

COMMITTEE ON STANDARDS OF CONDUCT

Date: Wednesday, 20 March 2002
 Time: 9:30am
 Venue: Committee Room 2, National Assembly Building
 Title: Members' Interests - Freemasonry

Purpose

1. This paper invites the Committee to conclude its consideration of the requirement for Assembly Members to register their Membership of the Freemasons and to decide a way forward.

Issue

2. The Presiding Officer has asked the Committee for advice on the current Standing Orders requirement that Assembly Members register and declare Freemasonry as an interest. The Freemasons have suggested that this requirement may breach Articles 8 and 11 of the European Convention on Human Rights and therefore contravene the [Human Rights Act 1998](#), which came into force in October 2000.

Background

3. [Section 72 of the Government of Wales Act](#) requires [the Assembly's Standing Orders](#) to provide for a register of Members' interests and allows the Assembly to define in Standing Orders the interests that must be registered. A Member who takes part in any proceedings of the Assembly (including Committees and sub committees) without having complied with the relevant provisions of the Act or Standing Orders, as regards registration and oral declaration of interests in relevant Assembly proceedings, is guilty of a criminal offence. Membership of the Freemasons is one of the interests that the Assembly has defined in Standing Orders.
4. The requirement to register Membership of the Freemasons was included in the Assembly's first Standing Orders made by the then Secretary of State for Wales, the Rt Hon Alun Michael MP, under Section 50 of the Government of Wales Act. In doing so, he followed the advice of the informal National Assembly Advisory Group (NAAG) rather than the Standing Orders Commissioners appointed under the Act to draw up draft standing orders.
5. From the [Plenary Debate of 19 May 1999](#) on [Guidance on Members' Interests](#), it can be inferred that the NAAG report, and two reports by the Home Affairs Select Committee, were important factors for the Secretary of State in reaching his decision. From other comments made in that debate it can be inferred that NAAG were concerned at perceptions that the Freemasons were a secret society, which has had excessive influence in the past upon certain

sections of Welsh public life. The Assembly appears to have accepted these arguments in approving the guidelines on Members' Interests.

Committee Consideration

6. In September 2000 the South Wales Eastern Province of the Freemasons asked the Presiding Officer to consider the implications of the Human Rights Act, which came into force in October 2000. And in particular, whether the Assembly's requirements breached Articles 8 and 11 of the European Convention on Human Rights.
7. The Presiding Officer referred the matter to the Standards of Conduct Committee for advice in early 2001. As part of its consideration the Committee has discussed the matter on 3 occasions and has twice taken evidence directly from representatives of the Freemasons. Extracts from the [minutes of the meetings concerned](#) are attached at Annex A.
8. The Committee has also received advice on two occasions from the Presiding Office's legal adviser, David Lambert. His initial advice to the April meeting [\[STD 02-01\(p7\)\]](#) set out his view that the requirement to register membership of the Freemasons could be questioned in the High Court but success would depend on decisions pending in the European Court of Human Rights (ECHR).
9. He gave further advice to the December meeting on the first of two decisions by the ECHR [\[STD 05-01\(02\)\]](#). His general conclusion, recorded in the minutes of the meeting, was that the requirement only to register did not cause harm and did not therefore impinge either on the complainant's right to privacy or the right of free association. However, in the light of representations made by the Freemasons at the meeting, he agreed to consider more fully the implications of a second ECHR decision. Mr Lambert has now produced further advice, which is attached at Annex B. Its implications are discussed later in this paper.

Current Position

10. At its meeting on [12 December](#) the Committee agreed that it would need advice on the following issues to assist them in reaching a final view on this issue:
 - whether the Freemasons are a secret society, who do not make public their membership;
 - whether the Freemasons show improper favour to other Freemasons;
 - whether, through the oaths they take, Freemasons owe greater loyalty to Freemasonry than to other institutions or the state;
 - whether, if these allegations are true, they are unique to the Freemasons;
 - whether Assembly guidance to Local Authorities creates a precedent for the National Assembly's procedures; and
 - the legal position.

11. Further consideration is given to each of these issues below.

Secret Society

12. The Freemasons deny that they are a secret society. Rather, they claim that membership is private. The "secret" elements of Freemasonry, the "tests", are merely mechanisms for recognition and tests of integrity in the absence of a central or international record of membership.
13. There is no way of proving the proposition that Freemasonry is secret. In fact, most aspects of its operation and ritual now seem to be common knowledge. On the other hand, there are undoubtedly elements of Freemasonry, which might be difficult to justify to non-Masons as the acts of an open and inclusive organisation.

Improper Favour/Loyalty

14. Reports by the Home Affairs Select Committee set out a number of instances where Freemasons might have given improper assistance to other Freemasons. However, the general conclusion of these reports is that most allegations involving Masons are groundless and may be fuelled by the related fear that they are a secret society.
15. Whether Freemasons owe a greater loyalty to the organisation than to the state and its institutions rests largely on whether there is evidence showing that they are secret society which tries to give unfair advantage to its members. However, the Freemasons, in their evidence to the Committee, made it clear that they give an undertaking to uphold the law, do not swear allegiance to each other or the organisation and that it was an offence under their rules to show improper favour to other Freemasons.

Uniqueness

16. There may be other organisations that exhibit some or all of the characteristics that cause some to have concerns about Freemasonry. None of these organisations, however, seem to have produced such long-lasting and strongly-held views as Freemasonry. No other organisation has been suggested during the Committee's considerations as raising the same concerns as the Freemasons. However, it may be worth noting that the Home Affairs Select Committee's report on Freemasonry in the Police and Judiciary mentioned both Opus Dei and the Catenians in the context of other secretive societies but without drawing any firm conclusions about them.

Assembly Requirements Placed on Local Authorities

17. On 28 July last year the Conduct of Members (Model Code of Conduct) (Wales) Order 2001 came into force. Similar provisions have since been enacted for local authorities in England although these are not as widely drawn as in Wales.

[A copy of the Order is at Annex C.](#) Of particular interest is paragraph 14 of the schedule to the Order. This makes it clear that membership of the Freemasons is a matter that must be registered and declared. However, it is also clear that the Freemasons are one among any number of organisations to which these provisions also apply and they have not been "singled out", as is the case in the Assembly. In their presentations to the Committee, the Freemasons have made it clear that it is the unique "singling out" by the Assembly to which they take exception.

18. The Model Code of Conduct places no legal obligation on the Assembly to adopt similar provisions. Whether the Assembly, in adopting these provisions as a model for local government, has created an administrative precedent that the Assembly should follow is a matter for Members' judgement. However, the Committee should note that failure to comply with the requirements in the Model Code of Conduct is not a criminal offence, unlike the Assembly's own registration requirements. It is doubtful that Members would wish to create such a potentially wide-ranging set of registration requirements for the Assembly when non-compliance could result in criminal sanctions.

Legal Position

19. David Lambert advised the Committee in April last year that the Assembly's current requirement could be questioned in the High Court as a Devolution Issue under the Government of Wales Act on the grounds that the Assembly has failed to comply with the provisions of the Human Rights Act. He further advised in December that the chance of such a challenge being successful was less likely as a result of the ECHR's decisions in the cases of [NF v the Italian State and the Grand Masonic Lodge of Italy v the Italian State](#).
20. This is because the facts of both cases are different to the requirements placed on Assembly Members, which are only to register and declare membership. The requirements do not prevent Members from being Freemasons. However, general statements made as to the overall probity of Freemasonry in the Grand Masonic Lodge case by the ECHR, suggest that a Court might find that the Assembly has acted irrationally in singling out the Freemasons for registration and has; therefore, acted illegally in imposing this requirement uniquely on the Masons.
21. David will be able to expand on his advice at the Committee's next meeting but it does seem that there is a risk that the current requirement could be successfully challenged in the Courts, particularly as it is not replicated in any other administration in the UK.

Discussion

22. The Committee has two main choices before it - to advise the Assembly to maintain the status quo or to recommend a change in the registration requirements. These are discussed in more detail below.

Arguments for Keeping the Current Requirements

23. Although it seems clear that the current requirements are open to legal challenge there is no guarantee that such a challenge would be successful.
24. The current provisions have been debated and accepted by the Assembly. Although there have been dissenting voices, the current provisions received broad support from Assembly Members with no clear mood for change (which would require a two-thirds majority). This is undoubtedly because of the widespread perception that the Freemasons are an organisation that is closed, exclusive and acts in a secretive way for the advancement of its members. Although it may not be unique as an organisation it is unique in the persistence of these perceptions among significant numbers of people.
25. As one of the reports of the Home Affairs Select Committee concluded, "...nothing so much undermines public confidence in public institutions as the knowledge that some public servants are members of a secret society one of whose aims is mutual self-advancement - or a column of mutual support to use the Masonic phrase."

Arguments for Changing the Current Requirements

26. As mentioned earlier, there is a risk that the current requirement will be challenged in the Courts. Such a challenge could be expensive to defend and there is a risk of losing the case, which might prove embarrassing to the Assembly. This point argues strongly for considering a change to the current requirements.
27. No evidence has been produced before the Committee or the Assembly that links Freemasonry to malpractice. The extensive Home Affairs Select Committee reports concluded that there is a "...great deal of unjustified paranoia about freemasonry..." and established no conclusive evidence of Masonic corruption.
28. No other legislature in the UK has a similar requirement and the Assembly's own guidance to local authorities does not single out the Freemasons for any special treatment.

Options for Change

29. If the Committee is minded to recommend a change to the current registration requirements one of the following options may be possible. These are set out below together with arguments for and against:

- i. Remove the Current Requirement Entirely

For

- It removes the threat of legal challenge.

- It meets the Freemasons concerns that they are being singled out unfairly.
- It is consistent with other UK legislatures.
- It would be straightforward to implement.

Against

- It would not address public concerns about the activities of the Freemasons.
- It would be inconsistent with the Assembly's own statutory requirements placed on local government.

ii. Introduce a Wider Registration of All Societies Requirement in line with the Local Government Statutory Model

For

- It will probably remove the threat of legal challenge.
- It meets the Freemasons concerns that they are being singled out unfairly.
- It would introduce even more openness into the Assembly's procedures.
- Registration of membership of the Freemasons would continue.
- It would be consistent with the Assembly's statutory requirements placed on local government.
- Failure to register could be addressed through a new Standing Order requirement to inform the Presiding Office of certain interests, which would fall outside the scope of the registration requirements of Section 72 of the Government of Wales Act and would not, therefore, attract criminal sanctions. (An example of how a new Standing Order of this sort might look is at Annex D.)

Against

- The statutory local government model code of conduct is extremely widely drawn.
- Membership of virtually any organisation would need to be registered.
- The chances of Members accidentally failing to register interests would be considerable and the consequences of failure to register (i.e. a criminal offence) would be disproportionate.
- Such wide-ranging registration requirements would be inconsistent with other UK legislatures.

iii. Introduce a Requirement to only Register Membership of all "Secretive" Societies

For

- It does not single out the Freemasons.
- It might reduce the chances of success of a legal challenge.
- It would introduce more openness into the Assembly's procedures.

Against

- It would not remove the possibility of legal action. In fact the risks of action might be increased because other organisations affected would be likely to make similar complaints to those made by the Freemasons.
- Producing a robust definition of a "secretive society" would be extremely difficult.
- It would be inconsistent with other UK legislatures.
- It would be inconsistent with the Assembly's statutory requirements placed on local government.

Conclusion

30. None of the options outlined above including the status quo is straightforward or without problems. The way forward is in the first place a matter for Committee Members' judgement. However, the Secretariat believes that the Committee needs to address three key principles in its consideration:
 - i. that the registration requirements should minimise the risk of successful legal action against the Assembly;
 - ii. that any new requirements should not be overly onerous or complicated and the sanction for not complying should be proportionate to the nature of the "offence"; and
 - iii. that the requirements should encourage the greatest possible degree of openness and inclusivity compatible with the other two principles.
31. Following the meeting, the Secretariat will prepare a draft report on the Committee's advice for the Presiding Officer. It is expected that the matter will be put to the Assembly to decide in due course.

Secretariat

Extract from minutes of the Committee's meeting of 4 April 2001:

Item 6: Members' Freemasonry

Papers STD-02-01(6&7); Memorandum from Freemasons STD-02-01(8)

14. The Chair introduced the item and welcomed Mr Bevan and Mr Hamill to the meeting. He invited David Lambert to introduce his paper STD-02-01(7) which provided background information about the Assembly's requirement for Members to register their membership of the Freemasons in the statutory Register of Interests

15. Mr Hamill then made a presentation to the Committee about the history, policies and principles of the Freemasons, with reference to the Memorandum which had been circulated to Members. He emphasised that their principal concern was that the Freemasons were the only fraternal organisation whose membership had to be included in the Register.

16. Among the points made in the discussion which ensued were:

- it was noted that the Freemasons felt that there was an inaccurate public perception of the nature and purpose of their organisation. In part this had arisen from the "silent years" between the 1930s and 1970s when the Freemasons had shunned publicity.
- Freemasons saw the declaration of membership as a matter for the individual. There was no central list of Members and individual Lodges would not necessarily have accurate records of all their members.
- the Committee should establish if there are any other organisations that follow the same policy as the Freemasons in not declaring their membership publicly and if there are, consider whether Members should also declare these, and investigate how this could impact on the Register of Members' Interests.
- consideration was given to the initial consultation exercise undertaken by the National Assembly Advisory Group (NAAG) who had subsequently recommended registration. It was the understanding of the Committee that there had not been any objection from the Freemasons at the time of the consultation. However, Mr Bevan confirmed that their Provincial Grand Master, Lord Swansea, had written to NAAG on behalf of the Freemasons in Wales. The Committee asked the Secretariat to obtain a copy of this letter.

17. David Lambert reminded members that the Assembly was awaiting a decision from the Human Rights Court in Strasbourg on a case being heard under the European Convention on Human Rights. The Committee agreed to consider the issue again at its next meeting.

Action: Secretariat to produce paper on way forward for the next meeting and circulate copies of the Lord Swansea letter in the meantime.

Extract from minutes of the Committee's meeting of 17 October 2001:

Item 6: Freemasonry

Oral Item by David Lambert

8. David Lambert provided an update on two decisions that had recently been made by the European Court on Human Rights. Although the transcripts of both decisions were only available in French at present, Mr Lambert was able to inform the Committee of his understanding of the rulings. The official English translation might not be available for some time. However, a full 'unofficial' translation would be available within two weeks and the Committee agreed to consider this translation of the Court's rulings at its next meeting (12 December) and to invite representatives of the Freemasons to attend the meeting. It was noted that there had been some correspondence between the Freemasons and Carwyn Jones AM in his role as Minister with responsibility for human rights.

Action: Secretariat to invite representatives of the Freemasons to the meeting on 12th December and obtain copies of relevant correspondence from Carwyn Jones AM. A copy of the full 'unofficial' translation of the European Courts judgement would be sent to the Freemasons.

Extract from minutes of the Committee's meeting of 12 December 2001:

Item 4: Freemasonry

Papers STD-05-01(02)

10. The Chair introduced the item and welcomed Mr James Bevan (Provincial Grand Secretary, Province of South Wales Eastern Division) and Mr James Hamill (Director of Communications for the United Grand Lodge of England) to the meeting. Mr Bevan and Mr Hamill had given evidence before the Committee in April and had been invited back to inform the Committee of their views on two recent rulings by the European Court of Human Rights (ECHR) and their implications for the Assembly.

11. Mr Hamill then made a presentation to the Committee about the Freemasons' view on the judgements. He made it clear that the Freemasons had no objection to the requirement to register. It was being singled-out, and the negative perception this created, to which they objected. Although neither ruling was clear-cut, he believed they both added strength to the argument that the Freemasons had been unfairly singled out among fraternal organisations in the requirement to be included in the Assembly's Register.

12. Mr Hamill said that in the first case, the Court had found that a legal requirement, which obliged candidates for public office to declare that they were not members of the Freemasons, was unnecessary in a democratic society. Comments made as part of the ruling had also made it clear that the requirement made it look as if Freemasonry was an illegal activity and had brought into doubt Freemasons' impartiality.

13. In the second case, the Court had found that the requirement to declare membership of the Freemasons was not a breach of the right to privacy. However, the Freemasons had received legal advice, which suggested that this would have constituted a breach in the UK because of the effects of the Data Protection Act. Mr Hamill said that their legal advice also suggested that comments made as part of the ruling had further strengthened their argument that the current requirements are unfair. He went on to point out that two other recent rulings against the UK, after cases brought by homosexual members of the armed forces, suggested that perception was an insufficient reason to vary human rights.

14. Mr Hamill also mentioned recent guidance to local authorities that treated all fraternal organisations even-handedly. The Freemasons would be able to support a similar requirement in the Assembly.

15. Among the points made in discussion following Mr Hamill's presentation were:

- that the reasons for the Assembly's current requirements included the allegations that:
 - the Freemasons are a secret society, who do not make public their membership;
 - Freemasons show improper favour to other Freemasons; and
 - through the Oaths they take, Freemasons owe greater loyalty to Freemasonry than to other institutions or the state.

In reaching a view on whether the Assembly's requirements should remain, the Committee would need to consider the extent to which:

- the allegations are true; and

- the allegations are unique to the Freemasons.
- the Freemasons did not have a secret code. However, they did have a number of "tests" which were known only to fellow Masons. The Freemasons saw these primarily as tests of integrity and recognition rather than as a means of maintaining secrecy. They were also useful in recognising members from other countries. Membership cards would not be as useful because there was no common international format.
- membership was considered to be private rather than secret. There was no sanction on individual members disclosing their membership but neither were they compelled to disclose membership. A number of other organisations, such as trade unions, had been unable or unwilling to provide details of their members to the Freemasons.
- a copy of the Freemasons' yearbook, which gave details of all lodges and officers throughout the UK, was sent to all public libraries. Details of Masonic rituals were freely available to buy in bookshops. However, there was no central list of members and individual lodges would not necessarily have accurate records of all their members.
- freemasons give an undertaking to uphold the law. They do not swear allegiance to each other or the organisation and it was an offence under their rules to show improper favour to other Freemasons. Nevertheless, where relevant, they would encourage members to declare their membership in order to avoid any potentially damaging negative perceptions. A House of Commons Select Committee had concluded that Freemasonry caused no conflict with, for instance, the oath taken by Police Officers.
- disciplinary action against members was published. Mr Hamill undertook to write to the Committee about the number of Freemasons disciplined for showing improper favour to other members.
- the ethos of the National Assembly was one of openness, inclusivity and equality of opportunity. The ethos of the Freemasons appeared to run counter to that.
- the impetus to become a Freemason came from individuals. The Freemasons did not actively recruit. Approval for membership came through a ballot of lodge members after being proposed by existing members. The main qualification for membership was a belief in a Supreme Being. No distinction was made between different religions. The United Grand Lodge of England had an exclusively male membership but there were female-only grand lodges in the United Kingdom.

16. The Chair invited David Lambert to comment on paper STD 05-01(2), which set out details of one the ECHR rulings, and to respond to Mr Hamill's presentation in relation to the two rulings from the ECHR.

17. David Lambert explained that, in the time available since the rulings, it had only been possible to provide the Committee with advice on one of the two cases. He had, therefore, given advice on the case that seemed to have the greatest relevance to the Assembly's situation. This case suggested that the requirement to register being a Freemason did not cause harm and did not therefore impinge on the complainant's right to privacy.

18. Mr Lambert accepted, however, that both cases might have implications for the Assembly's position. Full details of both cases, including any more general principles arising from them, needed to be considered carefully. He undertook to consider these matters, and Mr Bevan and Mr Hamill's views, and to report further to the Committee.

19. The Chair thanked Mr Bevan and Mr Hamill for attending. He said that the Committee would now ask for a further paper from the Secretariat before reaching a conclusion on the matter. The paper would need to include advice on:

- both recent ECHR cases - including points that had been made in Mr Hamill's presentation;
- whether the position of the Freemasons is unique and, therefore, whether "singling-out" is reasonable; and
- whether guidance to Local Authorities created a precedent for the National Assembly's procedures.

Although the Freemasons would not be invited to give any further oral evidence before the Committee, he asked Mr Hamill and Mr Bevan to forward any further written evidence arising from the meeting to the Secretariat. The Committee would seek to reach a conclusion early in the New Year.

Action: Secretariat to provide a paper for the Committee's consideration at its next meeting.

EUROPEAN COURT OF JUSTICE

THE GRAND MASONIC LODGE OF ITALY v THE ITALIAN STATE

As with the parallel case which the Court considered in relation to an individual state judge, this case concerned the requirement of a regional council of Italy for a declaration to be made by their civil servants that they did not belong to a Masonic lodge. If they did not make such a declaration the likelihood was that they would be refused employment as a civil servant in the region.

The Court found that this requirement was not in accordance with the provisions of article 11 of the European Convention of Human Rights. The facts of the case are different to the requirement placed on Assembly Members to register any membership of a Masonic lodge and it is doubtful whether a Court would come to the same conclusion if proceedings were taken against the Assembly.

However the Masons wish the Standards Committee to consider what the Court said about the positions of the Masons in society. This is with the possible intention of showing to a Court if the Assembly's registration requirements in relation to Masons continue to apply that, in judicial review terms, the Assembly is acting irrationally in singling out Masons for such registration treatment. If successful, a Court acting under Schedule 8 to the Government of Wales Act could decide that the Assembly had acted illegally in imposing this requirement uniquely on the Masons.

The Masons' Representations before the European Court of Justice:

The contentions were that the Masons were not a criminal association and various Courts had recognised them as legitimate associations, as had an Italian Parliamentary Inquiry. The Masons had first registered as a private law association in 1807 and had been acting within the constitution since then. The Masons pursue moral and charitable aims and are not a secret or criminal association.

The Court's Consideration of these Representations:

The Court considered that there was no evidence to show that membership of the Masons constituted a "reprehensible act". Evidence, which the Regional Council of State sought to produce about the activities of individual Masons, did not affect the Court's general conclusion. No reason has been produced to show that the Council had any entitlement to interfere with a person's decision to become a Mason.

The Court therefore, by implication accepted the representations of the Masons.

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].

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].

D. Elis-Thomas

The Presiding Officer of the National Assembly

21st June 2001

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 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 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.

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.

(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.

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.

Notes:

[1] 2000 c.22.**back**

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

[3] 1947 c.41.**back**

[4] 1995 c.25.**back**

[5] 1998 c.38.**back**

[6] The Conduct of Members (Principles) (Wales) Order 2001.**back**

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

[8] 1988 c.41.**back**

[9] 1989 c.42.**back**

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

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

[12] Registered under the Industrial and Provident Society Acts 1965 to 1978.**back**

[13] 1992 c.4.**back**

[14] 1972 c.70.**back**

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

STANDING ORDER X - Declaration of Membership of Societies

X.1 The Presiding Officer shall maintain and publish a record of the declarations by members of the matters set out in the Annex to this Standing Order.

X.2 Declarations shall be made by completion of a form prescribed by the Presiding Officer.

X.3 Within eight weeks of a member taking the oath of allegiance or making the corresponding affirmation, he or she shall complete the form prescribed by the Presiding Officer, and shall sign the form and deliver it to the Office of the Presiding Officer.

X.4 Within four weeks of membership or change to membership occurring, a member shall notify the Presiding Officer of this change by completion of the prescribed form; and shall sign the form and deliver it to the Office of the Presiding Officer.

X.4A A member may deliver the form referred to in paragraph X.3 or X.4 by taking it to the table office or arranging for another person to do so by post but the form shall not be regarded as having been delivered until it is received by the table office.

X.4B Members shall be under a continuing duty to ensure, by inspecting the record of declarations from time to time, that it correctly contains the particulars notified by them under paragraphs X.3 or X.4

Standing Order X Annex

The matters which must be recorded by Assembly Members

General

- I. A declaration under this Standing Order shall be made by the Member of the matters set out below.
- II. [All matters specified in this Annex shall include reference to membership or position of general control or management of the partners or dependent child of the Member and these must also be declared if such membership is known to the Member.]
- III. For the purposes of this declaration;
 - (a) A Member's partner means a spouse or one of a couple whether of the same sex or of the opposite sex who although not married to each other are living together and treat each other as spouses; and
 - (b) A dependent child is any person who, at the time of registration is under the age of sixteen or is under the age of nineteen and receiving fulltime education by attendance at a recognised educational establishment and is:-
 - (i.) a child of the Member; or
 - (ii.) a step-child of the Member by marriage; or
 - (iii.) a child legally adopted by the Member, or
 - (iv.) a child who, the Member intends to legally adopt; or
 - (v.) a child who, for at least the previous 6 calendar months has been financially supported by the Member.

Matters to be declared:

Membership or position of general control or management of any of the following:

- (a) private society which has entry requirements for membership
- (b) [private club which has entry requirements for membership]
- (c) [trade unions or professional associations]
- (d) [corporate, industrial, provincial society]
- (e) [organisation whose primary purpose includes influencing public opinion or policy, such as a lobby group]
- (f) [other organisation which has charitable objectives]

[Note: Have not expanded on concept of private club because we consider all matters listed in (a) come within 'private club' - and trying to make distinction between the

concept of 'club' and 'society' - of which the masons is one. This will be clarified in guidance.]

(Addition to Standing Order 16)

Standing Order 16 - Committee on Standards of Conduct

16.1 There shall be a Committee on Standards of Conduct, which shall:

(i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with standing order 4 or any Assembly resolution relating to the financial or other interests of Members, or that an Assembly Secretary has not complied with the requirements of paragraph 2.8;

(ia.) investigate, report on and if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a member has not complied with any requirement to declare matters specified under Standing Order X.

(ii) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Assembly Secretaries which the Assembly has approved in accordance with paragraph 2.7;

(...)