



Agenda

Meeting Standards Committee

Venue: Meeting Room 3, County Hall, Northallerton, DL7 8AD

Date: Wednesday, 8 March 2023

Time: 10.00 am

County Councillors: Nick Brown, Sam Cross, Melanie Davis, Clive Pearson (Chairman), Heather Phillips and Monika Slater.

Independent Persons for Standards: Hilary Gilbertson (Independent Member) and Louise Holroyd (Independent Member).

Business

1. Chair's welcome, introductions and apologies
2. Appointment of Vice-Chair
3. Minutes of the Meeting held on 17th October 2022 (Pages 3 - 8)
4. Declarations of Interest
5. Public Questions or Statements

Members of the public may ask questions or make statements at this meeting if they have given notice (including the text of the question/statement) to Steve Loach of Democratic Services (contact details at the foot of page 1 of the Agenda sheet) by midday on Friday 3rd March 2023. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);

when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

6. Guidance on Code of Conduct for Members - Report of the Monitoring Officer (Pages 9 - 90)

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| 7. | Officers' Registration of Interests - Report of the Monitoring Officer | (Pages 91 - 100) |
| 8. | Local Ethical Framework Developments - Report of the Monitoring Officer | (Pages 101 - 104) |
| 9. | Dispensation Requests - Report of the Monitoring Officer | (Pages 105 - 110) |
| 10. | Members' Attendance at Meetings - Report of the Monitoring Officer | (Pages 111 - 112) |
| 11. | Appointment of further Independent Persons for North Yorkshire Council - Report of Monitoring Officer | (Pages 113 - 116) |
| 12. | Complaints Update - Report of the Monitoring Officer | (Pages 117 - 118) |
| 13. | Standards Bulletin - Report of the Monitoring Officer | (Pages 119 - 128) |
| 14. | Such other business as, in the opinion of the Chairman should, by reason of special circumstances, be considered as a matter of urgency | |

Barry Khan
Assistant Chief Executive
(Legal and Democratic Services)

County Hall
Northallerton

28 February 2023

For all enquiries relating to this agenda or to register to speak at the meeting, please contact Stephen Loach, Democratic Services Officer on Tel: 01609 532216 or by e-mail at: stephen.loach@northyorks.gov.uk

North Yorkshire County Council

Standards Committee

Minutes of the meeting held at County Hall, Northallerton on Monday 17th October 2022 at 10am.

Present:-

County Councillors Clive Pearson (Chair), Nick Brown, Sam Cross, Melanie Davis, Heather Phillips and Monica Slater; together with Louise Holroyd and Hilary Gilbertson MBE (Independent Persons for Standards).

Members undertook a training session on the Code of Conduct and Standards Complaints handling prior to the start of the meeting.

Copies of all documents considered are in the Minute Book

1. Welcome and Introductions

The Chairman welcomed everyone to the first meeting of the Standards Committee since the County Council elections.

2. Minutes

Resolved –

That the Minutes of the remote meeting held on 11 March 2022, having been printed and circulated, be taken as read, be confirmed by the Chairman and signed as a correct record .

3. Declarations of Interest

There were no declarations of interest from Members.

4. Public Questions or Statements

There were no questions or statements from members of the public.

5. Update – Revised Code of Conduct for Members

Considered-

The report of the Monitoring Officer updating Members in respect of the implementation of the revised Council's Code of Conduct for Members in light of the new voluntary Model Code of Conduct for Members.

The updated Code of Conduct, which was highlighted during the training session immediately prior to this meeting, had been implanted for the newly elected County Council in May 2022. Details of the suite of updated documents, in line with the revised Code, were provided in the report.

The new unitary authority, due to be in place from 1st April 2023, would take account of the Codes currently in place for each of the authorities to develop an appropriate Code of Conduct for the single authority. Going forward, it was expected that the Code would provide a strong message from the Council of an authority that is working together for the good of North Yorkshire.

Members discussed the report and the following issues were highlighted:-

- It was requested that officers that dealt with contracts should be subject to a declarations of interest regime. In response it was stated that officers were subject to the same declarations of interest registration as County Councillors. It was requested that details of how this was organised and undertaken be brought to a subsequent meeting.
- A Member asked whether the County Council had a whistleblowing policy. In response it was stated that there was a policy that assisted with the protection of individuals working within the Council who had raised concerns in relation to Council matters. Details of the whistleblowing policy and the Officer/Member relationship protocol would be circulated to Members.
- The need to be pro-active and to work together for the good of the public were emphasised, however, it was difficult for these to be incorporated in the Code, as potential breaches of these could be generated from misunderstandings, therefore it was better to incorporate these details in the guidance provided alongside the Code. It was expected that the guidance would be available for consideration by Members at the next meeting of the Committee.
- It was noted that the Internal Auditor, Veritau, operated as a stand-alone company, and were totally separated from the County Council.
- It was noted that the threshold for Gifts and Hospitality had been set differently than that of the Model Code, with the previous Committee opting to set this at £25.

Resolved –

That the report be noted.

6. Local Ethical Framework Developments

Considered -

The report of the Monitoring Officer updating Members on the development of the Ethical Framework under the Localism Act 2011.

The report provided a summary of the following, together with links to the full documents:-

- Amendments to County Council's Code of Conduct in light of the New Model Code of Conduct for Members
- Committee on Standards in Public Life Report on Local Government Ethical Standards
- CPSL Review on embedding of Nolan Principles
- LGA Councillors' Guide to handling harassment, abuse and intimidation
- Previous CSPL reports and reviews

Resolved -

That the contents of the report be noted.

7. Standards Committee – Annual Report

Considered -

The report of the Monitoring Officer presenting Members with a draft Annual Report of the work of the Standards Committee for the period 1 April 2021 to 31 March 2022.

Following approval of the report by Members, and subject to any suggested amendments, the report would be referred to the next meeting of the full County Council for consideration.

Resolved –

That the Annual Report be approved and submitted to the full County Council for consideration and adoption.

8. Dispensation Requests

Considered -

The report of the Monitoring Officer providing details of dispensation requests from County Councillors Michael Harrison, Gareth Dadd and Peter Lacey.

Details of the legislation relating to dispensations and the process involved were provided in the report. It was explained the dispensations could be granted under the following circumstances:-

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area;
- (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
- (e) it is otherwise appropriate to grant a dispensation.

County Councillor Michael Harrison

Councillor Harrison's dispensation request was in place during the previous County Council and related to him being employed by Lloyd Bank in their security team, which he had entered in his registration of interests. As a Member of the Executive, and with the Authority putting reserves into several banks, including Lloyds, he felt it appropriate to apply for a dispensation, enabling him to take part in Executive meetings when Treasury Management was considered.

Members considered that the request related to a technicality and would support his dispensation request.

County Councillor Gareth Dadd.

Councillor Dadd's dispensation request was in respect of him being Deputy leader of the Council and the portfolio holder for Finance and the potential legislation that could see Council Tax being able to be obtained from second homes, which would impact his position on the Executive. The dispensation related to him having a holiday let, with these properties potentially not been included within the second homes requirements. In the interests of public perception he considered it appropriate to request a dispensation for any forthcoming consideration of these issues.

Members considered the request and the following issues were raised:-

- As a business it could be argued that there should be no Council Tax to pay on the holiday let. A Member considered that he would prefer to see the accounts for the business before making a decision on the dispensation.
- It was suggested that some second homes owners could change the designation of their properties to avoid paying Council Tax and proof of that would be required. It could be unfair, therefore, if Councillor Dadd was involved in such discussions. The Monitoring officer noted that Councillor Dadd was one Member of a Company that operated the holiday let, and did not have sole control of the business.
- An Independent Person for Standards stated that having read the details of the request she was comfortable with offering the dispensation, as she felt that the company was responsible for the holiday let and did not have sole control over the business.
- It was noted that the business had been declared in Councillor Dadd's register of interests.
- A Member considered that taking account of the circumstances outlined she would think it reasonable for Councillor Dadd not to take part in the decision making process on this matter.
- An Independent Person for Standards agreed with other Members that further information regarding the status of the company and details of the accounts should be sought before a decision on the dispensation was made.
- It was acknowledged that Councillor Dadd was not affected by the proposal as he was only part of a company that owned the holiday let and he had sought the dispensation due to this appearing in his Register of Interests and the public perception of him taking part in the decision making process related to this issue.
- A Member highlighted the position of Councillor Dadd as Deputy Leader and the potential for him to influence other Members within the consideration of this issue.
- The opinion of the Monitoring Officer was sought and it was stated that, if the holiday let was not seen as a second home, Councillor Dadd would be entitled to take part in the consideration of this matter and it was emphasised that the dispensation was being sought in view of potential public perception.

A proposal to reject the application was defeated by the casting vote of the Chair. The application was approved, again on the casting vote of the Chair, which is reflected in the resolution, below.

County Councillor Peter Lacey

Councillor Lacy had sent a late request for a dispensation, which did not feature in the report, relating his service on the Health Committee and his work as a

consultant with a systems partnership that was in the process of developing contracts with the NHS across the whole area. Details were set out in an email from Councillor Lacey which was circulated to Members of the Committee.

Members suggested that it would be beneficial to obtain more information for greater clarity on the relationship between the Councillor, the consultancy and the contracts with the NHS, before a decision was made.

It was suggested that the decision on this application be delegated to the Chair, in consultation with the Monitoring Officer, Members and Independent Persons of the Committee, allowing the additional information to be obtained and taken account of.

Resolved –

- (i) That the applications for dispensations submitted by County Councillors Michael Harrison and Gareth Dadd, in respect of the circumstances outlined above, allowing them to fully participate in meetings where the issues outlined are considered, subject to them declaring the dispensation, for the Full term of the Council, be approved:
- (ii) That the application for a dispensation submitted by County Councillor Peter Lacey be delegated to the Chair in consultation with the Monitoring Officer, Members and Independent Persons of the Committee, allowing the additional information to be obtained and taken account of.

9. Complaints Update

Considered -

The report of the Monitoring Officer updating the Committee regarding Ethical Framework complaint activity.

There have been four new, connected, complaints received since the last Complaints Update report to the Committee:

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A member of the public has made connected complaints against various councillors, arising out of the same set of circumstances, relating to allegations of making, or failing to take action in relation to hearing, racist comments made. These continued to be investigated.

For the year 1 April 2022 to date, the Council had received four formal standards complaints, referred to above.

In a discussion of the report, the following issues and points were raised:-

- Historically there had been very few Standards complaints submitted in relation to County Councillors. It was expected that the workload would rise when the authority became a unitary, with Parish Council complaints coming under the workload of the unitary authority. Members considered that there would need to be a focus with complaints being dealt with as soon as they arose. The Monitoring Officer stated that the filter process, involving the Independent Persons and the Monitoring Officer, initially, to determine whether the complaint would be progressed, would remain in place, which would continue to assist with the speed of the process.
- A Member considered that it may be beneficial to arrange additional meetings given the expected extra workload. The Monitoring Officer stated that the workload was unlikely to change until April therefore he considered it

unnecessary to arrange additional meetings at this stage, but would monitor the situation, going forward.

- In terms of the Independent Persons currently on the District Council's Standards Committees, encouragement would be given to them to apply for the additional positions being created for the new authority's Committee.
- In terms of the existing Monitoring Officers, all staff would be TUPEd to the new authority, however, there would be only one statutory Monitoring Officer role.

Resolved -

That the current position, regarding complaints received, be noted, together with the other issues raised.

10. Standards Bulletin

Considered -

The report of the Monitoring Officer presenting for the Committee's consideration, a draft of the latest Standards Bulletin, a copy of which was at Appendix 1 to the report.

Resolved –

That the Bulletin be approved for circulation.

The meeting concluded at 12.15 pm.
SML

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Guidance on Code of Conduct for Members

1.0 PURPOSE OF REPORT

- 1.1 To present to Members draft Guidance on the Council's Code of Conduct for Members, based on the national Local Government Association guidance.

2.0 BACKGROUND

- 2.1 The Council's Code of Conduct for Members is based on the national voluntary Model Code of Conduct for Members published by the Local Government Association (LGA).
- 2.2 It was previously resolved that tailored Guidance, based on the national guidance but specific to the Council's Code, should be produced for Members. This report updates the Committee on the preparation of such guidance.
- 2.3 Full Council, at its meeting on 22 February 2023, in adopting a Constitution for the new unitary authority, approved a Code of Conduct for Members for the new authority, based on the current County Council Code. A copy of the Code for the new authority is attached at **Appendix 1** to this report for ease of reference.
- 2.4 Given the proximity of Vesting Day (1 April 2023), the draft Guidance has been produced in respect of the new authority's Code of Conduct, to avoid issuing a Guidance document for the County Council and then another for the new authority just a few weeks later.

3.0 GUIDANCE ON CODE OF CONDUCT FOR MEMBERS

- 3.1 The Standards Committee has previously considered the LGA online supporting Guidance on the new model Code ([Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)). The LGA Guidance spans over 60 pages and the Monitoring Officer has drafted Guidance for Members, based on the LGA online guidance but tailored to the Council's Code (which is very slightly different to the model Code eg in terms of when the Code may be inferred to apply and the threshold for registering gifts and hospitality).
- 3.2 Proposed changes to the national guidance, to reflect the Council's Code, are tracked on the copy of the draft Guidance attached at **Appendix 2** for Members' consideration.
- 3.3 The rationale for the proposed amendments to the national guidance is as follows:
- (a) to clarify that the Council's Code applies only when a councillor is acting in their official capacity and not their purely private capacity. The law currently, and the Council's Code, does not cover "giving the impression" of acting in official capacity, as contained in the model code and guidance;

- (b) to reflect the Council's Code, which replicates the legal requirement that only co-opted members with voting rights are required to register their interests – it is not extended to non-voting co-optees;
- (c) to reflect the precise wording of the Council's Code;
- (d) to re-order some of the provisions of the guidance to reflect the order of the Council's Code;
- (e) deleting the paragraph relating to "The LGA published "A councillor's workbook on effective councillor/officer relationships 2018"." as the hyperlink no longer appears to work and the document cannot be found on the LGA website;
- (f) including "unpaid directorships" in the categories of Other Registrable Interests, as provided for in the Council's Code.

3.4 Members' comments are therefore sought on the draft Guidance on the Council's Code of Conduct for Members.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no significant financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

5.1 The legal implications are set out in the body of this report.

6.0 ENVIRONMENTAL IMPLICATIONS

6.1 There are no significant environmental/climate change implications arising from this report.

7.0 RECOMMENDATIONS

7.1 That Members note the contents of this report.

7.2 That, subject to any comments Members may have, the Committee approves the draft Guidance on the new Council's Code of Conduct for Members.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers: None

County Hall
NORTHALLERTON

26 February 2023

CODE OF CONDUCT FOR MEMBERS OF NORTH YORKSHIRE COUNCIL

This Code sets out the standards of behaviour required of you whenever you are acting in your official capacity as a Councillor of North Yorkshire Council. This Code also applies to any person appointed as a co-opted member with voting rights on any Committee of the Council when acting in their official capacity and references in this Code should be construed accordingly.

You must sign an Undertaking to comply with this Code of Conduct before acting as a Councillor or voting co-opted Member ("Members").

The Code has been adopted by the Council and also requires compliance with the General Principles of Public Life set out at the end of the document. The Council has established a Standards and Governance Committee, consisting of members of the Council, assisted by Independent Persons for Standards, to oversee the Council's ethical framework.

Notes in italics in this Code are guidance extracts from the national voluntary model code of conduct for Members, to aid understanding of the Code's requirements.

GENERAL CONDUCT OBLIGATIONS

1. You must treat others with respect.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. You must not unlawfully discriminate against any person or do anything which may cause the Council to breach any equality enactment.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability,

gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. You must not bully, intimidate or harass any person, or attempt to do so.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

4. You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:

- **You have the permission of a person authorised to give it; or**
- **You are required by law to disclose the information; or**
- **You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or**
- **The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.**

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

- 6. You must not prevent another person gaining access to information which that person is entitled to by law.**
- 7. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Member into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

- 8. You must not use your position as a Member improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

- 9. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking any scrutiny process.**
- 10. You must give careful consideration to gifts or hospitality offered to you:**
 - a) You must not accept any gift or hospitality (of any value) which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a Member, or which could give rise, or give the appearance of giving**

rise, to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, for example from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage. Where such a person does make a significant offer (estimated value £25 or more) of gifts and/or hospitality to you, you should inform the Monitoring Officer.

- b) If you do accept any gift or hospitality of estimated value £25 or more which might be attributable to your membership of the Council (other than the refreshments which might usually be expected at a Council meeting or civic function) you must disclose this, or any offer of such gift or hospitality you decline, to the Monitoring Officer within 28 days of its offer/receipt.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

- 11. You must act in accordance with the Council's guidance or requirements when using the resources of the Council (such as officer time, IT and copying equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly for political or other purposes.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

- 12. You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions,**

in accordance with any requirements imposed by statute or the Council.

13. You must comply with the following sections of this Code, which relate to registering and declaring in meetings certain interests you may have.
14. You must (unless otherwise specifically agreed with the Monitoring Officer), comply with the Council's standards regime relating to the Code of Conduct, including but not limited to:
 - a) attending standards training provided/arranged by the Council;
 - b) co-operating with any standards assessment, investigation and/or determination;
 - c) not intimidating or attempting to intimidate any person who is likely to be a party in, witness in or involved with the administration of any standards complaint, assessment, investigation or determination;
 - d) refraining from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

INTERESTS

Disclosable Pecuniary Interests (DPI)

15. (1) A pecuniary interest is a "disclosable pecuniary interest" (DPI) in relation to you if it is of a description specified in regulations (and listed in Appendix 1) and either:
 - (a) it is your interest; or
 - (b) it is an interest of:
 - (i) your spouse or civil partner;
 - (ii) a person with whom you are living as husband and wife; or
 - (iii) a person with whom you are living as if you are civil partners;

and you are aware that that other person has the interest.

Disclosure of pecuniary interests on taking office

16. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given.
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards disclosable pecuniary interests not entered in the Council's register when the notification is given.
- (3) Where you give a notification for the purposes of sub-paragraph (1), the Monitoring Officer is to cause the interests notified to be entered in the Council's Register of Members' Interests ("the Register") (whether or not they are disclosable pecuniary interests).
- (4) Subject to paragraph 25 (regarding sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

Pecuniary interests in matters considered at meetings

17. (1) Sub-paragraphs (2) to (4) apply if you:
- (a) are present at a meeting of the Council or Executive, or of any committee, sub-committee, joint committee or joint sub-committee of the Council or Executive;
 - (b) have a disclosable pecuniary interest **directly relating** to any matter to be considered, or being considered, at the meeting; and
 - (c) are aware that the condition in paragraph (b) is met.
- (2) You must disclose the existence and nature of the interest to the meeting, but this is subject to this Code's provisions on sensitive interests.
- (3) If the interest is not entered in the Council's Register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.

- (4) You may not:
- (a) participate, or participate further, in any discussion of the matter at the meeting; or
 - (b) participate in any vote, or further vote, taken on the matter at the meeting;
 - (c) remain in the meeting room;

but this is subject to this Code's provisions on dispensations.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority . You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

Pecuniary interests in matters considered by a single member

- (5) Sub-paragraphs (6) and (7) apply if:
- (a) a function of a relevant authority may be discharged by a member of the authority acting alone;
 - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
 - (c) the member is aware that the condition in paragraph (b) is met.
- (6) If the interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (5)(b) is met in relation to the matter.
- (7) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (8) Where you give a notification for the purposes of sub-paragraph (3) or (6), the Monitoring Officer is to cause the

interest notified to be entered in the Register (whether or not it is a disclosable pecuniary interest).

- (9) The Council's Constitution provides for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of sub-paragraph (4), the member or co-opted member may not participate.
- (10) An interest is "subject to a pending notification" if:
 - (a) the interest has been notified to the Monitoring Officer, but
 - (b) has not been entered in the Register in consequence of that notification.

Other Registrable Interests (ORI)

- 18. The interests other than disclosable pecuniary interests which are required by the Council to be registered in the Register of Members' Interests are set out in Appendix 2.

Disclosure of Other Registrable Interests on taking office

- 19. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any interests other than disclosable pecuniary interests of a type set out in Appendix 2 which you have at the time when the notification is given. **This relates only to your own interests.**
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards interests other than disclosable pecuniary interests of a type set out in Appendix 2 not entered in the Council's register when the notification is given.
- (3) Subject to paragraph 25 (regarding sensitive interests), you must, within 28 days of becoming aware of any new interests other than disclosable pecuniary interests of a type set out in Appendix 2 or change to any such interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

Other Registrable Interests in matters considered at meetings

- 20.(1) Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registrable Interests (ORI) (as set out in Appendix 2), you must disclose the interest to the meeting.

- (2) You may speak on the matter only if members of the public are also allowed to speak on it but otherwise must not take part in any discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation). If it is a sensitive interest, you should declare that you have an interest but do not need to disclose the nature of it.

Non-Registrable Interests (NRI) in matters considered at meetings

21.(1) Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Appendix 1 or Other Registrable Interest set out in Appendix 2) or a financial interest or the well-being of a relative or close associate (of which you could reasonably be expected to be aware), you must disclose the interest to the meeting.

- (2) You may speak on the matter only if members of the public are also allowed to speak on it. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation). If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

22.(1) Where a matter arises at a meeting which **affects**:

- a) your own financial interest or well-being;
- b) a financial interest or the well-being of a relative or close associate (of which you could reasonably be expected to be aware); or
- c) a financial interest or the wellbeing of a body included under Other Registrable Interests as set out in Appendix 2 (of which you could reasonably be expected to be aware);

you must disclose the interest to the meeting (subject to the rules on sensitive interests). In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraph 22(2) should be considered.

(2) Where a matter (referred to in paragraph 22(1) above) affects the financial interest or wellbeing:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

then you may speak on the matter only if members of the public are also allowed to speak on it, otherwise you must not take part in any

discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation).

- (3) Where the test in paragraph 22(2)(a) and (b) is not met, then you may speak and vote on the matter in the usual way.

Other Registrable and Non-Registrable Interests in matters considered by a single member

23.(1) Where:

- a) a function of a relevant authority may be discharged by a member of the authority acting alone;
- b) the member has an Other Registrable Interest or Non-Registrable Interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
- c) the member is aware that the condition in paragraph (b) is met;

if an Other Registrable Interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (1)(b) is met in relation to the matter.

- (2) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

Bias/Predetermination

24. Members involved in making a decision on particular business must always bear in mind the rules relating to bias and predetermination and must not participate in, or seek to influence, Council business where their interests (including those other than disclosable pecuniary interests of a type set out in Appendix 2) may prejudice, or appear to prejudice, their views.

If you are in any doubt as to whether you have an interest in a matter under the Code of Conduct, please seek advice from the Monitoring Officer.

Sensitive interests

25. (1) Sub-paragraphs (2) and (3) apply where:

- (a) you have an interest (whether or not a disclosable pecuniary interest); and
 - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- (2) If the interest is entered in the Register, copies of the Register that are made available for inspection, and any published version of the Register, must not include details of the interest (but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011).
- (3) If paragraph 17(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

DISPENSATIONS FROM NON-PARTICIPATION

26. (1) The Council may, on a written request made to the Monitoring Officer by you, grant a dispensation (in accordance with the relevant statutory provisions and the provisions in this Code) relieving you from any or all of the restrictions in paragraphs 17(4), 20(2), 21(2) and 22(2) in cases described in the dispensation.
- (2) Paragraphs 17(4), 20(2), 21(2) and 22(2) do not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

OFFENCES

- 27.(1) You commit a criminal offence if, without reasonable excuse, you:-
- (a) fail to comply with an obligation imposed on you by paragraph 16(1) or 17(2), (3) or (6);
 - (b) participate in any discussion or vote in contravention of paragraph 17(4); or
 - (c) take any steps in contravention of paragraph 17(7).
- (2) You commit an offence if under paragraph 16(1) or 17(2), (3) or (6) you provide information that is false or misleading and you:
- (a) know that the information is false or misleading; or
 - (b) are reckless as to whether the information is true and not misleading.

- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

28. **If you are in any doubt as to your position under the Code of Conduct, please consult the Monitoring Officer.**

DISCLOSABLE PECUNIARY INTERESTS

The pecuniary interests which are specified in regulations as disclosable pecuniary interests are the interests specified in the second column of the Schedule below:

SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of

the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge)—

(a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For these purposes:-

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member (entitled to vote);

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act (the corresponding provisions in this Code are paragraphs 15(1) and 16(6));

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (corresponding provision in this Code is paragraph 14(1)(b)), namely:

- M’s spouse or civil partner;
- a person with whom M is living as husband and wife; or
- a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

INTERESTS OTHER THAN DISCLOSABLE PECUNIARY INTERESTS

The interests other than disclosable pecuniary interests which are required by the Council to be registered in the Register of Members' Interests are set out below:

- 1. Unpaid directorships**
- 2. Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority**
- 3. Any body:**
 - i. exercising functions of a public nature**
 - ii. directed to charitable purposes or**
 - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union/professional association)**

of which you are a member or in a position of general control or management

GENERAL PRINCIPLES OF PUBLIC LIFE

Principle	Revised description
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

GUIDANCE FOR MEMBERS

re Members' Code of Conduct

Guidance on Local Government Association Model Councillor Code of Conduct

This Guidance is based on the national Local Government Association (LGA) Guidance on the Local Government Association Model Councillor Code of Conduct, tailored as appropriate to reflect the provisions of the Council's Code.

Part 1 – Introduction

In December 2020, the Local Government Association (LGA) developed and published a Model Councillor Code of Conduct in association with key partners and following extensive consultation with the sector. This was in response to the recommendation of the Committee of Standards in Public Life Local Government Ethical Standards 2019. The code was part of ~~our~~ the LGA's work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance, and ~~our~~ its civility in public life programme.

The model code is a template for Local Authorities to adopt in whole and or with amendments to take into account local circumstances.

~~Our~~ The LGA's aim was to make the national model code relatively short and easy to read rather than an overly-complex legal document as it needed to be accessible to councillors, officers, and the public alike. The consultation response also asked for supporting guidance to help understand some of the key provisions in greater depth with examples and case illustrations.

~~We are therefore pleased to publish this supporting guidance which is aimed to help understanding and consistency of approach towards the code.~~

The code together with the guidance have been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.

~~This guidance embeds the provisions of the code and is structured to enable each chapter to be directly accessed. We have also produced a standalone document without the embedded code intended to provide easy access to the guidance.~~

The LGA will undertake an annual review of this guidance and the code to ensure it continues to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation.

~~For the purposes of this guidance, we have adopted the definitions used in the Code of Conduct, for "councillor" and "local authority".~~

~~Any comments on the use of the guidance or suggestions for improvement would be welcomed and should be sent to ModelCode@local.gov.uk~~

~~The Council's Code of Conduct for Members is based on the national voluntary model code but differs in some minor aspects and so whilst this Guidance is based on the national guidance, it has been amended as necessary to reflect the Council's Code.~~

General principles of Councillor conduct

The Seven Principles of Public Life (also known as the Nolan Principles) outline the ethical standards those working in the public sector are expected to adhere to. The principles apply to all public office holders at all levels including ministers, civil servants, councillors, and local authority officers, as well as private and voluntary organisations delivering services paid for by public funds. The principles are set out in Appendix 2 below.

These principles underpin the standards that councillors should uphold and form the basis for the Code of Conduct, where the principles have been translated into a series of clear rules. While fundamental to the Code of Conduct, the principles are not part of the rules of the ~~e~~Code and should be used for guidance and interpretation only.

Application of the ~~Model Councillors'~~Members' Code of Conduct

When does the Code apply?

S27(2) of the Localism Act 2011 says that a local authority must adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.' Co-opted Members is defined to mean those with voting rights.

~~The term 'capacity' is not further defined in the Act. However, the Model Code states that:~~

The Council's Code of Conduct applies to you when you are acting in your capacity as a councillor, ~~which may include when:~~

~~you misuse your position as a councillor
your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.~~

This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.

There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA's Guidance for new councillors ([Guidance for new councillors 2019-20 \(local.gov.uk\)](#)) and the [Councillor Hub \(Councillor hub | Local Government Association\)](#) ~~is~~are a helpful reference points.

The ~~e~~Code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The ~~e~~Code applies to all forms of communication and interaction, including:

- at face-to-face meetings

- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communications
- in electronic and social media communication, posts, statements, and comments.

This includes interactions with the public as well as with fellow councillors and local authority officers.

Acting as a private individual

For something to fall within the **eCode** there must be a clear link to a local authority function or your role as a councillor. For example, an argument with a neighbour which does not relate to local authority business would not engage the **eCode**, even if your neighbour happens to know you are a councillor and therefore complains to the local authority about being treated disrespectfully.

Example

A councillor and an officer had a personal relationship. The councillor sent and encouraged the officer to send inappropriate social media messages, including messages of a sexual nature, during office hours. The panel rejected arguments that the councillor had been acting in an entirely personal capacity. It found that the councillor could not divorce himself from his role as the officer's quasi-employer and that, when sending or encouraging the officer to send the messages during working hours, he was acting in his official capacity.

It is not always immediately apparent in which capacity you are acting, therefore in situations where there may be ambiguity it may be helpful if you can make clear to people in which capacity you are engaging with them.

While the Code does not apply to your non-councillor roles, what you do as a councillor could impact on your position in those other roles.

Political party or group rules may also require you as a councillor to demonstrate certain behaviours as a private individual and failure to do so can result in sanctions from political groups.

Under the Local Government Act 1972 and the Local Government (Disqualification) Act 2022 councillors can be disqualified from being a councillor due to matters in their private life, such as being subject to a bankruptcy order, receiving a custodial sentence of three months or longer (whether or not suspended) or being subject to a sexual offences order.

In what circumstances might I give the impression to a reasonable member of the public that I was engaged on local authority business? Using your position improperly

When you use or attempt to use your position as a councillor to seek to gain an advantage for yourself or someone close to you or to disadvantage someone this **is-may be viewed as** an attempt to misuse your position and therefore **may falls** within the scope of the Code of Conduct.

A number of factors will need to be taken into account to determine whether or not you had used or attempted to use your position as a councillor.

For example:

- writing to someone on local authority headed paper or using a local authority email address may lead someone to assume you were writing in your capacity as a councillor
- handing out a business card where you describe yourself as a councillor may also lead to that assumption
- wearing official local authority regalia.

Examples

Attempting to misuse your position as a councillor would include if you threaten to use your position improperly to block someone's planning, licence or grant application. In effect you would be doing something that only a councillor could do even if as a matter of fact, you did not have the power to do so. That may include an assumption, for example, that you would put inappropriate pressure on officers or fellow councillors or lobby behind the scenes for a particular outcome. It should not be up to a member of the public to have to work out whether you are in fact on a planning committee.

Another example would be disclosing confidential information improperly you had received because of your role as a councillor.

~~A councillor returning from a party got into an argument with a taxi driver. When he arrived home, he refused to pay the fare and when he spoke to the manager of the taxi company, he said that he was a councillor and would make sure that the taxi driver's licence was withdrawn by the council. While he was entitled to dispute the payment if he was dissatisfied with the service he had received he was found to have breached the code by invoking his office and seeking to misuse his position to intimidate the manager and driver and to seek to gain an advantage for himself, notwithstanding the fact that he did not in reality have the ability to carry out his threat.~~

Social media postings

Simply describing yourself as a councillor in a social media posting or at the top of your page or in your username or profile, for example, does not of itself mean that every posting you make is covered by the Code. There must be a link within the individual posting or thread to your role as a councillor or to local authority business. However, even if you do not describe yourself as a councillor you may fall within the scope of the **eCode** if you are discussing local authority business.

For example, a posting which is simply discussing a recent football match is not covered by the **eCode** even if you have described yourself as a councillor. However, if you make a posting threatening a fellow councillor or officer that **would may** fall within the **eCode** even if you have not described yourself as a councillor as it relates to local authority business or your role as a councillor.

Each matter would need to be looked at on a case-by-case basis (see guidance on 'disrespect, bullying and harassment in Part 2 for further information).

You should be very careful when describing yourself as a councillor as seeing the word "councillor" may lead to assumptions amongst the community that you are acting as a councillor.

To help avoid some of these issues, some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy settings are no guarantee that posts or actions will remain private. As a rule of thumb, never

post anything online you would not be comfortable saying or sharing in a public meeting. ~~If your local authority has~~ The Council's guidance on the effective use of social media, published on the Intranet, this can help.

The LGA has published Social media guidance for councillors ([Social media guidance for councillors | Local Government Association](#)).

Examples

Following a heavy snowstorm which meant a local street market could not go ahead a councillor posted on the local community Facebook page that a certain local authority officer should be sacked for failing to put adequate arrangements in place to clear the snow. Even though it was not posted on a local authority page and he did not explicitly describe himself as a councillor in the post he was found to have breached the eCode by treating an officer with disrespect and seeking to put undue pressure on officers.

A councillor who described himself as such in his Twitter profile made insulting and offensive comments about the Prime Minister which led to complaints being made to his local authority. He was found not to have breached the eCode as the comments did not directly relate to his role as a councillor or local authority business but were seen as wider political comments.

What does acting as a representative of my local authority mean?

You are acting as a representative of the local authority when you are sitting on an outside body to which you have been appointed by the local authority, for example.

You would also be considered a representative of the local authority where you were attending an external function or conference on behalf of the local authority or as the local authority's nominated delegate.

You would not be considered as a representative of the local authority where you were attending an event in a party-political role, for example at a political party's annual conference. In that situation you would be subject to any relevant party rules.

Matters in party group meetings would also normally not be covered by the eCode as they are more matters for a party to regulate. However, if you are clearly trying to improperly influence fellow councillors or put undue pressure on them in relation to local authority business for example then relevant provisions of the eCode ~~would~~ may apply. The same would apply to social media groups you may be a member of, such as a WhatsApp group set up for your local authority group.

What if I sit on more than one local authority?

If you sit on more than one local authority, you are subject to the eCode and associated procedures of the local authority you are representing at any one time. As such, if you are on a ~~district- unitary~~ council and a parish council, you would be bound by the Council district eCode when attending ~~district- C~~ council meetings or speaking to ~~district- e~~ council officers; and bound by the parish council code when attending parish council meetings or speaking to parish council officers.

~~Where your local authorities have the same code, the same rules would apply and, for example, your completed register of interests should be the same on both tiers.~~

What is a co-opted member?

The eCode also applies to co-opted members under the Localism Act. A co-opted member under the Act is someone who is entitled to vote on any matter to be decided at a local authority committee or sub-committee.

A parish councillor who has been co-opted to fill a casual vacancy where an election has not been held is also covered by the Code of Conduct in the same way as if they had been elected.

It does not, therefore include co-opted members who do not have voting rights, nor does it cover, for example, an Independent Person appointed under s28 of the Localism Act to support the local authority on standards matters.

~~However, it would be good practice to ask such councillors to agree to abide by the code of conduct and to inform the monitoring officer of any interests they might have. While they would not formally fall within the statutory framework for complaint handling, they can be removed from their role by the local authority should they be found to have committed a serious breach of the code so it is important that they are also aware of the expected standards of behaviour.~~

Part 2 – General obligations under the Code of Conduct

Respect

1. You must treat others with respect.

As a councillor:

~~— I treat other councillors and members of the public with respect.~~

~~1. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.~~

Showing respect to others is fundamental to a civil society. As an elected or appointed representative of the public it is important to treat others with respect and to act in a respectful way. Respect means politeness, courtesy and civility in behaviour, speech, and in the written word. It also relates to all forms of communications councillors undertake, not just in meetings. Rude, offensive, and disrespectful behaviour lowers the public's expectations and confidence in its elected representatives.

Respect

The key roles and responsibilities of councillors; representing and serving your communities and taking decisions on their behalf, require councillors to interact and communicate effectively with others. Examples of councillor interaction and communication include talking to constituents, attending local authority meetings, representing the local authority on outside bodies, and participating in community meetings and events. In turn this means that as a councillor you are required to interact with many different people, often from diverse backgrounds and with different or conflicting needs and points of view.

You will engage in robust debate at times and are expected to express, challenge, criticise and disagree with views, ideas, opinions, and policies. Doing these things in a respectful way will help you to build and maintain healthy working relationships with fellow councillors, officers, and members of the public, it encourages others to treat you with respect and helps to avoid conflict and stress. Respectful and healthy working relationships and a culture of

mutual respect can encourage positive debate and meaningful communication which in turn can increase the exchange of ideas, understanding and knowledge.

Examples of ways in which you can show respect are by being polite and courteous, listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks and being kind. In a local government context this can mean using appropriate language in meetings and written communications, allowing others time to speak without interruption during debates, focusing any criticism or challenge on ideas and policies rather than personalities or personal attributes and recognising the contribution of others to projects.

Disrespectful behaviour

Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.

Freedom of expression

The requirement to treat others with respect must be balanced with the right to Freedom of expression. Article 10 of the European Convention on Human Rights protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud or in writing, such as in published articles or leaflets or on the internet and social media. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply-held beliefs of others.

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or

written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech, and this enhanced protection applies to all levels of politics, including local government. Article 10 protects the right to make incorrect but honestly made statements in a political context but it does not protect statements which the publisher knows to be false. Political expression is a broad concept and is not limited to expressions of or criticism of political views but extends to all matters of public administration including comments about the performance of public duties by others. However, gratuitous personal comments do not fall within the definition of political expression.

Public servants such as local government officers are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are for elected politicians such as councillors. Officers do not necessarily have the same right of reply to such comments as councillors do and councillors should take care not to abuse or exploit this imbalance.

Recent case law has confirmed that local authority officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to offensive, abusive attacks and unwarranted comments that prevents them from carrying out their duties or undermine public confidence in the administration. That said, officers who are in more senior positions, for example chief executives or heads of services, will also be expected to have a greater degree of robustness.

Is the Respect provision of the code a gag on councillors?

This provision of the Code (Paragraph 1) is not intended to stand in the way of lively debate in local authorities. Such discussion is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through councillors' arguments and public debate are an essential part of the cut and thrust of political life. Councillors should be able to express their opinions and concerns in forceful terms. Direct language can sometimes be appropriate to ensure that matters are dealt with properly. The [eCode](#) is not intended to stifle the expressions of passion and frustration that often accompany discussions about local authority business.

Can councillors criticise officers?

Yes. In some cases [nationally](#), officers have been known to reject reasonable criticism appropriately made and describe it as disrespectful or bullying. The Code of Conduct is not intended to constrain councillors' involvement in local governance, including the role of councillors to challenge performance. Councillors can question and probe poor officer performance provided it is done in an appropriate way. In the everyday running of a local authority, it is inevitable that councillors may have disagreements with officers from time to time.

This paragraph of the [eCode](#) does not mean that councillors cannot express disagreement with officers. This disagreement might, in the appropriate context, manifest itself in criticism of the way in which an officer or officers handled particular matters.

It is important that councillors raise issues about poor performance in the correct way and at the appropriate forum in accordance with ~~your local authority's~~ the Council's processes and procedures, and not in a public meeting or through a published attack in the media.

~~All local authorities should have clearly defined policies, procedures, and occasions where such issues can be properly raised.~~ It is only where councillors' conduct is unfair, unreasonable, ~~or~~ demeaning or amounts to a personal attack that the eCode will be relevant. If a councillor's criticism is abusive or offensive it is likely to breach the eCode.

What kinds of conduct are not covered?

A very clear line must be drawn between the Code of Conduct's requirement of respect for others, including councillors with opposing views, and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other.

What if a member of the public is being unnecessarily disrespectful to me?

Councillors are allowed to respond to criticism, and where that criticism is robust, then they can be robust in response. However, councillors should always seek to try to be civil and demonstrate leadership in their communication. Even where councillors have been wrongly accused, responding in an angry, defensive way can often escalate the situation.

There has been a growing tendency for members of the public to use social media channels to unfairly criticise local councillors. For this reason, many local authorities now offer social media guidance to councillors in addition to the civility in public life resources available on the LGA's website ([Civility in public life | Local Government Association](#)).

Examples

The complaint alleged that the councillor posted on their blog a highly critical comment and an offensive caption about a former councillor, who had passed away and whose funeral had taken place the previous day. The councillor was found to have breached the provisions of his local authority's Code of Conduct relating to councillors treating others with respect; as well as conducting themselves in a manner which could reasonably be regarded as bringing their role or their authority into disrepute.

The complaint alleged that a councillor commented under a pseudonym on a local authority blog referring to possible nepotism in the awarding of a contract to a local firm by the local authority. The standards committee found that the councillor had breached the Code of Conduct in making the posts because he had failed to treat others with respect and, in doing so, he had conducted himself in a manner which brought his role and his local authority into disrepute.

The complaint alleged that a councillor had made remarks of an abusive, insulting and personal nature to the complainant, a police officer, and also made a number of unfounded allegations about him during two telephone calls to a police station made in his capacity as a ward councillor. It was found that the comments amounted to an unacceptable personal attack on the complainant and that the councillor had breached the respect provisions in his local authority's Code of Conduct.

Discrimination

2. You must not unlawfully discriminate against any person or do anything which may cause the Council to breach any equality enactment.

~~As a councillor:~~

~~2.3 I promote equalities and do not discriminate unlawfully against any person.~~

Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

The Equality Act 2010 imposes positive duties on local authorities to promote equality and to eliminate unlawful discrimination and harassment. Under the Act ~~your authority~~the Council may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders ~~your authority's~~the Council's fulfilment of its positive duties under the Act. Such conduct may cause ~~your authority~~the Council to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct. If you are unsure about the particular nature of the duties of ~~your authority~~the Council you should seek advice from the ~~m~~Monitoring ~~e~~Officer or parish clerk.

Unlawful discrimination is where someone is treated unfairly because of a ~~p~~Protected ~~e~~Characteristic. Protected ~~C~~eharacteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex and sexual orientation

There are four main forms of discrimination:

Direct discrimination: treating people differently because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

Indirect discrimination: treatment which does not appear to differentiate between people because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation but which disproportionately disadvantages them.

Harassment: engaging in unwanted conduct on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics

- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers
- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

A councillor's personality and life experiences will naturally incline them to think and act in certain ways. They may form views about others based on those experiences, such as having an affinity with someone because they have a similar approach to life or thinking less of someone because they are from a different generation. This is known as "unconscious bias" and it can lead people to make decisions based on biases or false assumptions. Councillors need to be alert to the potential of unconscious bias and ensure they make decisions based on evidence, and not on assumptions they have made based on biases.

Questions

How can councillors cause their authority to be in breach of the Equality Act?

The Code of Conduct is not intended to stifle democratic debate. Councillors should always remember that Article 10 of the European Convention on Human Rights gives a high level of protection to comments that are genuinely made during political debate, even if most people would find them offensive.

Some councillors have particular roles which may give a higher risk for the potential for discrimination; for example, if you are on an appointment panel for a position in the local authority, or you are able to award local grants in your ward and will need to decide which organisations to support.

Merely arguing, or even voting, against a proposal which is aimed at complying with a positive anti-discriminatory duty would not be enough by itself to risk breaking this part of the code. Simply having a party-political or personal position on an issue is unlikely to amount to a breach of this provision because it does not, of itself, involve the local authority doing anything.

Under the Equality Act 2010, an authority is made liable for any discriminatory acts which a councillor commits. This will apply where they say or do something in their official capacity in a discriminatory manner.

Examples

The complaint alleged that a councillor 'liked' several racially discriminatory comments on social media and one comment advocating violence against Travellers. The panel found that 'Liking' of the offensive comments did amount to a failure to treat those who

were the subject of such comments with respect and a failure to promote equalities in breach of the Code of Conduct.

A councillor was a member of the local authority's recruitment panel to appoint a new chief executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room the councillor said, "good candidate, shame he's black". The panel found that the Code of Conduct had been breached.

Bullying, intimidation and harassment

3. You must not bully, intimidate or harass any person, or attempt to do so.

As a councillor:

1.

1.1 I do not bully any person.

Bullying, harassment, discrimination, and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Bullying can affect anyone, in any career, at any time, at any level and within any workplace. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors, or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine 'nit-picking' or fault-finding, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person.

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying can sometimes be overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor leadership style" or a "bad attitude," for example, or to the problem being due to a "personality clash".

You should always be mindful of the overall potential impact of the behaviour on others. First and foremost, bullying can have a significant impact on the recipient's well-being and health. Bullying can have an impact on a local authority's effective use of resources and provision of

services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave. Bullying can impact on a councillor's ability to represent their residents effectively. It can also discourage candidates from standing in local elections, making local authorities less representative of their communities, and impacting local democracy.

Like disrespectful behaviour, bullying can be difficult to define. When allegations of bullying are considered it's likely that the person handling the complaint will consider both the perspective of the alleged victim, and whether the councillor intended their actions to be bullying. They will also consider whether the individual was reasonably entitled to believe they were being bullied.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

Freedom of expression 'Respect' guidance Part 2

Does this mean that councillors cannot raise concerns about officers or fellow councillors?

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.

Preventing bullying conduct from developing

Ideally, a culture of honest and clear communication should be sought, with respect for the individual and for the confidentiality required when managing individual performance-related issues. The bullying of officers might be reduced by establishing a specific protocol, which

addresses issues such as councillor-officer work relations and appropriate behaviour – [please see the Council's Protocol on Member/Officer Relations in Part 5 of the Council's Constitution.](#)

The protocol for parish and town councils can include such simple but important matters as acceptable times to contact the clerk by telephone at home or call at the clerk's home on council business.

Local authority officers and parish clerks also need to be mindful that councillors can come from a wide range of backgrounds and may have been part of workplaces where the culture and expected standards are very different from what the clerk or officers expect; as a result, the councillor simply may not be aware of the impact that their communications have had on the clerk or officer. Early discussion about emerging issues is important to help avoid matters escalating and help establish more effective working arrangements for the future.

Bullying and harassment and the law

In some cases, acts of bullying or harassment can be civil offences, which can be brought to an employment tribunal or a county court.

In some cases, conduct that amounts to bullying and harassment may also amount to criminal offences, which can be tried in the criminal courts. There is not an exhaustive list of acts of bullying or harassment that may constitute a criminal offence. Examples may include, but are not limited to:

- physical assault
- making threats of violence or death threats
- stalking
- hate crimes
- sexual harassment

Intimidation of councillors

Councillors can face behaviours which could amount to bullying and intimidation when carrying out their role.

The LGA and the Welsh Local Government Association recognise the growing need among councillors for support related to intimidation and have jointly developed a "Councillors' guide to handling intimidation" ([Full word english version guide for councillors on handling intimidation FINAL.pdf \(local.gov.uk\)](#)). The guide covers topics such as how to handle abuse, both face-to-face, letters or online, guidance on personal safety, lone working and online abuse and the legal and practical remedies, including the nature of the criminal offences involved. It will be continuously updated with the latest advice and information available.

Harassment

As a councillor:

1.

1.1 I do not harass any person.

The Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. Harassment of any kind whether direct or indirect

is in no-one's interest and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to ~~p~~Protected ~~e~~Characteristics. Harassment may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. It may manifest obviously or be hidden or insidious.

The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim.

Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

What does the law say about harassment?

In some cases, acts of harassment can be civil offences, which can be brought to an employment tribunal or county court.

In some cases, conduct that amounts to harassment may also amount to criminal offences, which can be tried in the criminal courts. There is not an exhaustive list of acts of harassment that may constitute a criminal offence. Examples may include, but are not limited to physical assault:

- making violent or death threats
- stalking
- hate crimes
- sexual harassment

Example

The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

Impartiality of officers

4. You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality.

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Both councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by councillors and to deliver the policy framework agreed by councillors. They are responsible for implementing decisions of councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a councillor's democratic mandate as the people accountable to the public for the work of the local authority. It is also important for a local authority to have a councillor-officer protocol which sets out how this relationship works and what both councillors and officers can expect in terms of mutual respect and good working relationships **- – please see the Council's Protocol on Member/Officer Relations in Part 5 of the Council's Constitution.**

Officers may sometimes give you advice that you do not want to hear or does not suit your political views. They must be allowed to do this without fear of recriminations to allow for good decision-making looking at all relevant options.

That means in your dealing with officers you must not seek to influence them improperly or put undue pressure on them. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Other than political assistants, officers are required to remain politically neutral and not demonstrate their support for specific parties or candidates.

The fundamentally held principle is that “the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole^[1]” [\[Ahmed v United Kingdom \(2000\) 29 EHRR 1\]](#)

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Examples

A councillor became involved in a social care case on behalf of a constituent during which time he inappropriately sought to influence operational decision-making and sent discourteous and disrespectful correspondence to the officers. In doing so, he lost sight of his overall responsibility to the local authority to allow its officers to perform their statutory functions. He was found to have breached the Code of Conduct.

A councillor who, over a period of six months, persistently sought to influence the decisions of officers dealing with a complaint by his son and daughter-in-law against their local authority tenant neighbour was found, through his actions, to have compromised the impartiality of the officers and to have used his position improperly to promote the interest of his family and to have brought the role of councillor into disrepute in breach of the Code of Conduct.

What does working on behalf of the authority mean?

Local Authorities deliver services in a range of ways. Often services will have been contracted out to outside bodies. For example, if you are in a highway authority, road repair services may be carried out by outside contractors. Their employees delivering that contract are doing so on behalf of the local authority and you should not use your position to interfere improperly in delivery of that service.

What if I disagree with the views of an officer?

You are perfectly entitled to disagree with officers. They are there to give you impartial professional advice and you do not need to accept their advice without question. When you do question them however, you should treat them with respect and recognise that they are professionals.

If you feel dissatisfied with the advice you are given you should raise through appropriate management channels in line with ~~your local authority's councillor-officer protocol (where you have one)~~ [the Protocol for Member/Officer Relations](#) - see guidance on respect, bullying and harassment in Part 2.

Where you have a declarable interest in a matter you are discussing with an officer you should make that clear to the officer – see guidance on declarations of interest in Part 3. Where it is an interest which would stop you from taking part in a meeting you should not discuss those matters with officers except where you are seeking professional advice in the same way as any member of the public could – for example, assistance with making an application – and the officer should make a note that an interest has been declared. If you need to speak to an officer about the matter, you should arrange a meeting as a member of the public and not seek to use your position to gain preferential or quicker access.

[1] *Ahmed v United Kingdom (2000) 29 EHRR 1*

Having regard to Officer advice

Councillors take decisions every day that affect the lives of those who live and work within your community. It is therefore important that those decisions are made having regard to all available evidence and weighing up all sides of the argument.

Decisions can be challenged if they are unreasonable, and the local authority could find itself facing an expensive legal bill if it takes a decision which is unlawful. When considering any decision, you must have regard to any professional advice you have been offered, for example from planning or licensing officers. Both the ~~m~~M~~onitoring~~ ~~e~~O~~fficer~~ and the ~~e~~C~~hief~~ ~~f~~F~~inance~~ ~~e~~O~~fficer~~ have a statutory duty to report formally to the local authority where they believe a local authority action or expenditure is, or may be, unlawful. Similarly, when it comes to elections, you will need to have regard to any advice given to you by the ~~r~~R~~eturning~~ ~~e~~O~~fficer~~ who may well be a senior officer but in that capacity is entirely independent of and separate from the local authority and is required to be politically neutral.

You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your local authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected. Where councillors disagree with officer recommendations in making a decision, councillors will need to take particular care in giving clear reasons for the decision.

If you seek advice as an individual councillor, or advice is offered to you, for example, on whether or not you should register or declare an interest, you must have regard to this advice before you make your mind up. Failure to do so may lead to a breach of the Code of Conduct.

If in any doubt – be safe and always seek advice from your ~~m~~M~~onitoring~~ ~~e~~O~~fficer~~ before taking any action.

Local authorities have protocols for councillor-officer relations in their constitutions which are accessible on their websites - [- please see the Council's Protocol on Member/Officer Relations in Part 5 of the Council's Constitution.](#)

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~~The LGA published "A councillor's workbook on effective councillor/officer relationships 2018". This workbook has been designed as a distance learning aid for local councillors. It forms part of the suite of LGA resources intended to provide councillors with insight and assistance into key skills and knowledge. It is designed to provide a foundation for effective working as you progress in your councillor career, from the ward level to holding a leading councillor position. The workbook has been updated to contain information and examples obtained from the LGA's work on the ground in local authorities and through the Corporate Peer Challenge programme, and to reflect the changing nature of the councillor and officer relationship.~~

Confidentiality and access to information

5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:

- You have the permission of a person authorised to give it; or
- You are required by law to disclose the information; or
- You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
- The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

6. You must not prevent another person gaining access to information which that person is entitled to by law.

As a councillor:

4.1 I do not disclose information:

~~a. given to me in confidence by anyone~~

~~b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless~~

- ~~• I have received the consent of a person authorised to give it;~~
- ~~• I am required by law to do so;~~
- ~~• the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or~~
- ~~• the disclosure is:~~

~~1. reasonable and in the public interest; and~~

~~2. made in good faith and in compliance with the reasonable requirements of the local authority; and~~

~~3. I have consulted the monitoring officer prior to its release.~~

~~4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.~~

~~4.3 I do not prevent anyone from getting information that they are entitled to by law.~~

Local authorities must work openly and transparently. Their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Confidential information

While local authority business is by law generally open and local authorities should always operate as transparently as possible, there will be times – for example, when discussing a named individual, confidential HR matters or commercially sensitive information – when it is appropriate for local authority business to be kept confidential or treated as exempt information.

In those circumstances, you must not disclose confidential information, or information which you believe to be of a confidential nature, unless:

- you have the consent of the person authorised to give it
- you are required by law to do so
- the disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person
- the disclosure is in the public interest

Disclosure in the public interest

Disclosure 'in the public interest' is only justified in limited circumstances, when all the following four requirements are met:

- the disclosure must be reasonable
- the disclosure must be in the public interest
- the disclosure must be made in good faith
- the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
 - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
 - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
 - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
 - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
 - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.

- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- a criminal offence is committed.
- your local authority or some other person fails to comply with any legal obligation to which they are subject.
- a miscarriage of justice occurs.
- the health or safety of any individual is in danger.
- the environment is likely to be damaged.
- that information tending to show any matter falling within the above is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party-political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your local authority, means that before making the disclosure you must comply with your local authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors, which may justify its disclosure despite these potential consequences. If in doubt you should always seek advice from the monitoring officer. Always keep a note of the reason for your decision.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

Circumstances in which a local authority can treat information as confidential

The presumption under local government law is that local authority business is open unless it falls within a specific category of confidential or exempt information as set out in legislation. These categories are:

1. information given to the local authority by a Government Department on terms which forbid its public disclosure or
2. information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

Exempt information means information falling within the following categories (subject to any condition):

1. relating to any individual.
2. which is likely to reveal the identity of an individual.
3. relating to the financial or business affairs of any particular person (including the authority holding that information).
4. relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
5. in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. which reveals that the authority proposes:
 - 6.1 to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - 6.2 to make an order or direction under any enactment
7. relating to any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.

Where information is legally classified as 'confidential' under the above categories the public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

Where an officer recommends that a report to a decision-making committee should be treated as exempt information under the above categories the committee must still agree that the matter should be heard in a closed session. The committee may disagree with any recommendation and decide that those legal tests have not been met; or they may agree that those tests have been met but nevertheless it is in the public interest that the matter be considered in an open session. Again, you should keep a record of the rationale for the decision.

Once the local authority has agreed that the matter be treated as exempt, public access to relevant reports, background papers and minutes will also be excluded and an individual councillor must abide by that collective decision or risk breaching the eCode if they disclose that information (papers and content of discussion) without lawful excuse.

Does confidentiality under the code apply only to information which is classified as confidential or exempt by law?

No. The eCode goes wider than matters simply considered in a formal local authority setting. Information is a broad term. It includes facts, advice, and opinions. It covers written material, including tapes, videos, CDs, DVDs, and other electronic media. It covers material in unwritten form, including intellectual property. Information can only be confidential if all the following apply:-

- it has the necessary 'quality of confidence' about it (trivial information will not be confidential but information that you would expect people to want to be private would be);

- it was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential);
- disclosure of it would be detrimental to the party wishing to keep it confidential.

For example, you may be told confidential information by a constituent in the course of your duties. That is why the **eCode** is written broadly to cover information classed as confidential which you may come across in your duties.

You should use your judgment when you are given information. An individual does not have to explicitly say that information is confidential if they tell you something which a reasonable person would regard as sensitive. You may, however, wish to clarify if somebody tells you something whether they want you to treat it as confidential.

Examples

A councillor was assisting a resident in an adoption process, which the resident decided to subsequently withdraw from. The resident's estranged parent contacted the councillor for information as to what was happening with the case and the councillor inadvertently shared confidential information as she had not realised that father and son were estranged. This was found to be a breach of the code.

A councillor circulated information about an officer's medical condition to other councillors and a local headteacher with whom he was acquainted. He was found to have disclosed information which should reasonably be regarded as being of a confidential nature and without the officer's consent in breach of the Code of Conduct.

What does consent by the person authorised to give it mean?

If somebody, for example a constituent, has told you something in confidence – for example in the line of casework – you may later want to put that in the public domain as part of pursuing that case. You should always check with the individual before you disclose something you believe is confidential to ensure that they are comfortable with that information being disclosed. You should also be clear with them as to how you may use the information, they give you to help resolve their issue.

In what circumstances am I required to disclose confidential information by law?

This would be where a law enforcement or regulatory agency or the courts required disclosure of information.

In what way could I use information I have obtained to advance myself or others?

As a councillor you will often receive commercially sensitive or other confidential information. You must not use that information to your own advantage. For example, if you know the local authority is considering the purchase of a piece of land, you should not use that information in your private dealings to seek to purchase the land.

How does this relate to the Data Protection Act?

As part of their role councillors will receive personal information. They should seek to ensure they are familiar with how the Data Protection Act applies to their role in handling such information through training, and if they are not sure to seek advice from an appropriate officer in the **eCouncil**.

Although councillors are not required to register [with the Information Commissioner's Office](#) as a data controller, they will receive personal information from residents in their area. They should only use it for the purpose for which it has been given and must ensure this information is held securely and only share with others that are entitled to it.

In contrast, the local authority is responsible for information they provide to councillors and ensuring they know how it can be used.

Access to information

Transparency is a very important principle underpinning local democracy and public decision-making. The public are entitled to see information about the way decisions are made unless there are specific reasons why that information is confidential. Your local authority should have a publication scheme setting out what information is accessible to the public and you as an individual councillor must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports, and other documents of your local authority which they have a right to access.

If in doubt seek advice from the relevant local authority officers.

The 'need to know'

As a councillor, you are not automatically entitled to access all information the local authority holds. For example, the local authority may deal with highly confidential and sensitive information about employees or about residents involved in complex cases.

In addition to rights set out in law or conferred by your local authority constitution, you have a right to inspect documents if you can demonstrate a "need to know". This isn't a right to a roving commission but must be linked to your performance of your duties and functions as a councillor. For example, the need could more easily be demonstrated by membership of a relevant committee, such as a staffing committee than simply because you are interested in seeing the information. Local authorities have more justification for denying free access to particularly sensitive papers such as childcare or staffing records. You should not seek to get information if you have a declarable interest in it.

Most local authorities will have a nominated officer you can seek advice from if you feel you are not being given access to information you seek.

You can also exercise the "need to know" in respect of attending meetings. [The Access to Information Procedure Rules in the Council's Constitution](#) set out an Overview and Scrutiny Committee's rights of access to documents and additional rights of access to documents for councillors to carry out their functions.

Where you are given access to documents which are not available to members of the public, you should ensure that any confidential information is used and protected in an appropriate and secure manner and shared with authorised persons only.

Can I use local authority information for matters outside the local authority?

A councillor is entitled to access information held by the local authority for the performance of their duties as a councillor. If a councillor wishes to use local authority information for any purpose other than in connection with their duties as a councillor, and that information is not in a publicly available document, however, then that councillor [should/could](#) submit a freedom of information request so that it can be given to them to use freely.

The general rule is that any information held by the local authority and given directly to a councillor may only ever be used for the purpose for which it was provided. That purpose may add particular restrictions, for example where it relates to an individual constituent or sensitive matter. The purpose should not be for anything other than use in connection with the proper performance of the councillor's duties as a councillor. The exceptions to this are where the information has already been published, it has been given as a result of a request under Freedom of Information or Environmental Information Regulations or it is in the public interest ('whistleblowing') for which provisions are made in the Code of Conduct as explained above.

Please see the ICO website ([Information Commissioner's Office \(ICO\)](#)) for helpful guidance on data protection and freedom of information.

Disrepute

7. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Member into disrepute.

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions.

In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor's behaviour in office will bring their role into disrepute if the conduct could reasonably be regarded as either:

1. reducing the public's confidence in them being able to fulfil their role; or
2. adversely affecting the reputation of your authority's councillors, in being able to fulfil their role.

Conduct by a councillor which could reasonably be regarded as reducing public confidence in their local authority being able to fulfil its functions and duties will bring the authority into disrepute.

For example, circulating highly inappropriate, vexatious or malicious e-mails to constituents, making demonstrably dishonest posts about your authority on social media or using abusive and threatening behaviour might well bring the role of councillor into disrepute. Making grossly unfair or patently untrue or unreasonable criticism of your authority in a public arena might well be regarded as bringing your local authority into disrepute.

Questions

What distinguishes disrepute to "your role or local authority" from disrepute to you as a person?

The misconduct will need to be sufficient to damage the reputation of the councillor's role or local authority, as opposed simply to damaging the reputation of the individual concerned.

Certain kinds of conduct may damage the reputation of an individual but will rarely be capable of damaging the reputation of the role of councillor or the reputation of the authority.

Here are some of the situations that might tip the balance in favour of disrepute to the role of councillor or to the authority in particular cases:

1. Situations where councillors have put their private interests above the public interest, which they are expected to promote as councillors, and therefore reduced the standing of their role. For example, councillors using their position to secure a secret personal profit.
2. Similarly, situations where a councillor defies important and well-established rules of the authority for private gain.
3. Where a councillor engages in conduct which directly and significantly undermines the authority's reputation as a good employer or responsible service provider.

Examples

A councillor posted a tweet reading "Cllr Blogs why don't you just throw in the towel, just go before you cause any more damage to the reputation of the council. You and some members of your cabinet have failed. I hope that the SFO is brought in to investigate your conduct. #failedleadership." The complainant stated that she found the tweet 'very offensive' and bullying and also considered that the tweet would reasonably bring the councillor's office and the authority into disrepute. The councillor was found to have brought his authority into disrepute by reducing public confidence in the council.

A councillor brought his role and authority into disrepute by taking advantage of a local authority mistake and failing to prevent local authority-employed contractors from working on his privately-owned home. The local authority mistakenly sent decorators to the home, an ex-local authority property. The councillor only told the local authority about the mistake after the work had been completed and then said he could not be charged for the work.

The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he had not brought his authority into disrepute but that he had brought his role into disrepute.

Misuse of position

8. You must not use your position as a Member improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.

As a councillor:

~~6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.~~

Your position as a councillor provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a councillor.

Involving yourself in a decision in which you have an interest, to seek to benefit yourself or another would be a breach of this paragraph of the code. For guidance on how to conduct yourself when you have an interest and how to balance your rights as an individual and your responsibilities as a public decision maker see the chapter on registration of interests.

Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned. This applies equally to parish councillors when your local authority is consulted on planning matters. Similarly, while it is reasonable to expect councillors to help constituents apply to the local authority, for example, for housing, it is quite improper to seek to influence the decision to be taken by the officers and would also be in breach of paragraph 34 of the code.

What kinds of attempts to advantage or disadvantage would be improper?

There are circumstances where it will be proper for a councillor to seek to confer an advantage or disadvantage and other circumstances where it will not.

Being a councillor can involve making hard choices and balancing a range of interests. Most decisions will inevitably benefit some people and will be to the detriment of others. It's important when you make those decisions to make them in what you think is the public interest and not be influenced by private interests.

For example, there can be no objection to councillors voicing their opposition to the closure of a local public library. This conduct is clearly intended to secure an advantage for the users of the library. What is crucial is that councillors' attempts to secure this advantage are clearly part and parcel of their duties as a local representative. Therefore, these activities are not improper.

The term 'improperly' is not defined in the Code of Conduct. This ensures that the scope of the provision is not unnecessarily limited. The underlying principle is that councillors are elected or appointed to public office to serve the public interest.

A councillor's conduct would be improper if they were to use their public position to further private interests of themselves or associates, or to settle old scores with enemies, to the detriment of the public interest. Any conduct that unfairly uses a councillor's public position to promote private interests over the public interest will be improper.

What if the attempt to confer an advantage or disadvantage fails?

The wording of the Code of Conduct makes it clear that the use of position provision (paragraph 68) covers failed attempts as well as situations where an advantage or disadvantage has actually been achieved.

For example, if you have tried to influence fellow councillors to vote in a particular way which would be to your personal advantage and/or that of your family/close associates you would have breached this provision of the eCode even if they did not in fact vote that way.

Examples

Most alleged improper uses of position are in connection with matters in which the councillors have interests.

A councillor who was a 'joint co-ordinator' of a community group did not notify the local authority of her position in this group. She took part in the considerations and voted on the decision to negotiate a new lease in respect of a workshop used by this community group. A standards committee found that she had used her position improperly as the decision on which she voted benefited a group in which she clearly had an interest which she had not disclosed to the local authority.

A local authority leader failed to declare a conflict of interest relating to land he owned. The court found that he used his position as a councillor and instructed a planning officer to alter the road route to benefit his own land's value to a considerable extent. He was found guilty of misconduct in public life for trying to influence the route of a new by-pass to enclose his land in a new development belt, which would have significantly increased its value. He received an 18-month custodial sentence.

A parish councillor was found to have improperly used his position and secured an advantage for a member of the public by asking the parish clerk to make a payment which had not been approved by the Parish Council in breach of the Code of Conduct. The payment was for repairs to a private road used by the councillor to get to his allotment.

Misuse of resources and facilities

11. You must act in accordance with the Council's guidance or requirements when using the resources of the Council (such as officer time, IT and copying equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly for political or other purposes.

~~As a councillor:~~

~~7.1 I do not misuse local authority resources.~~

~~7.2 I will, when using the resources of the local authority or authorising their use by others:~~

~~0. act in accordance with the local authority's requirements; and~~

~~1.1 ensure that such resources are not used for political purposes unless~~

~~1.1.1 that use could reasonably be regarded as likely to facilitate, or~~

~~1.1.2 be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.~~

You may be provided with resources and facilities by your local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the Local Government Act 1986.

The recommended code of practice for local authority publicity ([Recommended code of practice for local authority publicity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity)) published by Ministry of Housing, Communities & Local Government provides guidance on the content, style, distribution, and cost of local authority publicity.

You must be familiar with the rules applying to the use of resources made available to you by your local authority. Failure to comply with the local authority's rules is likely to amount to a breach of the [eCode](#).

If you authorise someone (for example a member of your family) to use your local authority's resources, you must take care to ensure that this is allowed by the local authority's rules.

You should never use local authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for legitimate political purposes in connection with your authority's business. For example, holding surgeries in your [ward division](#) and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct. Where you are part of a formally-recognised political group, your local authority is also allowed to give you such resources as you need for local authority business, for example use of a room for group meetings.

You should never use local authority resources purely for private purposes, for example using a photocopier to print off flyers for your business unless your local authority's procedures allow for you to repay any costs accrued.

What are the “resources of the local authority”?

The resources of the local authority include services and facilities as well as the financial resources of the authority.

Resources could include any land or premises, equipment, computers, and materials. The time, skills, and assistance of anybody employed by the authority, or working on its behalf, are also resources, as is information held by the authority which it has not published.

What constitutes using resources “improperly for political purposes”?

The [eCode](#) acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that councillors carry out their duties.

There will be times when it is acceptable for political groups to use the resources of the local authority, for example, to hold meetings in authority premises. Often it is impractical to separate a councillor's political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.

However, councillors and monitoring officers will need to exercise considerable care to ensure that this provision is not abused. You must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources will be a breach of the Code of Conduct.

This part of the **eCode** complements Section 2 of the Local Government Act 1986, which prevents the publication of material "designed to affect public support for a political party". The **eCode**, however, goes further than the Code of Recommended Practice on Publicity. It covers not only the publication of campaigning material but also any other activity that is intended to promote purely party-political interests.

You must have regard to any applicable local authority code of publicity made under the powers contained in Section 4 of the Local Government Act 1986. Publicity is defined as "any communication, in whatever form, addressed to the public at large or to a section of the public". It will cover meetings, websites, and social media postings as well as printed and other written material.

You should be particularly scrupulous about the use of authority resources when elections are pending, particularly those resources relating to publicity. When using the local authority's resources in these circumstances, you should not appear to be seeking to influence public opinion in favour of you, your party colleagues, or your party.

How do you know what the authority's requirements for the use of resources are?

Your local authority should have a protocol dealing with use of authority resources. A typical protocol would cover the following topics:

- use of authority premises
- councillor-officer relationships including use of officer time
- information technology, for example computer equipment and the use of associated software, including the use of such equipment at home
- telephones
- photocopying
- use of stationery and headed notepaper
- postage
- use of authority transport
- allowances and expenses

~~Your local authority may also have~~**The Council also has** a separate protocol on the use of social media which ~~would is~~ also be relevant. Please see the Council's Intranet for the full range of policies available to assist Members.

The key principle underlying all such protocols should be that public office and public resources should not be used to further purely private or party-political purposes.

It is worth noting that where you authorise someone such as a family member to use the authority's resources, you must check whether the authority's rules allow this.

Examples

The complaint alleged a councillor used his computer equipment provided by his local authority for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as

being from members of the public. He was found to have misused the local authority's equipment in breach of the code and had brought his office into disrepute.

A councillor used local authority notepaper in an attempt to avoid parking penalties incurred by his son. He also dishonestly attempted to renew a parking permit for disabled drivers. He was convicted of attempting, by deception, to evade the parking penalties dishonestly. He was also found by his local authority to have breached this paragraph of the code.

Complying with the Code of Conduct

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your ~~m~~Monitoring ~~e~~Officer.

14. You must (unless otherwise specifically agreed with the Monitoring Officer), comply with the Council's standards regime relating to the Code of Conduct, including but not limited to:

- a. attending standards training provided/arranged by the Council;**
- b. co-operating with any standards assessment, investigation and/or determination;**
- c. not intimidating or attempting to intimidate any person who is likely to be a party in, witness in or involved with the administration of any standards complaint, assessment, investigation or determination;**
- a-d. refraining from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members.**

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

Councillors should be competent for the work they undertake, and this includes the way in which you conduct yourself when carrying out your role as a councillor. Training helps to develop such competence, ensuring that you understand the Code of Conduct and how it applies to you.

As a councillor you are responsible for your own actions and will be held personally responsible if you breach your local authority's Code of Conduct. Therefore, it is essential that, where you are offered the opportunity by your local authority, you equip yourself with sufficient knowledge of the ~~e~~Code to ensure that you comply with it at all times.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

The Code of Conduct is a cornerstone of good governance. It is important for public trust that it is seen to be taken seriously by individual councillors as well as the local authority as a whole.

While being the subject of a complaint that you have breached the Code of Conduct and having your conduct investigated may at times be unpleasant and stressful it is essential that councillors cooperate with any ~~e~~Code investigations and determinations. Failure to cooperate will not stop an investigation but may simply drag matters and does not allow you to put your

side of the story so increases the risk that inferences are drawn about your unwillingness to cooperate and that you will be found in breach of the Code.

It is equally important if you have made a complaint which the local authority has decided merits investigation that you continue to cooperate. Complaints made simply to damage the reputation of an individual through inferences but which you are not willing to support through your cooperation will damage relationships and will also damage the reputation of you and your local authority.

If you are asked to assist the investigator as a potential witness it is again important that you do so to allow as fully rounded a picture as possible to be drawn so that any determination on a case has as much evidence as necessary in order to reach the correct decision. You should let the investigator know if you need any reasonable adjustments made.

~~8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.~~

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course. If you seek to intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

When does the duty not to intimidate start and avoiding allegations of intimidation?

Once there is the possibility of a complaint that the Code of Conduct has been broken, councillors need to be alert to how their behaviour towards potential witnesses or officers involved in handling of their case may be viewed. However innocently the contact is intended or may appear, great care should be taken when councillors deal with people involved with their case.

You should refer to your local authority's procedures ~~and protocol~~ for dealing with alleged breaches of your Code of Conduct.

~~8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.~~

Fair, consistent, and proportionate sanctions help to ensure the integrity of the standards framework and thus maintain public trust and confidence in councillors, your role, and your authorities. It is important that councillors and local authorities take standards of conduct seriously and the use of sanctions helps to demonstrate this.

Failure to comply with sanctions can bring the standards framework into disrepute.

Part 3 – Protecting your reputation and the reputation of the local authority

The ~~e~~Code requires you to register matters under 2 separate categories:

1. Gifts and hospitality, you receive in your role as a councillor; and
2. Certain types of interests

Registration of gifts, hospitality and interests

Gifts and hospitality

10. You must give careful consideration to gifts or hospitality offered to you:

- a. You must not accept any gift or hospitality (of any value) which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a Member, or which could give rise, or give the appearance of giving rise, to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, for example from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage. Where such a person does make a significant offer (estimated value £25 or more) of gifts and/or hospitality to you, you should inform the Monitoring Officer.
- b. If you do accept any gift or hospitality of estimated value £25 or more which might be attributable to your membership of the Council (other than the refreshments which might usually be expected at a Council meeting or civic function) you must disclose this, or any offer of such gift or hospitality you decline, to the Monitoring Officer within 28 days of its offer/receipt.

As a councillor:

~~9.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.~~

~~9.2 I register with the monitoring officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.~~

~~9.3 I register with the monitoring officer any significant gift or hospitality that I have been offered but have refused to accept.~~

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your ~~m~~Monitoring ~~e~~Officer for guidance.

What does “hospitality” mean?

Hospitality can be defined as any food, drink, accommodation, or entertainment freely provided or heavily discounted.

How much detail should I include on the register?

Where you register gifts or hospitality you should include the name of the person or organisation who gave you the gift or hospitality; the date on which you received it; the reason it was given; and its value or estimated value.

How do I know if gifts or hospitality have been offered to me because of my role as a councillor?

The **eCode** says you must register any gift or hospitality received in your capacity as a councillor if the estimated value exceeds **£5025**. ~~or such other limit as agreed by your local authority.~~

You should ask yourself whether you would have received the gift or hospitality if you were not on the local authority. If you are in doubt as to the motive behind an offer of a gift or hospitality, we recommend that you register it or speak to the clerk or **mMonitoring eOfficer** before deciding whether to accept it. ~~You should also refer to the local authority's policy on gifts and hospitality.~~

You do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should apply common sense when you consider how receipt of a gift might be interpreted. For example, if you are the chair of the planning committee and a birthday present arrives from a family friend who is also an applicant just before a planning application is due to be considered, then you need to think about how this would be interpreted by a reasonable member of the public.

What about gifts or hospitality I do not accept?

The **eCode** makes it clear that the presumption is that you do not normally accept gifts or hospitality. While gifts or hospitality can be offered for benign reasons it is important for your reputation, the reputation of the local authority and the need to reassure the public that decision-making is not being improperly influenced that you do not accept gifts or hospitality wherever possible.

Simply accepting gifts or hospitality and then registering it does not mean that it may be seen as reasonable. Accepting an expensive meal from somebody who is negotiating for a contract with the **eCouncil**, for example, is not 'made right' by being recorded on a public register.

There will be times, however, where turning down hospitality or gifts could be seen as causing unnecessary offence. For example, if you have been invited as a ward councillor to a local festival or faith celebration along with other members of the community then it may be entirely appropriate to accept the hospitality. However, you should always exercise particular caution if the organisers are involved in ongoing negotiations with the local authority on a particular matter.

Where you are offered a gift or hospitality but decline it you should nevertheless notify the **mMonitoring eOfficer**. That helps the authority to identify if there are any patterns and to be aware of who might be seeking to influence the authority.

What about gifts or hospitality that falls below the limit in the **eCode**?

You should always notify the **mMonitoring eOfficer** of any gift or hospitality offered to you if it could be perceived as something given to you because of your position, especially where the

gift or hospitality is from somebody who has put in an application to the local authority (or is about to) even where that hospitality falls below ~~£25.50 or the limit set by the local authority.~~

While that would not be a matter for the public register it again allows the authority to be aware of any patterns.

Also, an accumulation of small gifts you receive from the same source over a short period of say a couple of months that add up to ~~£25.50~~ or over should be registered in the interests of transparency.

What if I do not know the value of a gift or hospitality?

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may therefore have to estimate how much a gift or hospitality is worth. For example, if you attend a dinner as a representative of the authority which has been pre-paid by the sponsors you would need to make an informed judgment as to its likely cost.

What if I'm at an event but don't have the hospitality or only have a small amount?

The best way to preserve transparency is for you to assess the hospitality on offer, whether it is accepted or not. This is because it would clearly not be in your interests to be drawn into arguments about how much you yourself ate or drank at a particular occasion. For example, you may find yourself at a function where relatively lavish hospitality is on offer, but you choose not to accept it. You may go to a champagne reception but drink a single glass of orange juice for example.

As a guide you should consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. What you have been offered is the value of the event regardless of what you actually consumed. Clearly where you are in any doubt the prudent course is to register the hospitality.

Is there a minimal threshold where I wouldn't have to notify the ~~m~~M~~o~~nitoring ~~e~~O~~fficer~~?

The ~~e~~C~~o~~de is about ensuring that there is transparency and accountability about where people may be trying to influence you or the local authority improperly. However, in the course of your duties as a councillor you will be offered light refreshments or similar on many occasions. It is perfectly acceptable to have a cup of tea or biscuits at a meeting with residents at the local community centre for example and there may be times when an external meeting lasts all day and the organisers offer you a sandwich lunch and refreshments.

The Government's guide to the Bribery Act for employers says that 'the Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act.'

You should use your discretion and think how it might look to a reasonable person but always seek the views of the ~~m~~M~~o~~nitoring ~~e~~O~~fficer~~ or clerk where you are a parish councillor if in doubt.

What are ‘normal expenses and hospitality associated with your duties as a councillor’?

As well as the minimal threshold hospitality above there will be times when you are paid expenses which include an element for food and drink as part of your role.

The focus of the **eCode** is on the source of the hospitality and its nature. Hospitality does not need to be registered where it is provided or reimbursed by the authority or where it is clearly ancillary to the business being conducted, such as an overnight stay for an away-day. Therefore, hospitality at a civic reception or mayor’s ball would not need to be registered.

However, the hospitality should be registered if it is provided by a person or body other than the authority and is over and above what could reasonably be viewed as ancillary to the business conducted. You might meet dignitaries or business contacts in local authority offices. However, if such meetings take place in other venues, such as at cultural or sporting events, this should be registered as hospitality.

If you are away at a conference and you are offered entertainment by a private company or individual or attend a sponsored event you should consider registering it.

What if my role involves me attending regular events or receiving gifts or hospitality?

Some roles in a local authority will inevitably involve being offered more entertainment than others because of the ‘ambassadorial’ nature of the role. For example, the mayor or chair of the authority will be invited to a large number of functions and the leader of the local authority may be attending events as political leader of the local authority.

Although the mayor or chair, for example, may attend many social functions, they are not exempt from the requirement to register hospitality as individual councillors. However, where the hospitality is extended to the office holder for the time being rather than the individual, there is no requirement under the **eCode** to register the hospitality against your individual register. The question a councillor needs to ask themselves is, “Would I have received this hospitality even if I were not the mayor/chair?” If the answer is yes, then it must be registered.

If matters are recorded on a mayor or chair’s register any entry on the register should make it clear that gifts or hospitality are being accepted because of the office held and, where possible, any gifts accepted should be ‘donated’ to the local authority or to charity or as raffle prizes for example.

Gifts that are clearly made to the local authority, for example a commemorative goblet which is kept on display in the local authority’s offices, do not need to be registered in the councillor’s register of gifts and hospitality. However, such gifts ought to be recorded by the local authority for audit purposes.

Register of interests

Section 29 of the Localism Act 2011 requires the **mMonitoring eOfficer** to establish and maintain a register of interests of members of the local authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that

might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision-making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the **M**onitoring **O**fficer the interests which fall within the categories set out in **Table Appendix 1 to the Council's Code of Conduct** (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table Appendix 2 to the Council's Code** (Other Registerable Interests).

You must register two different categories of interests:

1. Disclosable Pecuniary Interests – these are categories of interests which apply to you and your partner. The categories are set out in regulations made under s27 of the Localism Act 2011 and knowing non-compliance is a criminal offence.
2. Other registerable interests – these are categories of interest which apply only to you and which the LGA believes should be registered as an aid to transparency.

Further details about these two categories follow. For guidance on when these interests give rise to a matter which needs to be declared at a meeting see the guidance on declaring interests in Part 3.

Disclosable Pecuniary Interests

These are interests which must be notified to the principal authority's **M**onitoring **O**fficer within 28 days of the **C**ode being adopted by your local authority or within 28 days from when you become a councillor in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to register or declare such an interest at a meeting is a criminal offence. You must keep your register up to date so, as soon as a new interest needs to be registered or you cease to hold an interest, you should notify the monitoring officer.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) and the categories covered are set out in Appendix **1A** of the Code.

Offences

It is a criminal offence under the Localism Act 2011 to

- fail to notify the **M**onitoring **O**fficer of any disclosable pecuniary interest within 28 days of election or co-option
- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- fail to notify the **M**onitoring **O**fficer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- knowingly or recklessly provide information that is false or misleading in notifying the **M**onitoring **O**fficer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to five years.

Disclosable Pecuniary Interests:

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the eCouncil) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the local authority for a month or longer

Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

* director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Does 'office carried on for profit or gain' include allowances I may receive from another local authority I sit on?

If you receive allowances which are treated as taxable income rather than simply being pure reimbursement of expenses, say, then they do need to be registered and declared as appropriate.

Reimbursement of expenses is separately covered by the DPI category 'sponsorship' and makes clear that it excludes the need to register or declare reimbursement of expenses from one's own authority. However, that does not exclude any allowances received from another authority. This is supported by a letter written by the then Minister Brandon Lewis to Desmond Swayne MP in 2013 when this issue was raised with Government which said: "a member being in receipt of taxable members' allowances may be considered to give rise to a disclosable

pecuniary interest under the subject of 'Employment, office, trade or vocation' set out in the regulations.

That means that any member in receipt of taxable allowances from another authority would have to register such as a DPI. For example, a parish councillor who is also a district councillor and is in receipt of taxable allowances from the district would need to register that fact.

How much detail do I need to put about my employment?

It is not enough simply to put, for example, 'management consultant' or 'teacher'. Sufficient detail should be given to identify your company or employer. This aids transparency and allows people to see where potential conflicts of interest may arise.

Where you have a sensitive employment, which should not be disclosed you should discuss this with your Monitoring Officer (see 'sensitive interests' below). While the law on sensitive interests only applies to where there is a fear of intimidation there may be employment, such as certain sections of the military, which cannot be disclosed for other reasons so you should always seek advice if in doubt.

What is a contract with the local authority?

Some councillors' own businesses which may have dealings with the local authority. For example, a grounds maintenance company may contract with a parish council for grass cutting. Such contracts should be included on the register of interests.

More broadly, councillors, as residents, may have dealings with the local authority in their personal lives. For example, some councillors pay their own local authority to have garden waste collections, rent an allotment or may be a member of the gym of a local authority operated leisure centre. Such arrangements form a subscription service that are open to all residents, and do not require registration.

How much detail is required of landholdings?

Sufficient detail should be given to identify the land in question.

An address and, where the address is not sufficient, details that are sufficient to identify the land will usually meet the requirement. A plan identifying the land may be useful in some situations but is not a requirement.

Do you have to register the landholdings of your employers or bodies you have shareholdings in?

In general, there is no requirement to list the landholdings of companies or corporate bodies included in the register. The only requirement is to register any tenancy between such bodies and the authority (under the corporate tenancies). Obviously, you can only be expected to register those you ought reasonably to be aware of, so, for example, if you work for a large housebuilder you may not be aware of which land in the local authority's area they had options on.

You do need to be mindful of your level of control in the company and the effect this may have on your benefit from the land. For example, if you and your spouse jointly owned a farming business, you would be the sole beneficiaries of any land owned by that farm and as such it is strongly advised to register land held by companies in which you have a controlling interest.

What about my home and tenancies?

The most common beneficial interest in land councillors have is their home address. You should include in here your home if you live in it; whether that be as a result of a mortgage, tenancy, or other arrangement (for example, a councillor is living with their parents but not paying a rental fee to them).

You should also include in the section for beneficial interests in land any tenancy properties you own in the local authority's area.

How much information do you have to give out about shareholdings?

In general, if you hold more than £25,000 of equity in a company, or more than 1 per cent of a shareholding, you are required to declare this.

Many councillors hold investments through trust funds, investment funds or pension funds which are managed by fund managers. In that situation, you may not know if you actually hold more than £25,000 in a single company or more than 1 per cent of a shareholding. The expectation is that you should take reasonable steps to ensure you do understand what investments you may have and whether the requirement to register applies, and so:

1. It can be helpful for councillors to state on their form that they have funds invested in specific funds.
2. It can be helpful for councillors to make fund managers aware of their requirement to declare where they hold significant investments within a company that operates in the local authority's area so that they can be notified if this is the case.

Do I have to separate my spouse/partners interests and my own interests?

The law only requires you to register the interests, and you are not required specifically to state whether the interest is held by you, or by your spouse. However, many local authorities do ask for this information as it can be more transparent to separate it.

How much information do I need to obtain from my spouse/partner?

You need to make sure you take all reasonable steps to obtain information from your spouse or partner about their interests. For example, you would reasonably be expected to know where they worked, or if they owned any rental properties. You would be expected to ask if they had any shareholdings in companies, but they may not know the full details of an investment fund they had and where it was invested, and if that were the case, you would not be expected to know (and register) it either.

Other registerable interests

In addition to the Disclosable Pecuniary Interests above, you must, within 28 days of the ~~e~~Code being adopted by your local authority, or your election or appointment to office (where that is later), notify the ~~M~~monitoring ~~e~~Officer in writing of the details of your interests within the following categories, which are called 'other registerable interests':

~~(a) (a)~~ Details of any unpaid directorships you hold

~~(b)~~ Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your local authority;

(bc) Details of any body of which you are a member or in a position of general control or management and which –

- exercises functions of a public nature
- is directed to charitable purposes, or
- is a body which includes as one of its principal purposes influencing public opinion or policy (including any political party or trade union/professional association)

(c) Details of any gifts or hospitality with an estimated value of £25 or more ~~than £50 or such other limit as your local authority has agreed~~, that you receive personally in connection with your official duties.

With Other Registerable Interests, you are only obliged to register your own interests and do not need to include interests of spouses or partners. Therefore, a spousal interest in a local group is not registerable as an 'other registerable interest'. Failure to register these interests is not covered by the criminal offence but would be a breach of the eCode.

What is a “body exercising functions of a public nature”?

Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -

- does that body carry out a public service?
- is the body taking the place of local or central government in carrying out the function?
- is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- is the function exercised under legislation or according to some statutory power?
- can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of a council, school governing bodies.

Do local campaigning or Facebook groups need to be registered?

Membership (which does not include simply being on a mailing list), of local campaign or Facebook groups will only need to be registered if they are bodies:

- exercising functions of a public nature;
- directed towards charitable purposes; or
- one whose principal purpose includes influencing public opinion or policy.

Generally, it is unlikely that these groups will be regarded as formal bodies to be registered. However, each case should be considered on its own merits. ‘A Body’ is defined as ‘a number of persons united or organised’. Some groups are very united on their cause and organised, but their purpose must fall under one of the functions listed above.

There must also be some formality to the membership, such as registration for example. Simply attending a meeting of a local campaign does not of itself make you a ‘member’ of that organisation.

There has been a growth in organisations which are more nebulous in nature, and no formal membership requirements exist, such as Extinction Rebellion. It can be helpful to ask yourself the question “do I consider I am a member of the organisation” and if the answer is yes, then register the membership for transparency purposes.

If you need further information or specific advice, please speak to your clerk or **mMonitoring eOfficer**.

What about membership of a political party or trade union?

~~The second category~~ One of the categories of other registerable interests refers to membership of a body or being in a position of general control and management of a body, one of whose principal purposes includes the influence of public opinion or policy. This includes any political party or trade union. Memberships of political parties and Trade Unions therefore need to be registered. Remember that if because of membership of a political party or a trade union any payment or financial benefit is received, it is likely to come under the Sponsorship category of DPI.

Sensitive interests

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the **mMonitoring eOfficer** agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

What is sensitive information?

It may include your sensitive employment (such as certain scientific research or the Special Forces) which is covered by other legislation or interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you. For example, disclosure of your home address where there has been a threat of violence against you or where there is a court order protecting your whereabouts.

You should provide this information to your **mMonitoring eOfficer** and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your **mMonitoring eOfficer** agrees, but you need to disclose at meetings the fact that you have an interest in the matter concerned (see guidance on declaring interests).

What happens if the **mMonitoring eOfficer does not agree that the information is sensitive?**

It is for the **mMonitoring eOfficer** to decide if the information is sensitive. You must notify the **mMonitoring eOfficer** of the information which you think is sensitive and give your reasons and any supporting evidence.

If the **mMonitoring eOfficer** agrees, this information does not need to be included in the register of interests. However, if the **mMonitoring eOfficer** disagrees then it must be registered.

What happens if the information stops being sensitive?

You must notify the **mMonitoring eOfficer** of any change in circumstances which would mean that the sensitive information is no longer sensitive within 28 days of the change, for example a change in employment. The information would then be included in the authority's register of interests.

I haven't received a direct threat, but I am concerned about registering my home address.

At present, councillors are required to register their home address as part of their local authority's register of interests which are typically published on their local authority website. There have been growing concerns about the potential for threats and intimidation to councillors by virtue of disclosing their home address. Whilst some councillors believe disclosing a home address is a core component of democracy and it is important for the public to know where a councillor may live as they may be making decisions that have an impact on their property, others are very concerned about it. Section 32 of the Localism Act 2011 allows **Llocal Aa**uthorities to withhold sensitive interests from the public register where their disclosure could lead to violence or intimidation. It is recommended that councillors should not be required to register their home addresses as a disclosable pecuniary interest. The Committee on Standards in Public Life's review of Local Government Ethical Standard recommended in January 2019 that councillors should not be required to register their home addresses as a disclosable pecuniary interest. However, at present the Government has not legislated for this.

It is important that if councillors have such concerns, they share these with the **mMonitoring eOfficer** transparently and openly so they can be properly considered.

Who should you notify when registering your interests?

The Localism Act and the Code both say that the **mMonitoring eOfficer** is responsible for maintaining the register. You must therefore notify your **mMonitoring eOfficer** of your interests to be registered. This is also true for parish councillors that you must notify the **mMonitoring eOfficer** of the district, metropolitan or unitary authority for the area in which the parish council is situated.

However, the obvious point of contact for information of this type for the public is the parish clerk. The clerk needs to have an up-to-date copy of the register of interests in order to comply with public access requirements and there is a requirement for the parish council to publish the registers on their website where they have one, either directly or through a link to the relevant page on the principal authority's website. It also ensures that the clerk is aware of potential conflicts if they arise in a parish council meeting and can advise accordingly. It is therefore practical for the parish clerk to act as the point of contact between parish councillors and the relevant **mMonitoring eOfficer** by collecting their interests together, passing them on and regularly asking councillors to review if there have been any changes.

However, you should ensure that there is a system in place for the parish clerk to pass on immediately any information to the relevant **mMonitoring eOfficer** as each individual councillor is ultimately responsible for ensuring that the relevant **mMonitoring eOfficer** is in possession of all the required information.

Declarations of interest

13. You must comply with the following sections of this Code, which relate to registering and declaring in meetings certain interests you may have.

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the ~~Monitoring~~ ~~Officer~~ to establish and maintain a register of interests of members of the authority and voting co-opted Members on its committees.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table Appendix 1 of the Code, is a criminal offence under the Localism Act 2011.

~~Appendix B of T~~ the Council's Code sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your ~~Monitoring~~ ~~Officer~~.

This part of the Code is about the registering of your interests and then how to go about declaring or managing your interests.

At heart there is a simple principle – as public decision-makers, decisions must be made in the public interest and not to serve private interests. However, the rules to set out whether you have an interest or not in any given situation can be complex given the infinite variety of issues that may arise. This guidance is to help you steer a way through those rules.

The Code therefore requires members to declare interests in certain circumstances. Disclosure, in the register and at meetings, is about letting members of the public and interested parties know where you are coming from when involved in decision making and is to enable you to be 'up front' about who you are and what your conflicts of interest might be. Conflicts of interest in decision making as a councillor, and what in public law is known as 'apparent bias', are an established part of the local government legal landscape. The Nolan Principles and the Model Code require councillors to act impartially (i.e. not be biased) when carrying out their duties. (See also guidance on bias and predetermination in Part 3)

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority, yet is seldom due to actual corruption or even consciously favouring a personal interest over the public interest on the part of the councillor involved and may have no repercussions for them personally.

The object of this part of the Code is therefore twofold.

Firstly, it is to provide an explanation and a guide to the public and councillors as to what is or isn't a conflict of interest and then how a conflict between the interest you may hold as an individual councillor and the public interest you must hold as a decision maker of a public authority can be best managed.

Secondly, the Code provides a means to hold an individual councillor to account for their actions when they fail to manage that conflict of interest properly and put the decision of the public authority, including the public purse, and decisions around individuals' daily lives, at risk.

The test at law for apparent bias is 'would a fair-minded and informed observer, having considered the facts, conclude that there was a real possibility of bias'. This is why you will see this question reflected in the Code when you are asked to consider whether or not you should participate in a meeting where you have a conflict of interest.

The code contains three different categories of interests – Disclosable Pecuniary Interests (DPI); Other Registerable Interests (ORI); and Non-Registerable Interests (NRI).

For the first two categories these are interests which must be recorded on a public register except in limited circumstances (see guidance on Registration of Interests in Part 3). The third category do not need to be recorded on the register but will need to be declared as and when they arise.

This means an interest may arise not just from interests already on your register. There will also be times when, although the interest does not personally involve you, it may involve a relative or close associate. You are not expected to register every interest of those people, but you will need to declare them as and when they might arise. These are referred to in the code as 'non-registerable interests'.

As a brief summary, the requirements of the code apply where:

1. you or someone you are associated with has an interest in any business of your authority, and;
2. where you are aware or ought reasonably to be aware of the existence of that interest, and
3. you attend a meeting of your authority at which the business is considered (or where you are making a delegated decision as an individual under executive arrangements).

You must disclose to that meeting the existence and nature of your interests at the start of the meeting, or when the interest becomes apparent. It is usual to have for any declarations of interest at the start of the meeting but it is good practice also to ask again at the start of any agenda item. For example, members of the public may only be present for a specific item so will not have heard the declaration at the start, and a member may only become aware of the interest part-way through the meeting or item in any case.

And there will be times that because your interest is so close to the matter under discussion you will not be able to take part in that item of business. Those circumstances are explained in greater detail for each category of interest below.

This means there are three types of interest which you may have to declare:

Disclosable Pecuniary Interests (~~Part A of the Register~~);
Other Registerable Interests (~~Part B~~); and
Non-registerable interests.

Guidance is given below on each of these categories in turn.

Disclosable Pecuniary Interests

~~(Annex B, paragraphs 4 and 5)~~

Disclosable Pecuniary Interests (or 'DPIs') were introduced by s30 of the Localism Act 2011. They are a category of interests which relate to the member and/or their partner, such as financial interests of you or your partner such as your house or other property, or if you have a job or own a business. The categories are set out in regulations made under the Act and are in Table Appendix 1 of Annex B of the Council's Code.

'Partner' is defined by regulations as your 'spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.'

They must be registered and, where they come up in a meeting, declared. Failure knowingly to register or declare a DPI is a criminal offence under the Localism Act.

The Localism Act says that if you are present at a meeting of the Council, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- you may not participate in any discussion of the matter at the meeting
- you may not participate in any vote taken on the matter at the meeting
- if the interest is not registered, you must disclose the interest to the meeting
- if the interest is not registered and is not the subject of a pending notification, you must notify the ~~m~~Monitoring ~~e~~Officer of the interest within 28 days.

The Act says you need to declare the nature of the interest only if it is not on the public register, however the Council's Code requires you to disclose the existence and nature of the interest to the meeting (subject to this Code's provisions on sensitive interests).

In addition, ~~your authority's rules might~~the Council's Code requires you to leave the meeting room where the meeting is held while any discussion or voting takes place.

~~However, the Model Code states that it is important to declare the nature of the interest and to withdraw while the item is being dealt with.~~ This aids transparency for the public and helps avoid accusations that you may be seeking to influence the outcome by remaining in the room even if your local authority's rules don't explicitly require it.

If you have a **DPI**, you may in certain circumstances be granted a dispensation to take part (see guidance on Dispensations in Part 3).

When does a Disclosable Pecuniary Interest arise?

The Localism Act uses the phrase 'you have a DPI in any matter...'

This wording has led to some confusion as to what circumstances would lead to the need to declare a DPI. The Explanatory Notes to the Localism Act say that section 31 of the Act "requires a member of a relevant authority to disclose a disclosable pecuniary interest that they are aware of (apart from a sensitive interest), at a meeting or if acting alone, where any matter to be considered **relates** to their interest. ... It prohibits a member from participating in discussion or voting on any matter **relating to** their interest or, if acting alone, from taking any steps in relation to the matter (subject to any dispensations)." [our emphasis].

This means you have a Disclosable Pecuniary Interest (DPI) in a matter when the matter being discussed directly relates to your registered interest or that of your partner, rather than simply affecting it.

For example, if you have registered 1 Acacia Avenue as your address, you would have a DPI if you put in a planning application for 1 Acacia Avenue, or if the whole of Acacia Avenue was being considered for a Resident Parking Zone.

You would not have a DPI if 3 Acacia Avenue had put in a planning application as the matter does not directly relate to your registered interest. You may however have a non-registerable interest (see below) as the application may indirectly affect your property.

Does setting the Council Tax or precept give rise to a DPI?

The LGA is clear that you do not have a DPI simply if you are voting to set the Council Tax or precept. Guidance issued by the Government in 2013 made clear that 'any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.'

The Council Tax and precept are charges on all relevant properties in the area and do not directly relate to any single property in such a way as to give rise to a DPI. Members are therefore fully entitled to vote on the matter (subject to rules about Council tax arrears).

Other registerable interests

(~~Paras 6, 8 and 9 of Annex B~~)

The second category of interests are 'other registerable interests' or ORIs.

If you have an 'Other Registerable Interest' – that is an interest which falls within the categories in ~~Table Appendix 2 in Annex B~~ the Council's Code - the Code says you should not participate in the relevant business in two circumstances:

1. when a matter directly relates to the finances or wellbeing of that interest; ~~(para 6)~~; or
2. when a matter affects the finances or wellbeing of that interest to a greater extent than it affects the majority of inhabitants; and a reasonable member of the public would thereby believe that your view of the public interest would be affected. ~~(paras 8 and 9)~~.

An interest 'directly relates' to an outside body where the local authority is taking a decision which directly relates to the funding or wellbeing of that organisation

For example, under a) if you are a member of a group which has applied for funding from the local authority, or if you are a member of an organisation which has submitted a planning application, the decision directly relates to that organisation.

In such a case you must not take part in any discussion or vote on the matter. You can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. For example, you may want to put forward the organisation's case as to why it has applied for funding, but representatives from competing organisations would also need to be able to make their case.

If the public are not allowed to address the meeting on that item, you would need, if necessary, to get another councillor who did not have an ORI to make any relevant case.

If the local authority is simply discussing that outside organisation but not making a decision which relates to its finances or wellbeing – for example discussing the annual report from the organisation – that does not directly relate to the organisation as there is no direct impact on the organisation which would give rise to a conflict of interest.

Under b) if you are on the committee of the local village hall and an application for a licence for another venue in the village is made which may take trade away from the village hall then the matter would affect the village hall and a reasonable person would believe that would affect your view of the public interest so those two tests are met.

You would not have an interest if the local authority was discussing early planning for an event, which may or may not be held in the village hall as there would be no direct financial impact at that time. When the plans crystallised then an interest would arise as a decision would be made which would have financial implications.

There will also be circumstances where you do not need to declare an interest even though the matter may be relevant to the wider aims of an organisation of which you are a member. For example, if you are a member of a charity such as the Royal Society for the Protection of Birds (RSPB), you do not need to declare an interest every time the local authority might discuss matters relating to habitats or conservation issues. Those issues may reflect the wider aims of RSPB, but they do not directly relate to or affect the organisation and your mere membership of the organisation has no bearing on the matter.

If you were in a position of control or general management in that body and the organisation was campaigning actively on the specific issue being discussed or you personally were campaigning actively on that specific issue the situation would be different. In those circumstances you may have an interest and there is a risk of predetermination. Where there is doubt you should always seek advice from the Monitoring Officer (or clerk if you are a parish councillor).

As with DPIs you can be granted a dispensation (see below) and if the interest has not been registered or notified to the Monitoring Officer you should do so within 28 days of the meeting.

Non-registerable interest

~~(paras 7, 8 and 9 of Annex B)~~

The third category of interests is Non-registerable interests or NRIs.

A Non-registerable Interest arises where the interest is that of yourself or your partner which is not a DPI or of a relative or close associate (see definition below).

As a councillor you are not expected to have to register the interests of your relatives or close associates but under the Code you are expected to declare them as and when relevant business occurs which affects their finances or wellbeing. The Code says you should not participate in the relevant business in two circumstances:

- a. when a matter directly relates to that interest; ~~or~~
- b. when a matter affects that interest to a greater extent than it affects the majority of inhabitants and

- a reasonable member of the public would thereby believe that your view of the public interest would be affected

For example, under a) if your son has submitted an application for a licence to open a bar, the matter directly relates to your relative. You must not take part in any discussion or vote on the matter.

For example, under b) there has been an application made to build several units of housing on a field adjacent to your business partner's home. It is not their application, but they will be more affected by the application than the majority of people so again you would be expected to declare the interest and withdraw.

Similarly, an application for the property next door to you does not directly relate to your property so it is not a DPI, but you would instead need to declare a Non-Registerable Interest.

In all of these cases you can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. If the public are not allowed to address the meeting on that item, you would need if necessary, to get another councillor who did not have an NRI to make any relevant case or to represent the wider views of constituents.

As with DPIs you can be granted a dispensation (see below).

What is the difference between 'relates to' and 'affects'?

Something relates to your interest if it is directly about it. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you or an outside body you have registered has a financial interest.

'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing your property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

What does "affecting well-being" mean?

The term 'well-being' can be described as a condition of contentedness and happiness. Anything that could affect your quality of life or that of someone you are closely associated with, either positively or negatively, is likely to affect your well-being. There may, for example, be circumstances where any financial impact of a decision may be minimal but nevertheless the disruption it may cause to you or those close to you could be significant. This could be on either a temporary or permanent basis. Temporary roadworks in your street may affect your wellbeing on a temporary basis. Closure of a local amenity may have a more permanent impact on your wellbeing if you use it more than the majority of people in the area.

What are the definitions of relative or close associate?

The Code does not attempt to define "relative" or "close associate", as all families vary. Some people may have very close extended families, but others will have more distant relations. You should consider the nature of your relationship with the person (eg whether they are a close family member or more distant relation). The key test is whether the interest might be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a councillor. It would be a person with whom you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone

a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts. A close associate may also be somebody to whom you are known to show animosity as you might equally be viewed as willing to treat them differently.

What if I am unaware of the interest?

You can only declare an interest in a matter if you are aware of the interest. For example, a company of which your father-in-law is a director may have made an application to the local authority. You may not be aware that he is a director, and you are not expected to have to ask about the business affairs of your relatives or acquaintances simply because you are a councillor. However, you would need to declare an interest as soon as you became aware.

A reasonable member of the public would expect you to know of certain interests of course, so it is, for example, reasonable that you would be expected to know your daughter's address or job but not necessarily any shareholdings she might have. While it is therefore your decision as to whether or not to declare an interest, you should always consider how it might seem to a reasonable person and if in doubt always seek advice from the Monitoring Officer.

Do I always have to withdraw if I have an 'other registerable interest' or a non-registerable interest to declare?

Where you have declared a DPI the Localism Act says you must always withdraw from participation unless you have a dispensation.

If the matter is an 'other registerable interest' or a non-registerable interest you must always withdraw from participation where the matter directly relates to that interest unless you have a dispensation.

If it is something which affects the financial interest or wellbeing of that interest you are asked to declare it and the Code then asks you to apply a two-part test before considering whether to participate in any discussion and/or vote:

1. Does the matter affect the interest more than it affects the majority of people in the area to which the business relates?

For example, if a major development affects the settlement where your sister lives and your sister would be no more affected than anybody else – for example, she lives at the other end of the settlement rather than next door to the development, the answer would be no. If the answer is yes, you then ask:

2. Would a reasonable member of the public knowing all the facts believe that it would affect your judgment of the wider public interest?

This is similar to the test for bias (*see guidance on predetermination and bias in Part 2*) and if the answer is yes to that question then you must not take part in the meeting.

You help to run a food bank and are considering a motion to investigate the causes of poverty. A reasonable member of the public would not think that fact would affect your view of the wider public interest.

You are over 65 and are taking part in a discussion about provisions for older people. You would be more affected than the majority, but a reasonable member of the public would not think that fact would affect your view of the wider public interest.

You are discussing closure of the local authority-run home where your elderly parent lives. A reasonable member of the public would think that fact would affect your view of the wider public interest because of the direct effect on your parent.

What does ‘withdraw from the meeting’ mean?

When you withdraw from the meeting that means you must not be present in the room during the discussion or vote on the matter. If the public are allowed to speak at the meeting then you would be granted the same speaking rights as the public and would need to comply with the same rules – for example, giving notice in advance or abiding by time limits. However, unlike the public you would then withdraw once you had spoken.

This would be true at a committee meeting, for example, even if you are not a member of the committee but are simply attending as a member of the public. By staying in the room, even though you are not permitted to speak or vote, it is a long-held doctrine of case law that a councillor may still influence the decision or might gather information which would help in the furtherance of his or her interest. It is therefore in the public interest that a councillor, after having made any representations, should withdraw from the room, and explain why they are withdrawing.

These rules would apply to virtual meetings as they would to physical meetings. For example, after having spoken you should turn off your microphone and camera and may be moved to a ‘virtual waiting room’ while the item is discussed.

Executive decisions

Where you are an **e**Executive **m**Member you should follow the same rules as above when considering a matter collectively – that is you should not take part in the decision where you have an interest applying the same rules as apply to other meetings above.

Where you have delegated decision-making power, you should not exercise that delegation in relation to matters where you have a disclosable pecuniary Interest or another type of interest which would debar you from taking part in a meeting. Instead you should ask the **e**Executive to take the decision collectively without your participation.

Where you have been delegated non-executive powers under s.236 of the Local Government and Public Housing Act 2007 you should similarly follow this approach and your local authority may need to make that clear in its code if it is using that power.

Dispensations

Wherever you have an interest the **e**Code allows you to apply for a dispensation. The Localism Act sets out arrangements for applying for a dispensation where you have a DPI but is silent about dispensations for other types of interest as they are not statutory interests. A similar process ~~should-is~~ however, ~~be set out in your constitution or Dispensation Policy~~ included in the Council’s Code for ORIs and NRIs.

A dispensation must be applied for in writing to the ‘Proper Officer’ (the **m**Monitoring **e**Officer or, in the case of a parish council, the clerk) in good time before the relevant meeting and will be considered according to the local authority’s scheme of delegation for considering a dispensation. The circumstances whereby a dispensation may be granted are where -

1. It is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
2. It is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
3. That the authority considers that the dispensation is in the interests of persons living in the authority's area.
4. That the authority considers that it is otherwise appropriate to grant a dispensation.

What is a 'sensitive interest'?

There are circumstances set out in the Localism Act where you do not need to put an interest on the public register or declare the nature of an interest at a meeting although you would have to declare in general terms that you have an interest. These are so-called 'sensitive interests'.

An interest will be a sensitive interest if the two following conditions apply:

- (a) That you have an interest (whether or not a DPI); and
- (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.

Where it is decided that an interest is a "sensitive interest" you must inform the Monitoring Officer of the interest so that a record is kept but it will be excluded from published versions of the register. The Monitoring Officer may state on the register that the member has an interest the details of which are excluded under that particular section.

Where the sensitive interest crops up in a meeting the usual rules relating to declaration will apply except that you will only be required to disclose that you hold an interest in the matter under discussion but do not have to say what that interest is. The Localism Act sets out the scheme where the DPI is a sensitive interest. Your local authority procedures should allow for similar arrangements for other registerable or declarable interests.

For example, if your sister has been subject to domestic violence such that the perpetrator has been served with a Domestic Violence Protection Order you would not be expected to disclose your sister's address to a meeting.

What do I do if I need advice?

If you are unsure as to whether you have an interest to declare you should always seek advice from the Monitoring Officer (or the clerk if you are a parish councillor).

The Golden Rule is be safe –seek advice if in doubt before you act.

No.	TYPE	SPEAK*	VOTE	STAY	EXAMPLE	COMMENTS
4	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can "address" meeting if public can do, but not take part in discussion.</i>
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate-Unforeseeable-can "address" meeting if public can do, but not take part in discussion.</i>
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	<i>Affects finances or wellbeing-test 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
2b/3b	NRI	Test	Test	Test	Road works noise outside your house	

					<p>Odours from nearby refuse tip</p> <p>ASB from rough sleepers housed in B+B's nearby</p>	<p><i>May not affect finances but Well-being=quality of life – apply 2-stage test</i></p>
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*speak-take part in discussion, as opposed to addressing a public meeting as a member of the public where others can also address the meeting

Proximity in personal relationship and in physical proximity are often important factors in determining ability to speak and/or vote.

Bias and Predetermination

24. Members involved in making a decision on particular business must always bear in mind the rules relating to bias and predetermination and must not participate in, or seek to influence, Council business where their interests (including those other than disclosable pecuniary interests of a type set out in Appendix 2) may prejudice, or appear to prejudice, their views.

~~Bias and predetermination are not explicitly mentioned in the Code of Conduct. The Council's Ceode contains detailed provisions on the declarations of interests, to ensure councillors are about ensuring you~~ do not take decisions where ~~you-they~~ or those close to ~~you-them~~ stand to lose or gain improperly. (See guidance on declarations of interest in Part 2). The Council's Code also reminds councillors of the common law rules relating to bias and predetermination.

~~There-This~~ is ~~however~~ a separate concept in law, ~~dealing with bias and predetermination~~ which exists to ensure that decisions are taken solely in the public interest rather than to further private interests.

Both the courts and legislation recognise that elected councillors are entitled, and indeed expected, to have and to have expressed their views on a subject to be decided upon by the local authority. In law, there is no pretence that such democratically accountable decision-makers are intended to be independent and impartial as if they were judges or quasi-judges.

Nonetheless, decisions of public authorities do involve consideration of circumstances where a decision-maker must not act in a way that goes to the appearance of having a closed mind and pre-determining a decision before they have all of the evidence before them and where they have to act fairly. Breaches of the rules of natural justice in these circumstances have and do continue to result in decisions of local authorities being successfully challenged in the courts. These issues are complex, and advice should be sought and given in the various situations that come up, ~~which is why there are no direct paragraphs of the code covering this, although it does overlap with the rules on declarations of interest.~~

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise the decision is at risk of being challenged on appeal or in the Courts. To quote a leading judgment in this field "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of

attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach.” [~~4 Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)~~]

The rules against bias say that there are three distinct elements.

The first seeks accuracy in public decision-making.

The second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal strong feelings they may have had in advance of making the decision.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that justice should not only be done but should manifestly and undoubtedly be seen to be done.

To varying degrees, these “requirements” might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: “automatic” (or “presumed”) bias, “actual” bias, and “apparent” bias.

~~[1] Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)~~

The rationale behind “automatic” or “presumed” bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased in fact. In these circumstances you should not participate in the discussion or vote on the issue. These are covered by the eCode’s requirement to declare certain interests and withdraw from participation. (see guidance on declaration of interests in Part 3).

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority yet is seldom due to actual corruption or even consciously favouring a personal interest over the public interest on the part of the councillor involved and may have no repercussions for them personally.

Predetermination

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

Predetermination at a meeting can be manifested in a number of ways. It is not just about what you might say, for example, but it may be shown by body language, tone of voice or overly-hostile lines of questioning for example.

You are therefore entitled to have a predisposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come

to the relevant meeting with an open mind and demonstrate that to the meeting by your behaviour, able to take account of all of the evidence and make your decision on the day.

How can bias or predetermination arise?

The following are some of the potential situations in which predetermination or bias could arise.

Connection with someone affected by a decision

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

Examples

The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

The complaint about the officer described above is made by the local office of a national charity of which the councillor is an ordinary member and is not involved with the local office. The councillor should be able to participate in this situation because the matter is not concerned with the promotion of the interests of the charity.

Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

Examples

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of councillors are given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision

is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

If the councillor is merely seeking to lobby a public meeting at which the decision is taking place but will not themselves be involved in making the decision, then they are not prevented by the principles of predetermination or bias from doing so. Unlike private lobbying, there is no particular reason why the fact that councillors can address a public meeting in the same way as the public should lead to successful legal challenges.

Examples

A local authority appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the local authority's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

A developer entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator had already been granted. Following local elections there is a change in the composition and political control of the local authority. After pressure from new councillors who have campaigned against the incinerator and a full debate, the local authority's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The local authority's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

What do I do if I need advice?

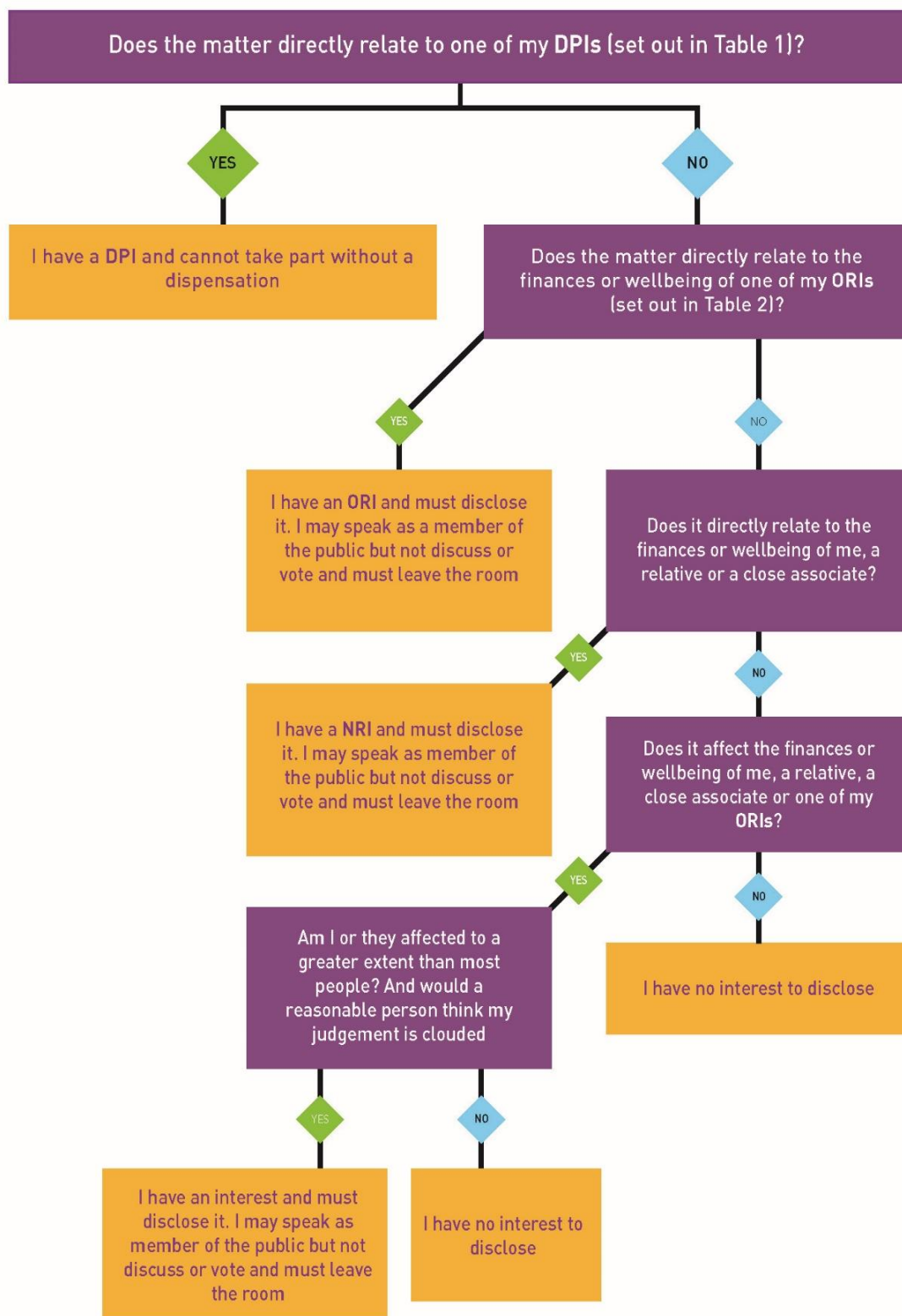
If you are unsure as to whether your views or any action you have previously taken may amount to predetermination you should always seek advice from the **Monitoring Officer** (or the clerk if you are a parish councillor).

The Golden Rule is be safe –seek advice if in doubt before you act.

Appendix 1 - Interests Flowchart

Interests Flowchart

The flowchart below gives a simple guide to declaring an interest under the code.



Appendix 2 - General Principles

General Principles

The Seven Principles of Public Life (also known as the Nolan Principles) outline the ethical standards those working in the public sector are expected to adhere to. The principles apply to all public office holders at all levels including ministers, civil servants, councillors, and local authority officers, as well as private and voluntary organisations delivering services paid for by public funds. The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These principles underpin the standards that councillors should uphold and form the basis for the Code of Conduct, where the Principles have been translated into a series of clear rules. While fundamental to the Code of Conduct the principles are not part of the rules of the Code and should be used for guidance and interpretation only.

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Officers' Registration of Interests

1.0 PURPOSE OF REPORT

- 1.1 To update the Committee regarding the regime for the registration of officers' interests.

2.0 BACKGROUND

- 2.1 At the Committee's last meeting, Members requested that details of the arrangements for the registration of officers' interests be brought to this meeting, for Members to compare the registration requirements to those required of Members.

3.0 REGISTRATION OF OFFICER INTERESTS

- 3.1 Guidance for officers on interests is contained in the Council's Standards of Conduct Policy which is published on the Intranet. The Policy contains the following specific provisions relating to officer interests:

Personal interests

9.0 Employees must declare in writing initially to the Assistant Director or Head teacher:-

- (a) Any financial or non-financial interests that they consider could bring about conflict with the County Council's and/or School's interests, e.g. being involved in an official capacity with an outside organisation.
- (b) any financial interest which could conflict with the County Council's and/or school's interests, e.g. work for which a fee is received.
- (c) Employees must declare membership of any secret societies. The definition of "secret society" is as follows:

"Any Lodge, Chapter, Society, Trust or regular gathering or meeting which:

- Is not open to members of the public who are not members
- Includes in the granting of membership a requirement of the member to make a commitment (whether by oath or otherwise) of allegiance.
- Includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy in regard to rules, membership or conduct."

In the case of a Director/Assistant Director, such a declaration must be made to the Chief Executive/Director. In the case of a Head Teacher, the declaration must be made to the Chair of Governors.

9.1 Where employees (Grade K and above) have declared an interest in regard to section 9.0(c) the detail will be kept in a register by the Council's Monitoring Officer or Head Teacher/Chair of Governors. The information is not available to the public but is accessible by other officers who have a 'need to know'.

3.2 Officers (grade K and above) are required to register their principal private interests, as set out below, and to update their interests form within 28 days of becoming aware of any material change in respect of their private interests:

1. Employment and business details of the officer and immediate family members
2. Membership of another local authority by the officer and immediate family members
3. Membership of other public bodies by the officer and immediate family members
4. Land in the area of the authority which is owned or occupied by the officer or by a member of their immediate family
5. Membership of local companies in which the officer or their immediate family own any shares or securities with a nominal value of £25,000 or more
6. Any contract for goods, services or works made between the authority and the officer, a member of their family or a company or firm of which they have registered in their interests form
7. Membership of outside bodies to which the officer has been appointed by the authority
8. Any position held within a trade unions or professional association
9. Membership of any body whose principal purposes include the influence of public opinion or policy
10. Membership of any charity or body directed to charitable purposes of which the officer is a member which operates nationally or as North Yorkshire.
11. Details of any other private interest which the officer has which they consider is likely to give rise to a conflict with the proper performance of any of their duties in their job.

Failure to declare a relevant interest or change can lead to disciplinary action being taken. A copy of the officers' interests form and supporting guidance is attached at **Appendices 1 and 2** respectively. Certain updating amendments are required to the documents for example to remove outdated references to the Standards Board which no longer exists.

3.3 Officers' interests are held by the authority in a Register of Officers' Interests which is not open to public inspection, but may be inspected by managers and key officers of the authority, by the authority's auditors and by the Ombudsman on a 'need to know' basis. Electronic options for officers' registrations, going forwards, are currently being considered.

3.4 The Standards of Conduct Policy also contains links to officers' gifts and hospitality requirements:

Gifts and hospitality

12.0 Both Council and school employees may from time to time, in the course of their work, encounter situations where individuals or organisations may offer gifts or hospitality. Whilst most are well meant and innocent, nationally there have been instances of benefits being offered and accepted for corrupt purposes to secure improper advantage. The rules which regulate the acceptance of gifts and hospitality by Council employee are outlined in the 'Gifts and Hospitality Protocol for Employees' document. School based staff should refer to their Head Teacher in regards to the School's practices on this matter.

- 3.5 Further details are contained in the Gifts and Hospitality Protocol for Employees, also published on the Council's Intranet.
- 3.6 Day to day monitoring of officers' interests and gifts and hospitality is undertaken within directorates. The Standards of Conduct Policy is also referred to in Part 5 of the Council's Constitution.
- 3.7 Awareness of key policies and protocols, including the Employees Standards of Conduct Policy and requirements regarding gifts and hospitality, forms part of periodic training to officers.

4.0 COMPARISON WITH MEMBERS' REGISTRATION OF INTERESTS

- 4.1 The registration of interests by Members is governed by legal requirements in the Localism Act 2011 and informed by the national model Code and Guidance, which are reflected in the Council's Code of Conduct for Members. The following types of interest are required to be registered by Members:

A. Disclosable Pecuniary Interests – Member and partner interests

- 1) **Employment, office, trade, profession or vocation** carried on for profit or gain.
- 2) **Sponsorship** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the last 12 months in respect of any expenses incurred by the Member in carrying out duties as a member, or towards their election expenses (including any payment or financial benefit from a trade union).
- 3) **Contracts** made between the Member/the relevant person (or a body in which the Member/the relevant person has a beneficial interest) and the Council.
- 4) **Land** interests within the area of North Yorkshire.
- 5) **Licences** to occupy land in the area of North Yorkshire for a month or longer.
- 6) **Corporate tenancies** where the landlord is the Council and the tenant is a body in which the Member/relevant person has a beneficial interest.
- 7) **Securities** - any beneficial interest in securities of a body where it has a place of business or land in the area of North Yorkshire and either the total nominal value of the securities exceeds £25,000 (or one hundredth of the total issued share capital of that body); or if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member/the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

B. Other Registrable Interests – Member interests only

- 1) **Unpaid directorships**
- 2) **Bodies to which the Member is nominated by the Council**
- 3) **Public bodies** - any body exercising functions of a public nature of which the Member is a member or in a position of general control or management.
- 4) **Charitable bodies** - any body directed to charitable purposes of which the Member is a member or in a position of general control or management.
- 5) **Political parties/Trade Union/Professional Association** - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union/professional association) of which the Member is a member or in a position of general control or management.

4.2 Members should register and amend their interests themselves via the Committee Management software or, if any problems, through contacting the Monitoring Officer.

4.3 The Committee will see from comparing the registration of interests requirements for officers and Members that the scope of the requirements are almost identical, with the registration requirement for partners being slightly wider for officers.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

6.1 There are no significant legal implications arising from this report.

7.0 ENVIRONMENTAL IMPLICATIONS

7.1 There are no significant environmental/climate change implications arising from this report.

8.0 RECOMMENDATIONS

8.1 That the Committee considers the information contained in this report.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Documents: None

County Hall
NORTHALLERTON

24 February 2023

Officer's Declaration of Interests on Appointment

On appointment to any employment by the authority, the authority requires you to make a written declaration of your principal private interests, as set out below. Please complete this form to the best of your ability. It is recognised that you may not know details of the business affairs of members of your family. However, you are required to update your declaration within 28 days of becoming aware of any material change in respect of your private interests. Failure to declare a relevant interest or change in your private interests can lead to disciplinary action being taken against you.

This declaration will be held by the authority in a Register of Officers' Interests. You may ask for access to your declaration at any time and may correct or update it as required. This register is not open to public inspection, but may be inspected by your managers and key officers of the authority, by the authority's auditors and by the Ombudsman and the Standards Board.

Name:	Employee Reference No:	Directorate/Group:
Business Unit:		Job Title:

Please read this form carefully through and complete.

Type of Interest		Please enter any relevant information below
1.	<p>Employment:</p> <p>Enter details of any paid employment (other than your employment with the authority), and any firm of which you are a partner.</p> <p>Enter details of any paid employment of any member of your immediate family, and of any firm in which any member of your family is a partner. (You do not need to name the family member).</p> <p>Enter details of company directorships and other businesses in which you have a controlling interest.</p>	
2.	<p>Membership of another local authority:</p> <p>Enter details if you or your immediate family are elected or co-opted members of any other local authority</p>	
3.	<p>Other public bodies:</p> <p>Enter details if either you or a member of your immediate family who are in a position of general control or management of another public authority, such as an NHS body, school governing body or parish council.</p>	
4.	<p>Land:</p> <p>Enter details of any land in the area of the authority which is owned or occupied by you or by a member of your immediate family (including your home address).</p>	

Type of Interest		Please enter any relevant information below
5.	<p>Membership of local companies:</p> <p>Enter details of any company which owns land or has a place of business within the area of the authority, and in which you or your immediate family own any shares or securities with a nominal value of £25,000 or more (NB the nominal value is that shown on the share and not the true value - which is likely to be higher)</p>	
6.	<p>Contracts:</p> <p>Enter details of any contract for goods, services or works made between the authority and yourself, a member of your family or a company or firm of which you have entered details above</p>	
7.	<p>Outside Bodies:</p> <p>Enter details of any body or organisation to which you have been appointed by the authority</p>	
8.	<p>Trades unions and professional associations:</p> <p>Any position which you hold within a trades union or organisation. It is not necessary to register membership.</p>	
9.	<p>Lobbying organisations:</p> <p>Enter details of any body whose principal purposes include the influence of public opinion or policy, of which you are a member</p>	
10.	<p>Charities:</p> <p>Enter details of any charity or body directed to charitable purposes of which you are a member which operates nationally or as North Yorkshire. It is not necessary to register charities whose operations are centred on an area outside North Yorkshire.</p>	

Type of Interest		Please enter any relevant information below
11.	<p>Other interests:</p> <p>Enter details of any other private interest which you have which you consider is likely to give rise to a conflict with the proper performance of any of your duties in this job</p>	

Please delete as appropriate

- ◆ I have no interests which I am required by the Code of Conduct to declare on this form
- ◆ I have interests and I have set these out above.

I have read the Code of Conduct and understand that I must declare relevant interests

Signed

Date

Please print name:

Notes:

“Family” means your husband, wife or partner, parents, parents-in-law, step-parents, son, daughter, step-son, step-daughter, child of a partner, brother, sister, brother-in-law or sister-in-law.

“Immediate Family” means your husband, wife or partner

“Ownership” of land includes ownership of an option to buy land

“Partner” means any person with whom you co-habit as partner

1. Employment or Business

Please register the name and address of your employment, other than that for the County Council, or as a result of your employment with the County Council.

Please also register any company directorships or businesses that you own. If you are a landlord or have a side business, this should be registered here.

Please register the name and address of your husband, wife or partner's employment. You should also register the employment of anyone whose employment could have a direct impact on your wellbeing, such as a resident of your household with whom you share financial expenditure (this could include a child whose employment could have a significant impact on family expenditure, an adult child or parent who resides with you, it does not include a lodger or tenant who has no other connection to you than that contractual relationship).

2. Membership of another Local Authority

You should register an interest if you yourself are a member of another local authority, including the nature of your membership, and details of any other bodies you are a member of as a result of your local authority membership.

Please register the name and relationship to you of a member of your immediate family who is a member of another local authority. [An immediate family member is defined in Appendix One above.]

A local authority includes parish councils, district councils, county councils, borough councils, and metropolitan councils.

3. Other public authorities

Please register your own involvement in another public body, this could include a NHS body, a National Park Authority, a Police Authority or a Fire and Rescue Authority and the nature of that involvement.

Please also register the name and relationship to you of a member of your immediate family are in a position of general control or management of another public authority.

4. Land

Please register all land owned in the area of North Yorkshire including your home address. Include land under separate title adjacent to your home address. Land may be under separate title if it was purchased at a different time, or as two separate land holdings. Please also register any other land holdings you or your immediate family have in the area of North Yorkshire County Council. You need not register land ownership outside North Yorkshire.

If you or a relevant person is e.g. a farmer with an extensive land holding, you need only list the area of the land held and its general position in relation to the nearest hamlet or village.

Eg: Two acres of land to the west of the village of Barton.

Occupation of land by a licence or tenancy agreement is an interest, and should be registered in exactly the same way as land ownership.

5 Membership of local Companies

You need only register shares or securities with a nominal share value of £25,000. This is a relatively large amount of shares, and unless you have significant share holding in a business you unlikely to need to register that share holding under this section. If the company does not own land or conduct business in the area then you do not need to register the interest, even if you have a substantial shareholding of the level indicated.

6. Contracts

If you or your partner is involved in any contract with the County Council other than the usual service contracts such as a parent for school meals or school transport, general public library usage, etc you should register these.

You should certainly register any interest which result in you or your immediate family submitting a quote or a tender to the Council in relation to any contract.

7. Outside Bodies

If the authority has appointed you to sit on any partnership or any other body as a representative of the County Council you should register the name of the body, its purpose or function, and the nature of your membership (including whether you have voting rights).

8. Trades Unions and Professional Associations

Please register if you hold a position within any trades union or professional association e.g. the law society.

(NB: Access to this information will be restricted to those persons indicated and for the purposes set out above).

9. Lobbying Organisations

A body designed to influence public opinion could include the Campaign for Real Ale, the Ramblers Association, the British Horse Society, it would also include political parties of which you are a member. There are lobbying groups established for particular purposes e.g. to oppose a development, or satellite mast. If you are a member of this type of group you should declare the interest in your register. If the County Council is likely to be consulted or make the decision on the issue, you should inform your line manager of your membership of the group at the time.

10. Charities

Please declare your Membership of any charity or body directed to charitable purposes. Membership is formal Membership and not simply making a regular donation.

NB where a body falls into more than one category chose that one which most nearly describes the body, it is not necessary to register the same interest twice.

If you are in doubt about whether to declare an interest then declare the interest or seek advice from the Monitoring Officer.

Please note that the completion of the form is only part of your obligation. You are required to declare interests whenever a conflict arises between any personal interest and your role for the Council. Further details are provided in the Employees Code of Conduct.

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Local Ethical Framework Developments

1.0 PURPOSE OF REPORT

- 1.1 To update Members on the development of the national ethical framework under the Localism Act 2011.

2.0 BACKGROUND

- 2.1 Members receive a report at each Standards Committee meeting setting out any recent developments in the ethical framework.

3.0 HANDLING ONLINE ABUSE AND INTIMIDATION – LGA PRESENTATION SLIDES

- 3.1 Presentation slides on “Handling online abuse and intimidation” are now available on the Local Government Association (LGA) website, for Members’ information:

[Handling online abuse and intimidation, 1 February 2023 | Local Government Association](#)

4.0 COMMITTEE ON STANDARDS IN PUBLIC LIFE REPORT - “LEADING IN PRACTICE”

- 4.1 At its last meeting, the Standards Committee was informed about the Committee on Standards in Public Life (CSPL)’s review, ‘Leading in Practice’, looking at the role of leadership in embedding the General Principles of Public Life (the Nolan Principles) in public sector organisations.

- 4.2 The CSPL has now published its report “Leading in Practice” which sets out case studies and examples from both the public and private sector on maintaining standards within organisations and embedding ethical values in their culture, policies, practices and in the services they deliver. The report, 84 pages long, is available to download from the CSPL website:

[Leading in Practice – A review by the Committee on Standards in Public Life \(publishing.service.gov.uk\)](#)

- 4.3 There is also an open letter from the Chair of the CSPL to public sector leaders about ethical leadership, “to prompt reflection, discussion and action” on the importance of ethical leadership:

<https://www.gov.uk/government/news/the-committee-on-standards-in-public-life-publishes-new-report-leading-in-practice>

- 4.4 The report poses 20 questions for consideration by leaders relating to

- Communicating values and leading by example

- Encouraging a ‘speak up’ culture
- Training, discussion and decision-making
- Governance
- Recruitment and performance management

4.5 Key highlights from the report are:

- the Principles of Public Life have stood the test of time and permeated public consciousness;
- it is crucial that the underpinning principle to act always in the public interest is maintained, and any decisions to shortcut normal processes are clearly explained and open to scrutiny;
- Senior leaders set the tone for their organisation. They must be clear about the importance they attach to the values of their organisation, exhibit those values and be willing to address behaviour inconsistent with those values;
- futility and fear can be barriers to speaking up. Creating a ‘speak up’ culture requires leaders to take a proactive approach, to listen, to take action where appropriate, and to provide feedback on the outcome;
- regular training and discussion of the Principles of Public Life is integral to embedding high standards of conduct;
- identifying and bringing together data into a single report can be instructive for assessing the culture of an organisation;
- the CSPL would encourage public sector organisations to consider incorporating an assessment of how candidates’ personal values align with the Principles of Public Life within their recruitment and selection processes, particularly for senior leadership positions.

5.0 **CSPL LETTER RE STANDARDS SANCTIONS**

5.1 The Chair of the CSPL has written to the Levelling up Secretary, calling on the Government to reconsider its stated position regarding the sanctions available to authorities where a breach of the Code of Conduct has been found.

5.2 Last year the Government rejected the CSPL recommendation in its 2019 report on Local Government Ethical Standards that authorities should be able to suspend councillors in breach of the Code. The Government stated that “There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.”

5.3 The Chair of the CSPL has urged the Secretary of State to reconsider the CSPL’s recommendations in its report stating that “It was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards. There is clear frustration within local authorities at the limited powers within the local government standards regime to address poor behaviour by a minority of individuals.”

5.4 Members will be kept informed of developments.

6.0 GUIDANCE ON SOCIAL MEDIA

6.1 The Civility and Respect Project team established by the National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations has produced a guide “Actively addressing the issues of Civility and Respect on Social Media” regarding the use of social media. More information can be found via the following link:

[SLCC | Civility and Respect Guide to Social Media](#)

7.0 PREVIOUS CSPL REPORTS AND REVIEWS

7.1 Links to all reports and reviews conducted by the CSPL since 1995 are published on its website - [Previous CSPL reports and reviews - GOV.UK \(www.gov.uk\)](#).

8.0 FINANCIAL IMPLICATIONS

8.1 There are no significant financial implications arising from this report.

9.0 LEGAL IMPLICATIONS

9.1 The legal implications are set out in the body of this report.

10.0 ENVIRONMENTAL IMPLICATIONS

10.1 There are no significant environmental implications arising from this report.

11.0 RECOMMENDATIONS

11.1 That the Committee notes the contents of this report.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

None

County Hall
NORTHALLERTON

27 February 2023

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NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Dispensation Requests

1.0 PURPOSE OF REPORT

- 1.1 To present to the Committee, for determination, requests from certain County Councillors for a dispensation from the Standards Committee.

2.0 BACKGROUND

- 2.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written requests by Members/voting Co-opted Members for a dispensation under section 33 Localism Act 2011 relieving them from either or both of the restrictions on participating in the discussion and vote on a matter where they have a disclosable pecuniary interest (DPI).
- 2.2 The power to grant dispensations to Members and voting Co-opted Members under the new ethical framework was delegated by the Council to this Committee, after consultation with the Independent Persons.
- 2.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Persons) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

3.0 DISPENSATION PROCESS

- 3.1 Under the Localism Act 2011 and delegated power from the Council, where a written request has been made to the Monitoring Officer as Proper Officer, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary (and other) interests where the Committee concludes, after having had regard to all relevant circumstances, that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - (c) granting the dispensation is in the interests of persons living in the authority's area;
 - (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
 - (e) it is otherwise appropriate to grant a dispensation.

- 3.2 The Committee must decide whether the application fulfils any of the criteria set out in paragraph 3.1 and, if so, whether it is appropriate to grant the dispensation in the circumstances, after balancing the public interest in preventing a Member with an interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.
- 3.3 If the Standards Committee is minded to grant a dispensation, it must consider the scope (for example whether the dispensation will allow the Member to speak, discuss and vote on the item or speak and discuss only) and the duration of it. Dispensations may be granted for a maximum period of 4 years.
- 3.4 Any dispensation granted will be recorded in writing and kept with the Councillors' interests forms in the Council's Register of Members' Interests.

4.0 DISPENSATION REQUEST BY COUNTY COUNCILLOR LACEY

- 4.1 Councillor Lacey has submitted a written application for a dispensation from the Standards Committee. A copy is attached at **Appendix 1** to this report.
- 4.2 Councillor Lacey is seeking a dispensation for the maximum period of four years for meetings of the Scrutiny of Health Committee when it is considering business relating to Tyne, Esk & Wear Valley NHS Trust, on the grounds that granting the dispensation is in the interests of persons living in the authority's area.
- 4.3 Councillor Lacey owns, and is Managing Director, of Whole Systems Partnership Ltd (WSP), a consulting company working across health and social care (www.thewholesystem.co.uk). WSP is currently working with TEWV NHS Trust on a pro-bono basis and may in the future, gain paid consultancy business from the Trust. Councillor Lacey would not wish his comments on TEWV CQC reports or other concerns regarding service quality to indicate any advantage or inside knowledge of the Trust, nor would he wish his position as a member of the Scrutiny of Health Committee to advantage himself, or appear to do so, regarding the winning of such business that his company may secure.
- 4.4 Councillor Lacey's directorship of WSP, his business, is registered on his interests form and is therefore a Disclosable Pecuniary Interest (DPI). If there is an item of business due to be considered at the Scrutiny of Health meeting which directly relates to WSP itself, ie is specifically about it, then Councillor Lacey would need to declare the existence and nature of his interest to the meeting, not participate in any discussion or vote on the matter and withdraw from the meeting room for that item unless he has a dispensation. If something arises which doesn't directly relate to WSP but could more indirectly affect its finances or wellbeing, then Councillor Lacey may have a non-registrable interest. He would need to declare the existence and nature of his interest to the meeting, and consider whether the matter affects the financial interest/wellbeing more than it affects that of the majority of inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe it would affect Councillor Lacey's view of the wider public interest:
- if yes, then Councillor Lacey may speak if the public can but must otherwise take no part in the discussion or vote and must leave the meeting room unless he has a dispensation;
 - if no, the matter does not so affect financial interest/wellbeing etc, then he can speak and vote in the usual way after declaring the interest.

- 4.5 The Committee is therefore requested to consider and determine the dispensation request from Councillor Lacey to enable him to speak, vote and be included within the quorum at meetings of the Scrutiny of Health Committee when it is considering matters relating to the Tees Esk and Wear Valley NHS Trust.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

- 6.1 The legal implications are set out in the body of this report.

7.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS

- 7.1 There are no significant environmental/climate change implications arising from this report.

8.0 CONCLUSION

- 8.1 That the Committee determines the submitted application by County Councillor Lacey for a dispensation.

9.0 RECOMMENDATIONS

- 9.1 That the Committee considers and determines the application for a dispensation by County Councillor Lacey.
- 9.2 That, should the Committee be minded to grant the dispensation requested, the Committee determine the scope, grounds and duration of the dispensation.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

28 February 2023

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NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Request for a Dispensation

Name of Member seeking dispensation: Cllr Peter Lacey

In respect of which meeting(s)? *(Include dates, where possible)*

Health Scrutiny

In respect of what business? *(If applicable, include full details of the agenda item or other matter)*

Tyne, Esk & Wear Valley NHS Trust

Name of the Relevant Officer: *(Please indicate the name of the officer who usually presents reports on the matter for which a dispensation is sought).*

N/A

Desired length of dispensation: *(Please note the maximum length of a dispensation is four years)*

Four years

Ground(s) for application: *(Please tick the relevant box(es))*

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; ☐
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; ☐
- (c) granting the dispensation is in the interests of persons living in the authority's area; ☒
- (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or ☐
- (e) it is otherwise appropriate to grant a dispensation. ☐

Details of your interest:

Please set out full details of your interest in the business concerned. Please continue on a separate sheet if necessary:

I run a consulting group (www.thewholesystem.co.uk) who are currently, and may in future, gain business from TEWV NHS Trust with respect to service improvement.

Reasons for seeking a dispensation:

Please set out full reasons why it is desirable for the Standards Committee to grant you a dispensation in respect of the above interest. Please continue on a separate sheet if necessary:

I would not wish my comments on TEWV CQC reports or other concerns regarding service quality to indicate any advantage or inside knowledge of the Trust, nor would I wish my position as a member of Health Scrutiny to advantage me, or be seen to advantage me, regarding the winning of such business that my company may secure.

PLEASE REMEMBER THAT WHEN ACTING UNDER A DISPENSATION, MEMBERS MUST AT ALL TIMES ACT, AND APPEAR TO ACT, IN THE AUTHORITY'S BEST INTERESTS.

Signed: ..

Dated: 7th November 2022

TO: **BARRY KHAN**, Monitoring Officer, North Yorkshire County Council

North Yorkshire County Council

Standards Committee

8 March 2023

Members' Attendance at Committees

1.0 Purpose of the report

- 1.1 To report the record of attendance of Members of the County Council at meetings of the County Council and its Committees for the period May 2022 until March 2023.

2.0 Background

- 2.1 Previously, the Committee had received information as to the attendance of County Councillors at meetings of the County Council and its Committees and it was agreed that this practice should continue.

In the past the Committee has subsequently forwarded this information to the Leaders of each political group represented on the County Council, however, these details are now freely obtainable from the e-democracy website, therefore, it is suggested that this practice is no longer necessary unless the Committee has particular concerns.

3.0 Members' Attendance statistics

- 3.1 A copy of the attendance details for the period May 2022 until March 2023 can be obtained through the following link:-

<https://edemocracy.northyorks.gov.uk/mgAttendanceSummary.aspx?RPID=1224>

Details of the Calendar of meetings for the identified period can be obtained via the following Link:-

<https://edemocracy.northyorks.gov.uk/mgCalendarMonthView.aspx?XXR=0&M=5&D=D=2022&ACT=Go>

Details of the Committee Structure and membership of the Committees can be found through the following link:-

<https://edemocracy.northyorks.gov.uk/mgListCommittees.aspx?bcr=1>

- 3.2 Although this information reflects a large proportion of the Members' attendance it does not include Members attendance at meetings of:-

Scrutiny Best Value Reviews and other Working Groups
Attendance at site visits
Chairs and Group Spokespersons Briefings
Other miscellaneous meetings.
Meetings of various Outside Bodies such as Charities, School Governors etc

4.0 Recommendation

- 4.1 Subject to Members' comments the report be noted.
- 4.2 That details of any specific concerns be circulated to the Leaders of the Political Groups of the County Council.

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)
County Hall
NORTHALLERTON

March 2023
SML
Background papers: None

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Appointment of further Independent Persons for North Yorkshire Council

1.0 PURPOSE OF REPORT

- 1.1 To update the Committee regarding the process of appointing further Independent Persons for Standards for the new unitary authority.

2.0 BACKGROUND

- 2.1 Under the Localism Act 2011, each relevant authority must appoint at least one “Independent Person”, who may be called upon to undertake the functions set out in the Act in relation to potential breaches of the Members’ Code of Conduct as and when the circumstances arise.

- 2.2 Legally, the Independent Person’s views:

- are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- may be sought—
 - by the authority in relation to an allegation in circumstances other than where being investigated;
 - by a subject member or co-opted member;

The Independent Person may also be required to attend a Chief Officers’ Disciplinary Panel in the event that disciplinary action is required in respect of a Chief Officer in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended..

- 2.3 The Council’s arrangements go beyond this statutory minimum level and it involves its Independent Persons in all the Committee’s work in supporting the Council on ethical issues and key stages of complaint handling and invites the Independent Persons to all Standards Committee meetings (but they are not formal co-opted members).
- 2.4 The Independent Persons are paid an allowance and expenses in accordance with the Council’s Members’ Allowances Scheme, which is reviewed each year by the Independent Remuneration Panel on Members’ Allowances. An increased pool of Independent Persons would mean an increased financial implication for the new authority in this respect.
- 2.5 The term of office of the two Independent Persons for North Yorkshire County Council will continue post Vesting Day (1 April 2023) as a continuing authority model of local government reorganisation. At its last meeting, the Committee agreed that the Monitoring Officer should look to recruit further Independent Persons to assist the new unitary authority in promoting and maintaining the high standards of conduct amongst its elected and co-opted members as well as members of the town

and parish councils in the area for which the new unitary authority will assume responsibility from Vesting Day.

3.0 RECRUITMENT PROCESS

3.1 Under the current NYCC Constitution the Monitoring Officer, in consultation with the Chair of the Standards Committee, has power to exercise all functions in respect of the publication of Independent Person for standards' vacancies. At the time of writing this report, the Monitoring Officer is finalising the arrangements for publishing the vacancies for Independent Persons, which is likely to involve publication on NYCC's and the district and borough councils' websites and a press release supported by social media.

3.2 The proposed timetable for the recruitment process is

- Publication of vacancies – week commencing 27 February 2023
- Closing date for applications – Friday 31 March 2023
- Shortlisting by the Monitoring Officer and the Chair of the Standards Committee – week commencing 3 April 2023
- Interviews - week commencing 10 or 17 April 2023
- 3 May 2023 – papers out for Council on 17 May 2023.
- 17 May 2023 - report to full Council. Council appoints the Independent Persons.

3.3 The Constitution also provides that the Standards Committee has a role in assisting in the recruitment of Independent Persons (but not approving individual appointments, which is a function of full Council). The Committee is therefore requested to nominate Members to sit on a panel of Members of the Committee to interview appropriate candidates and make recommendations to full Council, through the Monitoring Officer (given the tightness of timescales), regarding the appointment of appropriate candidates.

4.0 FINANCIAL IMPLICATIONS

4.1 The financial implications are set out in the body of this report.

5.0 LEGAL IMPLICATIONS

5.1 There are no significant legal implications arising from this report.

6.0 ENVIRONMENTAL IMPLICATIONS

6.1 There are no significant environmental/climate change implications arising from this report.

7.0 RECOMMENDATIONS

7.1 That the Committee notes the content of this report.

7.2 That the Committee nominates Members to sit on a panel of Members of the Committee to interview appropriate candidates and make recommendations to full Council, through the Monitoring Officer, regarding the appointment of appropriate candidates.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Documents: None

County Hall
NORTHALLERTON

26 February 2023

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NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Complaints Update

1.0 PURPOSE OF REPORT

- 1.1 To update the Committee regarding ethical framework complaint activity.

2.0 BACKGROUND

- 2.1 A standing report regarding complaint activity under the ethical framework is brought to each meeting of the Standards Committee.

3.0 COMPLAINTS

New Complaints

- 3.1 There have been two new formal complaints received since the last Complaints Update report to the Committee:

NYCC/SC/84

NYCC/SC/85

At the time of writing this report, these complaints are currently awaiting assessment by the Monitoring Officer in consultation with the Independent Person for Standards and a further update will be given to the Committee when the Monitoring Officer is in a position to do so.

4.0 STATISTICS

- 4.1 For the year 1 April 2022 to date, the Council has received six formal standards complaints. All are currently live complaints; an update will be given when the Monitoring Officer is in a position to do so.
- 4.2 Members will be kept updated.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

- 6.1 There are no significant legal implications arising from this report.

7.0 ENVIRONMENTAL IMPLICATIONS

- 7.1 There are no significant environmental/climate change implications arising from this report.

8.0 RECOMMENDATIONS

8.1 That the Committee notes the current position on complaints received.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Documents: None

County Hall
NORTHALLERTON

28 February 2023

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

8 March 2023

Standards Bulletin

1.0 PURPOSE OF REPORT

- 1.1 To present to the Committee, for consideration, a draft Standards Bulletin.

2.0 BACKGROUND

- 2.1 The Standards Bulletin is produced periodically and circulated to Members and relevant Officers of the Council to keep them informed of key developments in the standards regime.
- 2.2 In adopting the ethical framework under the Localism Act 2011, the Council decided that the continued production of the Standards Bulletin would help to maintain the Council's statutory duty to promote and maintain high standards of conduct.

3.0 THE STANDARDS BULLETIN

- 3.1 The latest draft edition of the Bulletin is attached at **Appendix 1** to this report.
- 3.2 The Committee is requested to consider the Bulletin with a view to its subsequent circulation to Members and Officers and publication on the Council's website. The Bulletin is also now circulated to neighbouring authorities via the Monitoring Officer Group, parish councils and certain other authorities at their request.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are no significant financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

- 5.1 There are no significant legal implications arising from this report.

6.0 ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no significant environmental implications arising from this report.

7.0 RECOMMENDATIONS

- 7.1 That, subject to any comments Members may have, the Bulletin be updated as necessary following the outcome of the Committee's meeting and approved for circulation.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

27 February 2023



Standards Bulletin

The Standards Committee

The Members of the Standards Committee:

- County Councillor Nick Brown
- County Councillor Sam Cross
- County Councillor Melanie Davis
- County Councillor Clive Pearson
- County Councillor Heather Phillips
- County Councillor Monika Slater

Also invited to meetings of the Committee are:

- **Mrs Hilary Gilbertson MBE**, Independent Person for Standards
- **Mrs Louise Holroyd**, Independent Person for Standards

If in doubt, please seek advice from the following:

Barry Khan

Assistant Chief Executive (Legal & Democratic Services) & Monitoring Officer
Tel: 01609 532173
(barry.khan@northyorks.gov.uk)

Stephen Loach

Principal Democratic Services Officer
Tel: 01609 532216
(stephen.loach@northyorks.gov.uk)

Moira Beighton

Senior Lawyer (Governance)
Tel: 01609 532458
(moira.beighton@northyorks.gov.uk)

Introduction

This last edition of the Standards Bulletin for North Yorkshire County Council sets out the latest developments in the national standards regime, particularly in relation to the work by the Committee on Standards in Public Life.

Members will continue be kept informed of all ethical framework developments.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of his Team.

Councillor Clive Pearson
Chair of the Standards Committee

In this issue:

- Members' expenses
- New Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- Handling abuse and intimidation
- CSPL Report – "Leading in Practice"
- CSPL letter regarding standards sanctions
- Guidance on Social Media
- Revision of LGA Guidance on model code of conduct to support local councils
- Previous CSPL reports and reviews
- Complaint statistics
- Cases

STANDING GUIDANCE FOR MEMBERS

Members' Expenses

Members are reminded to include sufficient details in their expense claims and to submit them in a timely manner to avoid submitting multiple claims at the same time where possible.

Members should have regard to the current **Scheme of Approved Duties** and the **Protocol on Members' Attendance at Conferences** published in Part 6 of the Constitution, published on the Council website at [Decision Making at the Council | North Yorkshire County Council](#)

Interests' Regime

Under the Council's current Code of Conduct for Members, revised by full Council in February 2022 (in light of the new national Model Code) to apply following the elections on 5 May 2022, the following interests' regime now applies.

Registration of Interests

Members must register the following interests within 28 days of election/appointment:

- **Disclosable pecuniary interests** (DPIs) of the Member and their partner and
- **Other registrable interests** (ORIs) of the Member

and keep their interests under review, registering any changes within 28 days.

A pecuniary interest is a **DPI** if it is of a description specified in regulations ie

- **Employment, office, trade, profession or vocation (for profit or gain)**
- **Sponsorship**
- **Contracts**
- **Land**
- **Licenses**
- **Corporate tenancies**

- **Securities**

(please see the [Code](#) for the detailed descriptions)

And either:

- (a) it is the Member's interest or
- (b) an interest of—
 - the Member's spouse or civil partner
 - a person with whom the Member is living as husband and wife, or
 - a person with whom the Member is living as if they were civil partners

And the Member is aware of the interest.

Other Registrable interests (**ORIs**) are:

1. Unpaid directorships

2. Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

3. Any body:

- i. **exercising functions of a public nature**
- ii. **directed to charitable purposes or**
- iii. **one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union/professional association)**

of which you are a member or in a position of general control or management.

The Register of Members' Interests is maintained by the Monitoring Officer and is generally available for public inspection during office hours at County Hall, Northallerton (subject to any necessary Covid-19 restrictions). It is published on the Council's website (as required by the Localism Act 2011) - [Your Councillors | North Yorkshire County Council](#)

Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details electronically via the ModGov committee software system.

Participation re Interests

Disclosable Pecuniary Interests

A Member may not participate in the discussion of, or vote on, Council business *directly relating* to a DPI and must declare the existence and nature of the interest and withdraw from the meeting room at the start of the item (unless a dispensation is granted).

Other Registrable Interests

Where a matter arises at a meeting which *directly relates* to the financial interest or wellbeing of one of the Member's ORIs, then the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

Non-Registrable Interests (NRIs)

These are interests which are not required to be registered in the Register of Members' Interests (ie interests other than DPIs and ORIs):-

- (i) which *directly relate* to the Member's financial interest or well-being, or that of a relative or close associate (of which the Member could reasonably be expected to be aware); or
- (ii) which *affect* the Member's financial interest or well-being or that of a relative or close associate or of a body included under Other Registrable Interests (of which the Member could reasonably be expected to be aware).

For NRIs falling under category (i) above, the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

For NRIs falling under category (ii) above, the Member must declare the existence and nature of the interest, and then consider the 'prejudicial interest' test to determine if and how they may participate:

- Where the matter affects the financial interest or wellbeing more than it affects that of the majority of inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe that it would affect the Member's view of the wider public interest, then the Member can speak if the public can, but must not take part in any discussion/vote and must leave room (unless a dispensation is granted);
- Where the matter does not so affect the financial interest or wellbeing, then the Member may speak and vote in usual way.

If a **dispensation** is granted to a Member, the Member must still **declare** the existence and nature of the interest and the fact they are relying on a dispensation to the meeting.

What is the difference between 'relates to' and 'affects'?

Something 'relates to' a Member's interest if it is directly about it, eg the matter being discussed is an application about a particular property in which the Member or somebody associated with them or an outside body they have registered has a financial interest.

'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing the Member's property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

Please note:

A Member commits a **criminal offence** if, without reasonable excuse, they —

- fail to:
 - ❖ register disclosable pecuniary interests
 - ❖ disclose an interest to a meeting where required
 - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participate in any discussion or vote where prohibited
- an individual Member decision taker takes any steps in relation to a matter where prohibited

A Member also commits a **criminal offence** if, in relation to the registration/disclosure of disclosable pecuniary interests, they provide information that is false or misleading and —

- know that the information is false or misleading, or
- are reckless as to whether the information is true and not misleading.

A court may also disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

Please therefore keep your interests form under review to ensure it is up to date.

Interests' issues are ultimately Members' responsibility.

NB: Even if something is not a Code issue, always bear in mind the rules relating to bias, predetermination and predisposition.

If you are in any doubt as to your position, please contact the Monitoring Officer or any of his team.

Sensitive Interests

You do not need to register or declare the details of an interest which you and the Monitoring Officer have agreed is sensitive.

A “sensitive interest” is any interest (whether or not a disclosable pecuniary interest) where **disclosure of the details could lead to you,**

or a person connected with you, being subject to violence or intimidation.

The existence of an interest must still be registered/declared but not any detail in relation to it.

Should you feel that any of your interests are sensitive given any prevailing circumstances, please contact the Monitoring Officer immediately to discuss.

Bias, Predetermination, Predisposition

Members involved in making a decision on particular business must always bear in mind the rules relating to **bias and predetermination** and must not participate in, or seek to influence, Council business where their interests may prejudice, or appear to prejudice, their views.

Predetermination occurs *where a fair minded and well informed observer, looking objectively at all the circumstances, considers there is a real risk that a decision maker has refused to consider a relevant argument or would refuse.*

Possible examples of bias or predetermination are:

- connection with someone affected by a decision;
- improper involvement of someone with an interest in the outcome;
- prior involvement in a matter;
- commenting before a decision is made.

However, the Localism Act 2011 makes it clear that a Member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter; this would amount to **predisposition** to a view and is acceptable. This ensures that Members can freely discuss issues, including expressing a view and/or campaigning on an issue, and then later speak or vote on those issues.

Unless there is positive evidence of a closed mind, prior observations or

apparent favouring of a particular decision is unlikely to suffice as predetermination

Members are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

Members' Gifts and Hospitality

Members' gifts and hospitality are recorded with their Register of Interests, electronically via the ModGov committee software system.

Under the Council's revised Code of Conduct, you should not accept gifts/hospitality, of any value, which could create an impression of obligation upon you or the Council or substantive personal gain or propensity to show favour. You should inform the Monitoring Officer of any such offers.

Otherwise, you should register any gifts/hospitality received or offered worth £25 or more.

Should you have any queries in relation to the registration of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of his team.

LATEST NEWS

LGA – Handling abuse and intimidation presentation slides

Presentation slides on "Handling online abuse and intimidation" are now available on the Local Government Association (LGA) website, for Members' information:

[Handling online abuse and intimidation, 1 February 2023 | Local Government Association](#)

CSPL Report – "Leading in Practice"

In the last Bulletin, Members were informed about the Committee on Standards in Public

Life (CSPL)'s review, 'Leading in Practice', looking at the role of leadership in embedding the General Principles of Public Life (the Nolan Principles) in public sector organisations.

The CSPL has now published its report "Leading in Practice" which sets out case studies and examples from both the public and private sector on maintaining standards within organisations and embedding ethical values in their culture, policies, practices and in the services they deliver. The report, 84 pages long, is available to download from the CSPL website:

[Leading in Practice – A review by the Committee on Standards in Public Life \(publishing.service.gov.uk\)](#)

There is also an open letter from the Chair of the CSPL to public sector leaders about ethical leadership, "to prompt reflection, discussion and action" on the importance of ethical leadership:

<https://www.gov.uk/government/news/the-committee-on-standards-in-public-life-publishes-new-report-leading-in-practice>

The report poses 20 questions for consideration by leaders relating to

- Communicating values and leading by example
- Encouraging a 'speak up' culture
- Training, discussion and decision-making
- Governance
- Recruitment and performance management

Key highlights from the report are:

- the Principles of Public Life have stood the test of time and permeated public consciousness;
- it is crucial that the underpinning principle to act always in the public interest is maintained, and any decisions to shortcut normal processes are clearly explained and open to scrutiny;
- Senior leaders set the tone for their organisation. They must be clear about the importance they attach to the values of their organisation, exhibit those values and be

willing to address behaviour inconsistent with those values;

- futility and fear can be barriers to speaking up. Creating a 'speak up' culture requires leaders to take a proactive approach, to listen, to take action where appropriate, and to provide feedback on the outcome;
- regular training and discussion of the Principles of Public Life is integral to embedding high standards of conduct;
- identifying and bringing together data into a single report can be instructive for assessing the culture of an organisation;
- the CSPL would encourage public sector organisations to consider incorporating an assessment of how candidates' personal values align with the Principles of Public Life within their recruitment and selection processes, particularly for senior leadership positions.

CSPL letter re standards sanctions

The Chair of the CSPL has written to the Levelling up Secretary, calling on the Government to reconsider its stated position regarding the sanctions available to authorities where a breach of the Code of Conduct has been found.

Last year the Government rejected the CSPL recommendation in its 2019 report on Local Government Ethical Standards that authorities should be able to suspend councillors in breach of the Code. The Government stated that "There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime."

The Chair of the CSPL has urged the Secretary of State to reconsider the CSPL's recommendations in its report stating that "It

was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards. There is clear frustration within local authorities at the limited powers within the local government standards regime to address poor behaviour by a minority of individuals."

[Correspondence between Lord Evans and the Rt Hon Simon Clarke MP, Secretary of State for Levelling Up, Housing and Communities - GOV.UK \(www.gov.uk\)](#)

Members will be kept informed of developments.

Guidance on social media

The Civility and Respect Project team established by the National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations has produced a guide "Actively addressing the issues of Civility and Respect on Social Media" regarding the use of social media. More information can be found via the following link:

[SLCC | Civility and Respect Guide to Social Media](#)

Revision of LGA Guidance on model code of conduct to support local councils

The Civility and Respect Project team established by the National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations has revised the Local Government Association (LGA) Code of Conduct supporting guidance "to better reflect the sector's needs".

A copy of the revised guidance can be accessed via the following link:

[Civility and Respect Project \(nalc.gov.uk\)](#)

The guidance has been approved by NALC and the SLCC and is endorsed by the LGA.

Previous CSPL reports and reviews

Links to all reports and reviews conducted by the CSPL since 1995 are published on its website - [Previous CSPL reports and reviews - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

NYCC COMPLAINT STATISTICS

For the year 1 April 2022 to date, the Council has received six formal standards complaints which are currently under consideration by the Monitoring Officer.

Members will be kept informed of statistical information in relation to standards complaints received.

CASES

- The Local Government & Social Care Ombudsman recently found flaws in an authority's standards investigation for example that there was no formal written complaint, insufficient information was given to the subject member about the complaint allegations, lack of clarity as to whether new allegations during the process formed part of the investigation and the conflation of the investigation with a separate investigation into a different councillor.

The Ombudsman recommended that the council should apologise to the subject member and rescind its decision notice upholding the complaint and should introduce a written standards procedure.

The Ombudsman said:

"Local councillors have a key role in scrutinising their authorities' actions, and have an enhanced right of free speech to ask what might at times appear to be uncomfortable questions. Councils need to bear this in mind when deciding what constitutes a breach of their Code of Conduct.

"While both officers and members have a right to be treated with dignity and respect at work, and councils' desire to

do more to protect them from poor treatment is to be encouraged, they still need to carry out investigations into councillor standards fairly and properly..."

- The leader of an authority was found to have breached the code conduct by failing to treat others with respect when she "shouted like a banshee" at a council worker and her husband threw a small tree at the worker's head. The subject member was also found to have used "pejorative" language during a neighbour dispute, made unfounded allegations of bullying and had attempted to use her position to the benefit of her husband. The subject member apologised.

Contributors:

Moira Beighton

North Yorkshire Legal and Democratic Services

Resources

Localism Act 2011 and subordinate legislation.

www.gov.uk/government/organisations/the-committee-on-standards-in-public-life

Information published on www.gov.uk

Local Government Lawyer website

BBC news website

Local Government & Social Care Ombudsman website

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