

New Somerset Council – Proposed Members Code of Conduct

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Purpose of the Report

1. To propose the adoption of the new Code of Conduct, as adopted by Somerset County Council in May 2022.

Public Interest

2. This report covers proposals to change South Somerset District Council's Member's Code of Conduct to align with the Code adopted on behalf of the new unitary authority as part of the transition programme. It is of interest because it deals with the standards of behaviour expected of elected members.

Recommendations

3. That Council:
 - (i) adopt the Members Code of Conduct set out at Appendix 2 of this report with immediate effect.

Background

4. As members will be aware, local government in Somerset is being re-organised and, with effect from 1 April 2023, the existing councils (Mendip DC, Sedgemoor DC, Somerset CC, Somerset West & Taunton DC and South Somerset DC) will be abolished and replaced with a single unitary authority (Somerset Council).
5. The Monitoring Officers of the existing councils have collaborated on a Code of Conduct which was adopted by Somerset County Council in May 2022.
6. The draft Code was supported by the Local Government Reorganisation Joint Committee at its meeting on 4 February, following which it was considered by the County Council's Constitution and Standards Advisory Board on 9 February. The Code was considered by Somerset County Council on 23 February, when it was resolved to:
 - Agree the adoption of the revised Members Code of Conduct as set out in Appendix 3 for implementation from 6 May 2022 following the elections;
 - Agree that the revised Code of Conduct is incorporated into the Council's Constitution from 6 May 2022;
 - Authorise the Monitoring Officer to develop and promote a Member Development programme to support the implementation of the revised Code of Conduct;



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- Agree that the revised Code of Conduct is promoted with Somerset Association of Local Councils (SALC) for adoption by City, Town and Parish Councils for implementation from 6 May 2022;
 - Endorse the Monitoring Officer to review and make any appropriate amendments to the Council's complaints procedures for handling allegations about potential breaches of the Members Code of Conduct with reference to the LGA Guidance.
7. A copy of the report to the County Council is set out at Appendix 1 below, with a copy of the adopted Code at Appendix 2.
 8. From May 2022 the district councils in Somerset have continued to operate under their existing Codes. The Monitoring Officers for the existing Somerset councils collectively recommend alignment of the District Council Codes with the new Somerset Council Code by September 2022 to ensure that all complaints that are received from September 2022 onwards are dealt with under the same Code and with a consistent process to enable a smoother transition to the new unitary council (see Appendix 1 paragraph 3.3.17).

Financial Implications

There are no financial implications arising from this report.

Legal implications (if any) and details of Statutory Powers

There are no legal implications arising from this report.

Carbon Emissions and Climate Change Implications

There are no carbon emissions and climate change implications arising from this report.

Equality and Diversity Implications

There are no equality and diversity implications arising from this report.

Privacy Impact Assessment

There are no privacy implications arising from this report.

Background Papers

Local Government Association Model Code of Conduct

Report to Local Government Reorganisation Joint Committee - 4 February 2022

Report to Somerset County Council Constitution and Standards Advisory Board – 9 February 2022

Report to Somerset County Council – 23 February 2022

Appendix 1 – Report to Somerset County Council 23 February 2022

3.3.1 Proposed revised Members Code of Conduct

The current standards regime was introduced by the Localism Act, 2011 and the operation of the Council's arrangements for members' conduct is fundamental to the Council's compliance with the requirements of the Localism Act 2011 and by promoting good ethics the Council is demonstrating its core values as contained in the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

3.3.2 Following the Committee on Standards in Public Life's report into Local Government Ethical Standards (reported previously to the Committee), the Local Government Association (LGA) undertook consultation in Summer 2020 and issued a Model Code of Conduct for Elected Members in May 2021.

3.3.3 The opportunity has been taken to review the County Council's Members Code of Conduct with the benefit of the LGA's Model Code as part of the Local Government Reorganisation work in collaboration with the Monitoring Officers of the four district councils. The aim has been to recommend a Members Code of Conduct to come into effect from 6 May 2022 following the elections and to support the transition towards the new Somerset Council.

3.3.4 The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors.

3.3.5 The role of councillor should be one that people aspire to and want to participate with and we should strive to continue to attract individuals from a range of backgrounds and circumstances who understand the responsibility they take on and are motivated to make a positive difference to their local communities.

3.3.6 The county and district councils in Somerset already have a comprehensive Code of Conduct written by the Monitoring Officers in 2012 which covers most of the issues covered in the new LGA Code. However, the Somerset Code has not been updated significantly since 2012 and there are some issues that are not covered such as social media, harassment and disrespectful behaviour from the public.

3.3.7 In response to the work undertaken by the Committee for Standards in Public Life relating to ethical governance, (findings published in January 2019), the Local Government Association consulted widely in 2020 and published in 2021 its Model Code for Elected Members for adoption by all tiers of Councils.

3.3.8 All five Somerset Monitoring Officers were last year investigating the possibility of adopting the LGA Model Code of Conduct in their councils but efforts to take a

consistent approach across Somerset, together with the decision on Local Government Reorganisation, meant that the focus moved to the code of conduct for the transitional council and new unitary.

3.3.9 It is recommended that a new code is in place for the elections in May 2022 and training on that Code can then form part of the member induction process. In the circumstances, a review has been conducted to establish the position in other Councils and whether they are choosing to move to the LGA Code. It is clearly not possible to check the position in every local authority but a simple search to identify those councils that had been reviewing their Code of Conduct in the last 18 months identified the following. In addition, the opportunity was taken to look at some other unitary councils. The position is as follows: -

Name of Council	LGA or other Code recommended for adoption?
Arun	LGA
Harrogate	Other
Blaby	LGA
Leicester CC and all other councils in their area	LGA (or proposing to adopt LGA)
North Herts	LGA
Rushcliffe BC	LGA
Shropshire	LGA
Three Rivers	LGA
York	LGA
Bristol	Other (adopted prior to LGA Code)
Cornwall	Other (March 2021)
Dorset	Other (adopted prior to LGA Code)
Northamptonshire	LGA
Wiltshire	Other (adopted prior to LGA Code)
Durham	Other (wef March 2021)

3.3.10 There are many councils that have not yet adopted the LGA Code and as it is not mandatory. As the Model Code is voluntary, councils do have a discretion as to whether or not to adopt the Code in its entirety or to adopt elements of the Model Code to amend or update any existing arrangements.

3.3.11 Options considered

In light of the timescales we are working to the only viable options are considered to be:

1. Adopting the LGA Code with or without amendments.
2. Continuing with our existing Code and adopting amendments to pick up issues such as social media and harassment.

3.4.11 Option 1 - the LGA Model Code

Whilst moving to the new Model LGA Code of Conduct is not a mandatory requirement, and arguably it places only a few additional requirements on Members, a national single code for all elected members, with clear wording and additional guidance, working examples and explanatory text is something that needs to be seriously considered.

3.3.12 The Model LGA Code has the benefit of written guidance that sits behind it. This guidance provides both those subject to the Code and those charged with assessing complaints, clear expectations and a commonly understood interpretation. This is something which has not been provided since the introduction of the Localism Act. If adopted, it will mean that we will no longer have to refer to the now out-of-date Standards Board for England Guidance.

Benefits of adopting the LGA Code are considered to be: -

- Greater consistency of approach to standards cases;
- Addresses specific areas of concern raised such as additional provisions regarding social media;
- Has been prepared following national consultation;
- Covers most of the elements that you would expect within the Code and beyond most basic models and can be adopted as a whole or in part;
- provides short guidance below each obligation under the main provisions of the Code, to aid understanding;
- provides a model that can be rolled out to the City, Town and Parish Councils in Somerset (albeit it will be a matter for those councils to adopt);
- The LGA have stated that they will keep it under review so that it remains fit for purpose (thereby meeting the Standards in Public life Best Practice recommendation 15 in relation to an annual review);
- The LGA have developed the more detailed Guidance which will aid interpretation;
- Training can be commissioned as part of the induction of new members in May;
- The Council will not have to undertake its own specific work on reviewing its Code annually. This would amount to an almost ongoing consultation on changes.

Disadvantages of adopting the LGA Code are: -

- The Somerset Councils have already produced our own Code which is tried and tested.
- Three versions of the code have been produced by the LGA already since December 2020. There are minor differences, there has been no formal explanation provided as to why these changes have been made and this creates uncertainty;
- Not all local councils may adopt it in Somerset, still causing some inconsistencies across the tiers of government;
- There is not wholesale support for this Code and local authorities are not necessarily rushing to adopt it;
- It remains to be seen whether it will become a code of choice for local authorities.

3.3.13 Option 2 – the existing Members Code of Conduct

The existing Code was based on the Mandatory Code in place prior to the Localism Act. This Code is tried and tested and understood by members. It has not, however, been substantially reviewed since it was drafted in 2012 and therefore requires updating to reflect modern issues such as use of social media.

Benefits of updating and adopting our existing Code are considered to be: -

- Tried and tested
- Covers most of the elements that you would expect within the Code and beyond most basic models
- Based on previous statutory model code
- Wealth of Standards for England guidance that we can refer to, albeit somewhat out of date
- Longstanding councillors know and understand it.
- Already adopted by many Town and Parish Councils
- Has already been the subject of significant training for members
- Training can be commissioned as part of the induction of new members in May.

Disadvantages of adopting/adapting our existing Code are: -

- Drafted in 2012 so out of date
- Does not cover some key issues such as social media and harassment
- No specific guidance and former Standards for England guidance is out of date
- Best practice recommendation to review annually will be onerous.
- Does not provide the level of explanation that the LGA Code provides
- Working towards one common Code will aid interpretation and consistency
- Towns/Parishes more likely to adopt the LGA Code if this is to be supported by NALC

3.3.14 Option recommended – LGA Model Code with local amendments

On balance, whilst the LGA version is not perfect, as part of a package with Guidance and annual review, it is considered preferable to remaining with our own bespoke approach. It offers an opportunity to reach out to local councils more effectively and give them greater and more consistent support through a national model. Whilst our Code is comprehensive, it is out of date and requires work. We also have no up-to-date guidance and our existing Code does not benefit from the annual review process to be conducted by the LGA.

3.3.15 Clearly the main benefit of adopting the LGA Model Code is to have a more consistent approach using a model that has been fully consulted on by the LGA. It is therefore recommended that any changes for local circumstances are kept to a minimum. However, there are some omissions from the document (shown in blue in Appendix 1) that it is felt should be rectified as follows: -

- A new clause 6.2 clarifying that councillors should not take part in the scrutiny of any decision in which they have been involved.



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- A new clause 7B requiring councillors to consider any advice of the S151 and Monitoring Officer.
- Clarification in 8.2 that the obligation not to intimidate any person will include complainants and witnesses in the administration of any investigation or proceedings.
- Deletion of the word “significant” in 9.6 regarding registration of gifts that are refused and adding a requirement to register their refusal within 28 days, where the value of the gift offered is estimated to be at least £50. This ensures consistency with the approach in relation to gifts that are accepted.
- Amending Appendix B so that you must update interests within 28 days of any change. This is not currently covered. Further amendment to section 9 in relation to non-registerable interests.
- Adding a new Appendix D which gives guidance on bias and predetermination. This is currently covered in the Somerset Code and omitted from the LGA Code.

3.3.16 It is therefore recommended, that the County Council adopts the LGA Model Code with local variation as set out in this report and for this to come into effect on 6 May 2022 for the transitional County Council to operate ahead of the new Somerset Council.

3.3.17 It is also recommended that the District Councils consider adopting the same Code by September 2022 so that all Somerset councils can align their Code of Conduct and complaints procedures by the end of the calendar year. This will ensure that all complaints that are received from September 2022 onwards are dealt with using the same Code and with a consistent process. This will enable a smoother transition to the new unitary.

3.3.18 City, Town and Parish Councils

Adoption of the Model Code is voluntary and therefore there is no requirement on Parish and Town Councils to adopt the same. However to offer greater clarity and consistency to these local councillors, work could be undertaken with these local councils to proactively promote the adoption of the Model Code as adopted by the County Council.

3.3.19 We would need to start this work from February with the Somerset Association for Local Councils and with local councils so that they have time to adopt the new Code should they wish to do so, in time for the elections. Alternatively the proposals could be considered by local councils at their annual meetings after the elections.

3.3.20 By undertaking such action, the response to complaints received would be assisted as currently local councils have differing local codes which makes adjudication of complaints against the Code complex and very often time consuming. By example, in Sedgemoor two thirds of the local councils have adopted the Somerset Association



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for Local Councils Code and one third have adopted the existing Somerset Members Code of Conduct.

3.3.21 Code of Conduct Complaints Procedures

The County Council has complaints procedures in place for considering and determining any allegations about a member breaching the Code of Conduct.

3.3.22 Following the introduction of the Model Code, in September 2021 the LGA has produced guidance on the handling of complaints to assist Monitoring Officers to carry out investigations into allegations and to assist councillors in understanding the process.

3.3.23 Ahead of the May 2022 it is proposed that the Monitoring Officer reviews and makes any appropriate amendments to the Council's complaints procedures for handling allegations about potential breaches of the Members Code of Conduct with reference to the LGA Guidance. The principles of fairness, proportionality, transparency and impartiality still apply.

There were no paragraphs 3.3.24 or .25

3.3.26 Consultation

The proposals set out in this report have been consulted with the Constitution and Standards Advisory Board on 9 February and the Board was supportive. The LGR Joint Committee was consulted on 4 February and is supportive of the proposed revised Members Code of Conduct.

Appendix 2

Somerset Council Members Code of Conduct

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

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

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

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support,

training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest • I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This 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;

The 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 communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

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

1.2 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.

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. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

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

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.

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. Impartiality of officers of the council

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.

4. Confidentiality and access to information

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. I have received the consent of a person authorised to give it; ii. I am required by law to do so; iii. 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 iv. 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, 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.

5. 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. 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 you 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.

6. Use of position

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.

6.2 I will not take part in the scrutiny of any decision I have been involved in making. However, I may provide evidence or opinion to those undertaking any scrutiny process.

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.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others: a. act in accordance with the local authority's requirements; and b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or 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 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.

7B Consideration of advice

As a councillor:

7B.1 I will, when reaching decisions on any matter, consider and pay due regard to any relevant advice provided to me by:- a) the Council's Chief Finance Officer (S151) and/or b) the Council's Monitoring Officer or the Council's Monitoring Officer and legal advisor (if separate individuals); in accordance with their legal requirements.

7B2 I will give reasons for departing from the advice of the Chief Finance Officer (S151) or Monitoring Officer/legal advisor

It is extremely important for you as a councillor to have regard to advice from your Chief Finance Officer or Monitoring Officer where they give that advice under their statutory duties. As a councillor you must give reasons for all decisions in accordance with any legal requirements and any reasonable requirements imposed by your local authority.

8. Complying with the Code of Conduct

As a Councillor:

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

8.2 I do not make trivial or malicious complaints against other councillors.

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

8.4 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings including the complainant and any witnesses.

8.5 I comply with any sanction imposed on me following a finding that I have breached 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 Monitoring Officer.

Protecting your reputation and the reputation of the local authority

8 Interests

As a councillor:

8.4 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.

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 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

Gifts and hospitality

As a councillor:

9.4 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.

9.5 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

9.6 I register with the Monitoring Officer any ~~significant~~ gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept within 28 days of the offer.

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.

Note: this is taken from the SCC Report (paragraph numbering around 8. Interests and 9. Gifts and Hospitality has been drawn to their attention)

Appendices

Appendix A – The Seven Principles of Public Life

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 disclose 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.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office **or within 28 days of your interests changing** you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (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 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

“Partner” means a spouse or civil partner, or 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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted

a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. 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 Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests 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

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

In the event that your non-registerable interest relates to –

- (1) an unpaid directorship on a company owned by your authority or
- (2) another local authority of which you are a member,

subject to your declaring that interest, you are able to take part in any discussion and vote on the matter.

10. Where you have an Other Registrable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it. 17

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
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 council) 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. 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 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 — (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 and Property	Any beneficial interest in land which is within the area of the council. '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.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (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.

Subject	Description
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 area of 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 have 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.

Table 2: Other Registrable Interests

<p>You must register as an Other Registrable Interest :</p> <p>a) any unpaid directorships</p> <p>b) 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</p> <p>c) any body</p> <p>(i) exercising functions of a public nature</p> <p>(ii) directed to charitable purposes or</p> <p>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</p> <p>of which you are a member or in a position of general control or management</p>

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Appendix D

Guidance on Bias and Predetermination –This does not form part of the Code of Conduct

- Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you may participate in a decision on the issue in your political role as a councillor. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave a decision susceptible to challenge by Judicial Review. Whereas being predisposed on a matter is acceptable provided you remain open to listening to all the arguments and changing your mind in light of all the information presented at the meeting.
- Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- In the circumstances, when making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.
- As a councillor you will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that you were biased. If you have predetermined your position, you should withdraw from being a member of the decision-making body for that particular matter.