

Standards of Conduct for Members

Programme

Welcome, introduction and aims

Wider legal framework for decision-making

Code of Conduct

“Danger zone”

FOI and DPA

Summary and closing remarks

Honor Clarke, County Solicitor

10 May 2013

WWW.SOMERSET.GOV.UK



Aims

- Have a basic appreciation of the legal framework within which members operate including criminal and civil laws, bribery and corruption, pre-determination and bias, freedom of information and data protection
- Understand the requirements of the members' code of conduct
- Recognise and know how to deal with “danger zones”
- Know where to get help

WWW.SOMERSET.GOV.UK



Wider legal framework

1. Criminal law
 - Misconduct in public office
 - Corruption
 - Failing to disclose a DPI

2. Civil liability
 - Breach of trust
 - Defamation
 - Misfeasance in public office

3. Invalidating a Council decision
 - Ultra Vires – beyond the powers
 - Exercise powers in the public interest
 - Reasonable
 - Bias/apparent bias
 - Pre-determination

WWW.SOMERSET.GOV.UK



Code of Conduct

- All local authorities are required to adopt a code of conduct, which sets out rules governing the behaviour of their members
- All elected, co-opted and independent members of local authorities are required to abide by their own, formally adopted Code. Somerset County Council adopted its Code on 18 July 2012 and amended on 24 April 2013
- The Code of Conduct seeks to ensure that members observe the highest standards of conduct when carrying out their role. The current Code incorporates the seven 'Nolan' principles set out by the Committee on Standards in Public Life

WWW.SOMERSET.GOV.UK



Code of Conduct

When does it apply?

- Applies to all members and co-opted members of local authorities
- Does not apply to officers or other employees of authorities
- Acting in official capacity – but the 7 Principles of Public Office apply at all times
- Please ask for help if required
- BUT compliance with the code is your personal responsibility

WWW.SOMERSET.GOV.UK



Code of Conduct

General Obligations

When undertaking Council business you must:

- Treat others with respect
- Not use or attempt to use your position improperly or give yourself or any other person an advantage or disadvantage
- When reaching decisions consider any relevant advice

WWW.SOMERSET.GOV.UK



Cont...

- Act in accordance with the Council's constitution
- Not use the Council's resources improperly
- Avoid doing anything which may cause the Council to breach a statutory duty
- Comply with equality and discrimination law
- Not bully any person

WWW.SOMERSET.GOV.UK



Code of Conduct

Confidential Information

Members must not disclose confidential information except in very limited circumstances:

- Have consent of a person authorised to give it
- Required by law
- For the purpose of obtaining professional advice and adviser agrees not to disclose it
- ALL 4 requirements of the public interest test are met
 - Reasonable
 - Public interest
 - Good faith
 - Comply with reasonable requirements of the Authority

WWW.SOMERSET.GOV.UK



General Principles of Public Life

Whole group exercise

WWW.SOMERSET.GOV.UK



7 Principles of Public Life (Nolan Principles)

1. SELFLESSNESS
2. INTREGITY
3. OBJECTIVITY
4. ACCOUNTABILITY
5. OPENNESS
6. HONESTY
7. LEADERSHIP

WWW.SOMERSET.GOV.UK



7 Principles of Public Life

Why are they important?

Whole group exercise

WWW.SOMERSET.GOV.UK



Code of Conduct - Interests

Disclosable Pecuniary Interests (DPIs)

Other interests

- Personal
- Personal and prejudicial

NB it is possible that an interest could be categorised as both a DPI and a personal or a personal and prejudicial interest. If so you must treat it as a DPI.

WWW.SOMERSET.GOV.UK



DPIs

A 'Disclosure 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) within the following descriptions:

Interest

| | |
|---|---------------------|
| Employment, office, trade, profession or vacation | Licences |
| Sponsorship | Corporate tenancies |
| Contract | Securities |
| Land | |

WWW.SOMERSET.GOV.UK



Personal Interests

You have a personal interest in any business of the Council where:

- (a) It relates to or is likely to affect –
 - (i) 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 the Council;
 - (iii) any body –
 - (aa) exercising functions of a public nature;
 - (bb) established for charitable purposes; or

WWW.SOMERSET.GOV.UK



Cont...

- (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (b) Where a decision in relation to any business of the Council might be regarded as affecting your well-being or financial position or the well-being or financial position of a significant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division, as the case may be, affected by the decision.

WWW.SOMERSET.GOV.UK



Prejudicial Interests

Where you have a personal interest in any business of your Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –

(a) affects your financial position or the financial position of a significant person or a body described in relation to personal interests (other than another town, parish, or district council of which you are also a member).

(b) relates to determining any approval, consent, licence, permission or registration in relation to you or any significant person or a body described in relation to personal interests (other than another town, parish, or district council of which you are also a member).

WWW.SOMERSET.GOV.UK



DPIs

- You must register them
- Apply if your own interest or the interest of your spouse or civil partner or person with whom you are living as if they were your spouse or civil partner
- Where any business of the Council relates or affects a DPI and you attend a meeting at which that business is being considered. You may not participate in any discussion of, vote on, or discharge any function relating to any matter in which you have a DPI unless a dispensation is granted

WWW.SOMERSET.GOV.UK



Other Interests

- Personal
- You must given written notice of any personal interest to the Monitoring Officer
- If you have a personal interest in any business of the Council and you attend a meeting of the Council at which the business is considered you must disclose that interest
- You may opt out of having your personal interest published on the Council's website

WWW.SOMERSET.GOV.UK



Protocol on Members/Officers Relations

- Part of Council's Constitution
- Sets framework to promote good working relationship between Members and officers
- Breaches of protocol may amount to breaches of the Code of Conduct

WWW.SOMERSET.GOV.UK



Danger Zone

Do not promise anyone anything that you are unable to do

WWW.SOMERSET.GOV.UK



Bear Trap for Members - Parking penalty challenges

- Do not express an opinion on an individual case!
- Advise individuals to follow the instructions on the back of the PCN.
- Detailed guidance on challenges/representations is available to the public on line or on the telephone.
- For policy advice contact the Parking Services Manager.

WWW.SOMERSET.GOV.UK



Information Security

Elected Members

WWW.SOMERSET.GOV.UK



What we will cover

- **Data Protection Act 1998**
 - Personal data
 - Notification
 - Disclosure of data and offences
- **Freedom of Information Act 2000**
 - SCC Commitment to FOI
 - What information is covered
- **Information Security**
 - Passwords
 - GCSx and PSN – The Government's secure network

WWW.SOMERSET.GOV.UK



Personal / Sensitive Data

Personal Data :

Information from which a living individual can be identified (on its own or with other information, name address, phone number, photo, handwriting etc)

Can be electronic information or **structured** paper filing systems

Sensitive Personal Data:

Racial or ethnic origin, Political opinions, Religious beliefs, Trade Union membership, Physical or mental health, Sexual life, Criminal offences or proceedings.

WWW.SOMERSET.GOV.UK



Notification

Annual registration to the Information Commissioner

- Purposes of processing
- Types of personal data processed
- Categories of data subjects
- Sources and disclosures of data
- Any transfers outside of the EEA

The Information Commissioner wrote to all Councils reminding them that all Elected Members must register with the ICO as data controllers.

WWW.SOMERSET.GOV.UK



Notification - Elected Members

- **Three Roles**
- As a member of the Council performing work for the County Council you are covered by the SCC Notification.
- As a member of a political party carrying out work for a political party you must be covered by the notification of that party.
- However, as an Elected Member carrying out work for a constituent, dealing with complaints and issues you must be registered with the ICO as a data controller.
 - SCC will organise the process and pay the annual fee of £35, but as an Elected Member you need to sign up to the responsibilities this entails.

WWW.SOMERSET.GOV.UK



Disclosure of Personal Data & Data Sharing

All disclosures of personal data must be:

- Fair and lawful
- Within your legal powers
- Covered by the notification
- You need to know what the recipients will do with your data
- Some exemptions, eg prevention and detection of crime

Information sharing protocols set out

- Who will share the data
- What will be shared and for what purposes
- Data Protection responsibilities for all parties

WWW.SOMERSET.GOV.UK



Individual Rights

Individuals have the rights:

- To access to their own personal data
- To prevent processing causing damage or distress
- To correct, block or erase data
- To object to direct marketing
- To compensation for contravention of the Act causing damage or distress

If an elected member in the course of Council or Constituency business processes personal data it becomes subject to the rights above.

WWW.SOMERSET.GOV.UK



It is an Offence to:

- Obtain and / or disclose data without authority
- Sell data obtained unlawfully
- Fail to comply with ICO enforcement notice
- Fail to notify the ICO
- Tamper with data required for a request

Now backed by imprisonment and a £500,000 fine

WWW.SOMERSET.GOV.UK



Advice for Elected Members

When processing personal data

- Always use a secure PCs / tablets / IPad / Smartphone
- Process / store personal securely
 - *The most secure method is to use the SMART SCC encrypted laptops*
- Use your SCC mail account for Council business
- Use encrypted memory sticks
- Keep all papers relating to personal information secure.
- If you use Outlook Web Access follow SCC Email Policy

WWW.SOMERSET.GOV.UK



The Freedom of Information Act

Government commitment to Transparency

Pro's

- Openness and accountability
- Greater right of access to information
- The general public are entitled to know

Con's

- Extensive use by media, press and TV etc
- Disruption for front line staff
- Costs of administration

WWW.SOMERSET.GOV.UK



SCC commitment to FOI

- Monitoring and Management of FOI Requests
- Publication of FOI requests to the SCC website
- Enhancement of the SCC publication scheme
- Publication of the Senior Officers salaries
- Publication of £500+ transactions

WWW.SOMERSET.GOV.UK



What information is covered?

All information SCC hold as a public body including information held as an elected Member on Council business and Constituency matters

Applies to all formats, eg electronic, email, paper, CCTV, video and voice recordings. FOI regards very little as confidential

Note : If you receive a email or letter which is a request for information, held by SCC, forward it to the Information Governance Team

WWW.SOMERSET.GOV.UK



Information Security

- Paper records – take care of them, at home lock them away in filing cabinets, on the move lock them in a briefcase or the boot of your car
- Passwords – use complex passwords, Use 8 digits with capital letters, numbers and punctuation to disguise the word
- Government Connect – GCSx & PSN
- Encryption – use encrypted PCs and USB sticks
- Don't answer emails that ask for your username and password

WWW.SOMERSET.GOV.UK



GCSx - PSN

GCSx = Government Connect Secure Extranet soon to become the PSN = Public Secure Network

- Mandatory requirements for Secure email and file transfers between Govt depts (DWP), Police, Health, Local Government.
- To protect this network and the data it contains SCC has invested over £1 million in meeting these requirements, firewalls, encryption, anti-virus, Dual Factor Authentication which have been implemented over the past 18 months.

WWW.SOMERSET.GOV.UK



More Information

Intranet – for policies and guidance

<http://intranet.somerset.gov.uk/information-governance/>

Information Governance Officer

- Peter Grogan, Corporate Information Governance Manager
- 01823 357175
- PTGrogan@somerset.gov.uk

WWW.SOMERSET.GOV.UK

