



**You are hereby summoned to attend the meeting of Haverhill Town Council to be held in The Studio, The Arts Centre, High Street, Haverhill, on Monday 15<sup>th</sup> December 2008 commencing at 7.00 p.m., for the purpose of transacting the following business**

<b>CONSTITUTION:</b>	<b>Town Mayor:</b>	<b>Cllr. L Ager</b>
	<b>Town Councillors:</b>	<b>M Byrne, L Carr, P French, A Gower, P Hanlon, E McManus, P McManus, M Marks, G Price, K Richardson, A Samuels, A Sisson and T Woodward</b>

## **AGENDA**

1. **Apologies for Absence**  
Please give any apologies to the office by 5.00p.m. of the day of the meeting.
2. **Declaration of Interests**  
For Members to declare any interests they may have on items on the agenda.
3. **Co-Option of Councillor for the South Ward**  
To co-opt a Councillor to fill the vacancy in the South Ward.
4. **To confirm Minutes of Meeting held 25<sup>th</sup> November 2008**
5. **To deal with any urgent matters arising from the Minutes not covered by this agenda**

### ***PUBLIC FORUM***

6. **Adoption of Committee Reports**  
**Planning Committee**  
To move the adoption of the minutes of the Planning Committee meeting held 2<sup>nd</sup> December 2008.

7. **Local Development Framework**  
To consider and agree the Town Council's response to the Consultation on the Local Development Framework options.
8. **Community Governance Review**  
To invite St Edmundsbury Borough Council to undertake a Community Governance Review to incorporate the planned expansion areas into Haverhill (see attached).
9. **Request for Pedestrian Crossing, Withersfield Road (by Sainsburys)**  
To note the response from Suffolk County Council.
10. **Department for Communities and Local Government – Consultation on Codes of Conduct for Members and Employees)**  
To respond to the Consultation (see attached).
11. **Support for Homeless During Winter**  
To consider and agree the Town Council's response to need to support the homeless during the winter period.
12. **To authorise payments.**  
To authorise the following cheque lists:-

<b>Date</b>	<b>Cheque No.s</b>	<b>Value</b>
25.11.08	4428-4450	£15,886.59
25.11.08	4451	£200.00
2.12.08	4452-4466	£12,788.39
2.12.08	4467-69	£1,945.00
5.12.08	4470	£41,382.17

13. **To receive urgent correspondence**

14. **Closure**



Gordon Mussett  
Town Clerk

DATE: 6<sup>th</sup> December 2008

## **Community Governance Review**

Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007 devolves the power to take decisions about matters such as the creation of Parishes and their electoral arrangements to principal authorities. St Edmundsbury Borough Council is the principal authority as regards any review of Haverhill's Community Governance.

Guidance issued by the Department for Communities and Local Government says (paragraph 15) "Over time communities may expand with new housing developments. This can often lead to existing parish boundaries becoming anomalous as new houses are built across boundaries resulting in people being in different parishes from their neighbours. In such circumstances the (principal) council should consider undertaking a community governance review the terms of reference of which should include consideration of the boundaries of existing parishes."

In addition, at paragraph 26 "A review may need to be carried out, for example, following a major change in the population of a community or to redraw boundaries which have become anomalous, for example following new housing development being built across existing boundaries".

All the proposed LDF Strategic Housing sites are wholly or mainly outside the existing Town Council boundary, and it is recommended that:-

**St Edmundsbury Borough Council conducts and implements the findings of a community governance review to expand the boundaries of Haverhill Town Council to include these areas of proposed expansion, such review to be completed and implemented before planning approval is granted for these sites.**

## CODE OF CONDUCT FOR MEMBERS AND EMPLOYEES

### **1. Proposed amendments to the Code of Conduct for Members**

The current Code of Conduct for local authority members was introduced as recently as May 2007, replacing a former Code introduced in May 2002. So for those councillors elected for the first time in May 2007, many will already have served under two Codes, and will now be considering their third Code. Such frequent changes are not helpful.

Para 2.3 of the Consultation Paper states that, *“we believe, drawing on the Standards Board’s practical experience that the members’ code is, broadly, operating very well.”* But it then goes on to state that *“as it has been in force for over a year, we consider that it is now appropriate to review the code.”* It is a somewhat odd conclusion to justify changing something that is “operating very well” because it has been in force for “over a year”. The merits of the proposed revisions have to be weighed against the cost and confusion of constantly changing the Code, and this is particularly so because, para 2.4 then makes it clear that what is now being proposed is a comprehensive redrafting of the Code.

The most significant proposed change in content is that the scope of the Code will be extended so that it applies not only when a member is performing his/her business as a councillor, but also, in certain circumstances, to a member’s behaviour even when there is no direct link to the member’s official role. Those circumstances will be when a member is deemed to *“bring their office or authority into disrepute by conduct which is a criminal offence.”* For this purpose ‘criminal offence’ will be defined as *“any criminal offence for which the member has been convicted in a criminal court, but for which the member does not have the opportunity of paying a fixed penalty instead of facing a criminal conviction.”*

Although the principle behind this seems to have general support there are a several practical drawbacks. For example, legal processes could mean that if a councillor was charged with a very serious offence it could be several years before the matter came to court. Also, although a criminal conviction in itself would be “proof” of a breach of the Code, the matter would not come before the Standards Committee unless someone reported it. It should also be borne in mind that the current procedure of local Standards Committees was only established in May this year, and it is as yet unproven whether in practice they can operate with sufficient independence and impartiality when the majority of their members will be personally acquainted with the member whose conduct they are considering.

Under s80(1)(e) of the 1972 Local Government Act a member is already disqualified from office if convicted of an offence and sentenced to not less than three months’ imprisonment (whether suspended or not) and without the option of a fine. In effect therefore, the Standards Committee would only deal with breaches of the Code through criminal convictions as defined by the new definition, but below that already operating under the Local Government Act.

The other changes proposed to the Code are essentially minor clarifications of wording. However, for what is perhaps the most significant ‘grey area’ of the current Code - “informal meetings” - no changes are proposed. The current Code has a very narrow definition of “meeting” which includes only formal meetings of the body, and excludes informal meetings such as small groups of members and/or officers or political group meetings. In practice, decisions are often taken at such informal meetings which are subsequently brought into effect at a formal meeting. There are clearly defined rules at a formal meeting as to what action a member with a prejudicial interest should take so as not to influence a decision, but

at informal meetings the guidance is far less clear. The Standards Board for England have clarified this in guidance that,

*“a member should not use pre-meetings or informal meetings to influence a matter in which they have a prejudicial interest. If they do so they are very likely to fail to comply with paragraph 12(1)(c) of the Code by improperly seeking to influence a decision.”*

This is such an important point that it needs to be included in the Code itself.

## **2. The introduction of a Code of Conduct for Employees**

The introduction of a Code of Conduct for Employees is a significant new measure proposed in the Consultation. The enabling power is set out in the Local Government Act 2000, and in 2004 the Government attempted to introduce a Code for employees, but abandoned it for various legal and technical reasons. It is perfectly logical that the same ethical standards that apply to council members should also apply to employees, but the application of this is complicated by potential conflict with employment rights, and the fact that employees' conduct will already be governed through their contract of employment.

The proposal is that the new statutory Code for Employees will be deemed to form part of an employees' contract of employment and as such any breaches of the Code will be dealt with under an authority's own disciplinary procedures - there will be no Standards Committee investigation or enforcement as applies to members.

The intention is that all local authority employees - including those of parish councils - will be governed by the Code, but the Code will contain two tiers of standards. The first tier will contain the “core values” that it is reasonable to expect every council employee to follow. The second, more stringent tier of standards, will be based on the members' Code, and will apply only to ‘qualifying employees’, which will be more senior employees. The Consultation Paper proposes two alternatives as to how these posts are selected – either using the “politically restricted” posts model, or those employees carrying out delegated functions.

The inclusion of parish council employees within the Code is to be supported, but the application of this will present some serious logistical problems. The vast majority of parish councils are very small, and although there will be several members, there will often only be one part-time employee - the clerk. The capacity issues of small councils may mean that members lack the level of training required to undertake disciplinary procedures within employment law. There is also evidence that the members' Code is already used by some parish councillors to report matters that are prompted more by personal grudge than by misconduct, and this could have similar implications for clerks of small councils; particularly when they are ‘outnumbered’ by their members. Although the Employee Code will not be enforced by the Standards Committee, it would perhaps be useful if parish councils were required to obtain advice from their Monitoring Officer before taking any disciplinary action against an employee under the Employee Code.

Even though many clerks will be lowly paid and employed for only a few hours per week, all clerks will be their council's chief officer, and as such it is perhaps appropriate that they be included within both tiers of the Code. It should be noted however that there will be a difficulty in applying the “political restriction” model, as the relevant Part 1 of the 1989 Local Government and Housing Act does not include a parish council within its definition of a local authority.

### 3. Suggested Responses

Set out below are some suggested responses. These relate to the specific consultation questions, but also add some general comments that the specific questions do not cover.

#### Members' Code

	Consultation Question	Draft Response
	None	<p>The consultation questions should include a question seeking any 'general comments'. Although it is helpful to specify, item by item, where a response is requested, this can mean that comments on the Consultation as a whole are not covered, and some specific areas for comment could be overlooked because they are not the subject of a specific question.</p> <p>In the case of the current consultation:</p> <ol style="list-style-type: none"> <li>1. The overall impression created by the lack of clarity in some of the wording, the instances of poor grammar, and the typographical errors suggest that more thought and care should have gone into the Consultation Paper before it was published.</li> <li>2. The Consultation Paper accepts (para 2.3) that the current Code is "operating very well" so it is a somewhat odd to justify changing this because it has been in force for "over a year". The merits of the proposed revisions have to be weighed against the cost and confusion of constantly changing the Code. Also, the new procedures for local Standards Committees were only introduced in May 2008, so it is not yet clear how successful these new arrangements are. For these reasons it is considered that it is too early to undertake a change to the Code, particularly when what is being proposed is a comprehensive redrafting.</li> </ol>
1	Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?	On balance, probably yes. But extending the Code to include conduct in a member's private life will lead to a new range of issues and practical problems that local standards committees will need to deal with.
2	Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.	The definition is probably the simplest that is practical. Police cautions should not be included.
3	Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.	Yes.
4	Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?	Yes.
5	Do you agree that an ethical investigation should not proceed	Yes, because any other course of action would clearly prejudice a criminal trial.

	Consultation Question	Draft Response
	until the criminal process has been completed?	
6	<p>Do you think that the amendments to the members' code suggested in this chapter are required?</p> <p>Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?</p>	<p>Yes, but it is extremely doubtful whether there is sufficient substance in the proposed amendments to justify creation of a new Code so soon after the introduction of the former Code.</p> <p>Para 2.24 – the proposed changes to para 12(2) with respect to parish councils make sense as they create consistency between parishes and between parishes and other councils.</p> <p>The limit of £25 for declaring gifts or hospitality was set several years ago - it needs to be reviewed.</p> <p>Para 2.30 - it makes sense that members do not have to re-register their interests every time the Code is updated.</p> <p>The current Code has a very narrow definition of "meeting" which excludes "informal meetings" such as small groups of members and/or officers, and political group meetings. In practice, decisions are often taken at such informal meetings which are subsequently brought into effect at a formal meeting. There are clearly defined rules at a formal meeting as to what action a member with a prejudicial interest should take so as not to influence a decision, but at informal meetings the guidance is far less clear. The Standards Board for England have issued guidance that,</p> <p><i>"a member should not use pre-meetings or informal meetings to influence a matter in which they have a prejudicial interest. If they do so they are very likely to fail to comply with paragraph 12(1)(c) of the Code by improperly seeking to influence a decision."</i></p> <p>This is such an important point that it needs to be included in the Code itself.</p>
7	Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?	None
8	Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.	None
9	Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to	Yes.

	<b>Consultation Question</b>	<b>Draft Response</b>
	observe the code?	
10	Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?	It is not necessary to create a new general principle that, "members should not engage in conduct which constitutes a criminal offence." This is already sufficiently covered by principle 2 "Honesty and Integrity, and principle 8 "Duty to uphold the Law".
11	Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?	Yes.
12	Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?	Yes.

### **Employees' Code**

	<b>Consultation Question</b>	<b>Draft Response</b>
13	Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?	Whether it is "needed" is debatable as local authorities have survived without it up to now, but it would have some benefit.
14	Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?	Yes. The Code is intended to be supplemental to any existing Code of Conduct in an employee's terms and conditions of employment, so the basic Code of "core values" can apply to all employees.
15	Are there any other categories of employee in respect of whom it is not necessary to apply the code?	Bad question – it presumes a negative answer to Q14
16	Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?	Yes, with the exception of the last core value "Investigations by monitoring officers". The very specific wording of this, i.e. that employees must comply with any requirement made by a monitoring officer in connection with an investigation, is far too specific to be a true "core" value. This item should be omitted from the core values.
17	Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?	The "political restriction" option is probably best, but it should be noted that the basis of this, Part 1 of the 1989 Local Government and Housing Act, does not include a parish council within its definition of a local authority.
18	Should the code contain a requirement for qualifying employees to publicly register any interests?	The requirement to "publicly" register interests only appears in the question - the text of the Consultation Paper itself refers to recording the interests on a register, not a "public" register. As the Employee Code is to form part of the employment conditions there is an option that the register should be available



	<b>Consultation Question</b>	<b>Draft Response</b>
		to the Council, but not the general public. There is particularly concern about the requirement that qualifying employees publicly register any land or property in their authority's area in which they have a beneficial interest. Such employees would need to register their home address. Council employees can sometimes be required to make or enforce unpopular decisions on behalf of their employer, and if an employee's home address is required to be public this gives potential cause for concern about threats to such employees and their families.
19	Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?	Employees should not be required to publicly register their home address.
20	Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?	Yes
21	Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?	No.

	<b>Consultation Question</b>	<b>Draft Response</b>
22	Should the employees' code extend to employees of parish councils?	<p>Yes. Parish council employees should be included within the Code of "core values" but the application of this will present some serious logistical problems. The vast majority of parish councils are very small, and although there will be several members, there will often only be one part-time employee - the clerk. The capacity issues of small councils may mean that members lack the level of training required to undertake disciplinary procedures within employment law. There is also evidence that the members' Code is already used by some parish councillors to report matters that are prompted more by personal grudge than by misconduct, and this could have similar implications for clerks of small councils; particularly when they are 'outnumbered' by their members. Although the Employee Code will not be enforced by the Standards Committee, it would perhaps be useful if parish councils were required to obtain advice from their Monitoring Officer before taking any disciplinary action against an employee under the Employee Code.</p> <p>A parish clerk is a "chief officer", and as such it is perhaps appropriate that they be included within both tiers of the Code, even though they will often be lowly paid and employed for only a few hours per week. It should be noted however that there will be a difficulty in applying the "political restriction" model, as the relevant Part 1 of the 1989 Local Government and Housing Act does not include a parish council within its definition of a local authority.</p>

## **Support for Homeless During Winter**

There are a very limited number of homeless in Haverhill but real concern for their health during the winter period.

A multi-Agency group has been looking at the needs of these individuals. The Town Council has been represented by Cllr Gower and the Town Clerk.

Whilst the individuals who are homeless each have a varied need in addition to their homelessness, key to addressing these is maintaining contact, often in a non-threatening environment, and one way in which this could be achieved involves the use of a dedicated Project Worker during, say, some form of free meal.

Advice from the Police, who encounter these homeless frequently, is that mornings are the time they are most likely to be out from where they have spent the night, and the group have agreed to trial a “breakfast” for the homeless.

The group have agreed to submit a bid for funding a “breakfast” and Project Worker for the period to 31<sup>st</sup> March 2009, with the proposal it operates from the Arts Centre between 8.00 a.m. and 9.00 a.m., using the WRVS kitchen to store/heat the meals, and volunteers to serve them.

The Town Council is asked to:-

- a) approve the use of the Arts Centre for this “breakfast” club
- b) approve the use of its bank accounts to hold the funds for the multi-Agency group (if funding bid is successful)