a matter and where they must regard themselves as having such an interest. The code provides for the circumstances in which a personal interest should be disclosed, requires members and co-opted members to register such interests in the register maintained under section 81(1) of the Act and where applicable withdraw from consideration of the matter.

Part III of the code also deals with the registration of gifts and hospitality.