

Public Document Pack

Mid Devon District Council

Standards Committee

Wednesday, 10 June 2020 at 6.00 pm
Remote meeting

Next ordinary meeting
Wednesday, 14 October 2020 at 6.00 pm

Important - this meeting will be conducted and recorded by Zoom only. Please do not attend Phoenix House. The attached Protocol for Remote Meetings explains how this will work.

Join Zoom Meeting

<https://zoom.us/j/96473667692?pwd=ejlpaG5Td1VaTkZTS2E3YW9NZmFmZz09>

Meeting ID: 964 7366 7692

Password: 083526

One tap mobile

+442080806592,,96473667692#,,1#,083526# United Kingdom

+443300885830,,96473667692#,,1#,083526# United Kingdom

Dial by your location

0 800 260 5801 United Kingdom Toll-free

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free Meeting ID: 964 7366 7692

Password: 083526

Membership

Cllr Mrs F J Colthorpe

Cllr C J Eginton

Cllr C R Slade

Cllr Mrs M E Squires

Cllr L D Taylor

Cllr A White

Cllr A Wilce

Cllr Mrs N Woollatt

Cllr A Wyer

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **ELECTION OF CHAIRMAN**
To elect a Chairman for the municipal year 2020-21.
- 2 **PROTOCOL FOR REMOTE MEETINGS** *(Pages 5 - 10)*
To note the protocol for remote meetings.
- 3 **ELECTION OF VICE CHAIRMAN**
To elect a Vice Chairman for the municipal Year 2020/21.
- 4 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 5 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 6 **MINUTES** *(Pages 11 - 14)*
Members to consider whether to approve the minutes of the previous meeting as a correct record.
- 7 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.
- 8 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman of the Committee may wish to make.
- 9 **ANNUAL REPORT OF THE MONITORING OFFICER** *(Pages 15 - 20)*
To receive the Monitoring Officer's annual report to committee.
- 10 **NEW MODEL CODE OF CONDUCT - CONSULTATION** *(Pages 21 - 34)*
The Local Government Association has informally released a draft model Code of Conduct to monitoring officers, but this is not yet out to formal consultation. The timing of that consultation is not yet known, but it may take place over the summer or in advance of the next schedule meeting. The Committee is invited to consider how it wishes the Council's response to the consultation to be prepared in due course.

11 **COMPLAINTS**

To receive an update from the Monitoring Officer with regard to any on-going complaints being dealt with. During the discussion it may be necessary to consider passing the following resolution to protect the Members of District, Town and Parish Council's being discussed.

During discussion of this item it may be necessary to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Committee will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

ACCESS TO INFORMATION ACT – EXCLUSION OF THE PRESS AND PUBLIC

RECOMMENDED that under section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual

12 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Members are asked to suggest items for the next meeting of the Committee.

Stephen Walford
Chief Executive
Tuesday, 2 June 2020

Covid-19 and meetings

The Council will be holding some meetings in the next few weeks, but these will not be in person at Phoenix House until the Covid-19 crisis eases. Instead, the meetings will be held remotely via Zoom and you will be able to join these meetings via the internet. Please see the instructions on each agenda and read the Protocol on Remote Meetings before you join.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by **no later than 4pm on the day before the meeting**. This will ensure that your name is on the list to speak and will help us ensure that you are not missed – as you can imagine, it is easier to see and manage public speaking when everyone is physically present in the same

room. Notification in this way will ensure the meeting runs as smoothly as possible.

If you require any further information please contact Sally Gabriel on:
E-Mail: sgabriel@middevon.gov.uk

Mid Devon District Council - Remote Meetings Protocol

1. Introduction

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations permit remote attendance in Local Authority meetings.

Remote attendance is permitted as long as certain conditions are satisfied. These include that the Member is able to hear and be heard by the other Members in attendance. Also, being able to hear and be heard by any members of the public entitled to attend the meeting (in line with the public participation scheme). A visual solution is preferred, but audio is sufficient.

This also relates to members of the public attending the meeting also being heard. The regulations are clear that a meeting is not limited to those present in the same place, but includes electronic, digital or virtual locations (internet locations, web addresses or conference call telephone numbers).

2. Zoom

Zoom is the system the Council will be using for the time-being to host remote / virtual meetings. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

3. Access to documents

Member Services will publish the agenda and reports for committee meetings on the Council's website in line with usual practice. Paper copies of agendas will only be made available to those who have previously requested this and also the Chair of a virtual meeting.

If any other Member wishes to have a paper copy, they must notify the Member Services before the agenda is published, so they can arrange to post directly – it may take longer to organise printing, so as much notice as possible is appreciated. Printed copies will not be available for inspection at the Council's offices and this requirement was removed by the Regulations.

4. Setting up the Meeting

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members will receive a URL link to click on to join the meeting.

5. Public Access

Members of the public will be able to use a weblink and standard internet browser. This will be displayed on the front of the agenda.

6. Joining the Meeting

Councillors must join the meeting early (i.e. at least **five** minutes before the scheduled start time) in order to avoid disrupting or delaying the meeting. Councillors should remember that they may be visible and heard by others, including the public, during this time.

7. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present (viewing the participant list) and that there is a quorum. If there is no quorum, the meeting will be adjourned. This applies if, during the meeting, it becomes inquorate for whatever reason.

The Chair will remind all Members, Officers and the Public that **all microphones will be automatically muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use. Members would then need to turn their microphones back on when they wish to speak.

8. Public Participation

Participation by members of the public will continue in line with the Council's current arrangements as far as is practicable. However, to ensure that the meeting runs smoothly and that no member of the public is missed, all those who wish to speak must register **by 4pm on the day before the meeting**. They should email their full name to Committee@middevon.gov.uk. If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will invite the public by name to speak at the appropriate time. At that point, all public microphones will be enabled. This means that, to avoid private conversations being overheard, no member of the public should speak until it is their turn and they should then refrain from speaking until the end of public question time, when all microphones will be muted again. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question.

Unless they have registered, a member of the public will not be called to speak.

If a member of the public wishes to ask a question but cannot attend the meeting for whatever reason, there is nothing to prevent them from emailing members of the Committee with their question, views or concern in advance. However, if they do so, it would be helpful if a copy could be sent to Committee@middevon.gov.uk as well.

9. Declaration of Interests

Councillors should declare their interests in the usual way. A councillor with a disclosable pecuniary interest is required to leave the room. For remote meetings, this means that they will be moved to a break-out room for the duration

of this item and will only be invited back into the meeting when discussion on the relevant item has finished.

10. The Meeting and Debate

The Council will not be using the Chat function.

The Chair will call each member of the Committee to speak - the Chair can choose to do this either by calling (i) each member in turn and continuing in this way until no member has anything more to add, or (ii) only those members who indicate a wish to speak using the 'raise hand' function within Zoom. This choice will be left entirely to the Chair's discretion depending on how they wish to manage the meeting and how comfortable they are using the one or the other approach.

Members are discouraged from physically raising their hand in the video to indicate a wish to speak – it can be distracting and easily missed/misinterpreted. No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – the remote management of meetings is intensive and it is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Councillors should refer to the report and page number, so that all Members of the Committee have a clear understanding of what is being discussed at all times.

11. Voting

On a recommendation or motion being put to the vote, the Chair (or the Member Services Officer) will go round the virtual room and ask each member entitled to vote to say whether they are for or against or whether they abstain. The Member Services Officer will announce the numerical result of the vote.

12. Meeting Etiquette Reminder

- Mute your microphone – you will still be able to hear what is being said.
- Only speak when invited to do so by the Chair.
- Speak clearly and please state your name each time you speak
- If you're referring to a specific page, mention the page number.

13. Part 2 Reports and Debate

There are times when council meetings are not open to the public, when confidential, or "exempt" issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It is important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings.

Any Councillor in remote attendance must ensure that there is no other person present – a failure to do so could be in breach of the Council's Code of Conduct.

If there are members of the public and press listening to the open part of the meeting, then the Member Services Officer will, at the appropriate time, remove them to a break-out room for the duration of that item. They can then be invited back in when the business returns to Part 1.

Please turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

14. Interpretation of standing orders

Where the Chair is required to interpret the Council's Constitution and procedural rules in light of the requirements of remote participation, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair's decision shall be final.

15. Disorderly Conduct by Members

If a Member behaves in the manner as outlined in the Constitution (persistently ignoring or disobeying the ruling of the Chair or behaving irregularly, improperly or offensively or deliberately obstructs the business of the meeting), any other Member may move 'That the member named be not further heard' which, if seconded, must be put to the vote without discussion.

If the same behaviour persists and a Motion is approved 'that the member named do leave the meeting', then they will be removed as a participant by the Member Services Officer.

16. Disturbance from Members of the Public

If any member of the public interrupts a meeting the Chair will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chair will ask the Member Services Officer to remove them as a participant from the meeting.

17. After the meeting

Please ensure you leave the meeting promptly by clicking on the red phone button to hang up.

18. Technical issues

In the event that the Chair, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chair should declare a recess while the fault is addressed. If it is not possible to address the fault and the meeting becomes inquorate through this fault, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, Leader and relevant Cabinet Member, in consultation with the Monitoring Officer, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

For members of the public and press who experience problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be suspended or adjourned.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 5 February 2020 at 6.00 pm

Present

Councillors

C J Eginton (Chairman)
Mrs F J Colthorpe, L J Cruwys, R M Deed,
Mrs I Hill, C R Slade, Mrs M E Squires and
Mrs N Woollatt

Apologies

Councillor(s)

L D Taylor, A White, A Wilce and A Wyer

Also Present

Officer(s):

Kathryn Tebbey (Head of Legal (Monitoring Officer)) and
Sally Gabriel (Member Services Manager)

22 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs: L D Taylor, A White, A Wilce and A Wyer

Cllr A White was substituted by Cllr L J Cruwys, Cllr A Wilce was substituted by Cllr R M Deed and Cllr Wyer was substituted by Cllr Mrs I Hill.

23 **PUBLIC QUESTION TIME**

There were no members of the public present.

24 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-01-44)**

Members were reminded of the need to make declarations of interest when necessary.

25 **MINUTES (00-01-50)**

The minutes of the last meeting were approved as a true record and signed by the Chairman.

26 **CHAIRMAN'S ANNOUNCEMENTS (00-03-01)**

The Chairman reminded members that at the last meeting the committee had resolved that the Monitoring Officer issue a final warning to those councillors who had not returned their Register of Interest forms and that if they failed to comply then the police would be informed. He informed those present that the majority of those contacted had rectified the situation with the exception of 2 who were being investigated by the police.

27 GOVERNANCE ARRANGEMENTS (00-03-47)

The Committee had been requested to consider the following recommendation from the Cabinet:

The Standards Committee be asked to recommend to Council that the changes to the current arrangements set out in part 3 of the report be agreed and the Constitution amended accordingly and that the Monitoring Officer be asked to draft the changes to the Constitution required to implement those changes for consideration by the Standards Committee.

The Committee had before it the original report* of the Head of Legal (Monitoring Officer) to the Cabinet meeting (19 December 2019), a **paper outlining proposed changes to Cabinet Procedure Rules and Access to Information Rules.

The Head of Legal (Monitoring Officer) highlighted the options within the Cabinet report and the tracked changes documents which identified how those changes would translate into the constitution.

Consideration was given to:

- The Governance review taking place
- The option for the Cabinet to self-refer to the Council for a view on an issue before a decision was taken by the Cabinet
- Pre-decision scrutiny
- Whether reports to Cabinet should include a section setting out whether the decision was in the Budget and the Policy Framework which would clearly identify whether a decision was one to be made by the Cabinet or to be taken by Full Council

It was therefore

RECOMMENDED to Council that:

- i) The changes as set out in Part 3 of the report be agreed; and that
- ii) The following paragraphs be added to the Cabinet Procedure Rules within the Constitution:

3.0 Cabinet may consult Council

3.1 Where it appears to the Cabinet that a decision involves matters on which it would like to receive the views of members at a meeting of the Council, the Cabinet may resolve so to do.

3.2 The effect of a resolution under Rule 3.1, is that the decision will stand deferred to the next meeting of the Cabinet which follows the Council's consideration of the matter in question.

3.3 For the avoidance of doubt,

- (a) a resolution under Rule 3.1 is entirely a matter for the Cabinet at its absolute discretion;
 - (b) the views of the Council are not binding on the Cabinet; and
 - (c) nothing in this Rule 3 (or a decision or resolution under it) transfers responsibility for any function or matter to the Council where, under this Constitution and the Local Authorities (Functions and Responsibilities) Regulations 2000, such function or matter is the responsibility of the Cabinet.
- iii) Rule 16.4 within Access to Information Procedure Rules be amended to read: As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3 (and in any event by no later than the next working day), a notice of the decision must be published setting out the reasons why the decision is urgent and has been taken under this Rule 16.
- iv) Rule 17.3 – Report to Council be amended to read: The Leader will report all Cabinet decisions taken under Rule 16 (special urgency) to the next meeting of the Council, such report to include a summary of the decision(s) taken. The report may be given verbally where the decision is taken after the publication of the agenda for the Council meeting.

(Proposed by Cllr R M Deed and seconded by Cllr Mrs N Woollatt)

It was further **RESOLVED** that: reports to Cabinet include a section setting out whether the decision is within the Policy Framework and the Budget.

(Proposed by Cllr R M Deed and seconded by Cllr Mrs N Woollatt)

Notes:

- i) Cllr Mrs F J Colthorpe requested that her abstention from voting be recorded;
- ii) * Previous report and ** papers previously circulated, copy attached to minutes.

28 STANDARDS WORKING GROUP (00-14-51)

The Committee had before it and **NOTED** the * notes of the recent Standards Working Group.

The Chairman informed the meeting that the working group had met on 21 January to consider whether there was a need for a policy on the use of social media by members at the current time. It had been agreed that no further action be taken at the current time due to actions being taken nationally with regard to a proposed new model code of conduct.

Note: *Notes previously circulated copy attached to minutes.

29 **COMPLAINTS (00-15-55)**

The Head of Legal (Monitoring Officer) provided an update regarding the number of complaints received since the previous meeting.

30 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (00-21-22)**

It was **AGREED** that the following be considered at a future meeting of the committee:

- Update from the Governance Working Group
- Complaints update
- The LGA were preparing a draft model Code of Conduct which would be considered when it was available
- Update on the outcome of the Register of Interests issue.

(The meeting ended at 6.24 pm)

CHAIRMAN

STANDARDS COMMITTEE 10TH JUNE 2019

ANNUAL REPORT OF THE MONITORING OFFICER FOR 2019/20

Cabinet Member(s): Cllr N Woollatt, Cabinet Member for the Working Environment and Support Services

Responsible Officer: Kathryn Tebbey, Monitoring Officer

Reason for Report: to provide the Standards Committee with an overview of the preceding year

RECOMMENDATION: that the report be noted and circulated to all Town and Parish Councils for information.

Relationship to Corporate Plan: Priority 3 (Community), Aim 2 - working with town and parish councils to ensure that they have access to the advice they need to carry out their functions legally and efficiently

Financial Implications: None

Budget and Policy Framework: Nothing undertaken outside the budget and policy framework.

Legal Implications: The Council has a statutory duty to promote and maintain high standards of conduct. A review of the previous year may assist the Committee in identifying the extent to which the duty is being complied with and in setting a future work programme (if desired).

Risk Assessment: No risks identified.

Equality Impact Assessment: No EIA required.

Climate Change: No impact identified.

1.0 Introduction

1.1 The Monitoring Officer considers it to be good practice to review the preceding year. In that way, she and the Committee can consider whether the Council is fulfilling its statutory duty and evidence the work it has done or is planning to undertake.

2.0 The Standards Committee

2.1 In the past year, the Standards Committee had three scheduled meetings. A schedule of meetings enables the Committee to develop a work programme, but this does rely on members of the Committee bringing forward ideas and suggestions to explore. For the municipal year 2020/21, the Standards Committee again has 3 scheduled dates for meetings.

2.0 The Independent Person

- 2.1 The Council now has two Independent Persons, Mr John Smith and Mr Rob Jeanes. Mr Jeanes was appointed for the first time in January 2020.
- 2.2 The Independent Person is appointed by the Council to fulfil the statutory role set out in the Localism Act 2011. They receive a small annual allowance, but are not employees. The role of the Independent Person is familiar to the Committee, but in summary, the prime duty is to provide impartial and independent advice and support to the Monitoring Officer in considering code of conduct complaints and, where required, to those making complaints and those complained about during the course of an investigation.
- 2.3 The Committee may want to consider whether there are additional ways in which the Independent Persons might assist the work of the Committee - and the Monitoring Officer is happy to take any ideas to them for discussion/scoping.

3.0 The Monitoring and Deputy Monitoring Officers

- 3.1 The Monitoring Officer is Kathryn Tebbey and she has appointed two Deputy Monitoring Officers, Sally Gabriel (Member Services Manager) and Maria de Leburne (Solicitor) who remain in post. The law requires the Monitoring Officer to perform the duties personally - Deputy Monitoring Officers only act when the Monitoring Officer is "*unable to act owing to absence or illness*". However, all three officers work closely together in any event.

4.0 Complaints under the Code of Conduct

- 4.1 In the municipal year 2019/20, a total of 10 formal complaints were made, one of which was subsequently withdrawn. This compares with 8 made in the previous year. One complaint has yet to be determined. In consultation with the Independent Person(s), the Monitoring Officer concluded that none of the other complaints passed both the legal jurisdiction test and the local assessment criteria. Accordingly, they were not referred for formal investigation. That is not to say that they were straightforward – many raised quite important and complex questions about what it is to be councillor in terms of standards of behaviour in the modern age, with the use of social media featuring prominently in some.
- 4.2 The core themes were respect, bullying and reputational concerns. Three complaints were made against district councillors and nine complaints were made against parish councillors. Whilst the circumstances varied considerably between each complaint, underlying them all was the difficulty at times of parish councillors working together as a collective, with different aspirations and personalities, but nevertheless for the benefit of the community. A summary of the complaints appears in the table at Annex 1.

- 4.3 A significant number of non-formal ‘concerns’ were raised by members of the public, fellow councillors and, in particular, Parish Clerks. These were discussed via telephone and email - and, where appropriate, advice and guidance was given.

5.0 Social media

- 5.1 Social media is a useful tool for councillors to engage with local residents. However, it has been at the heart of some of the complaints made. It can be a challenge for councillors to find a way to express personal and quite strong views without these being treated as them acting in their official capacity – particularly as many are well-known in their communities. A number of councils have adopted social media guidelines as a result. The challenge of social media is often that of ‘tone’ – a few words will often not convey the full story of what the individual is trying to say.
- 5.2 The Council has produced guidance for members on social media and the Standards Working Group also met to consider the issue. However, the Monitoring Officer reported that further national guidance and a model code of conduct was expected in 2020 which might address the point. The Working Group therefore agreed to suspend further consideration for the time being, pending publication of those documents.

6.0 Parish and Town Councils

- 6.1 The Member Services team send out a monthly newsletter to the parish clerks and there is an annual clerks’ event in the autumn. As mentioned previously, a number of parish clerks across the district have sought advice from time to time – not just on pure standards issues, but also governance and other procedural matters.
- 6.2 Members will recall that there was an issue in the year with quite a number of parish councilors not completing their registers of interests, despite reminders being sent via the clerks. However, this was eventually reduced down to just two, who, with the agreement of the Standards Committee, were referred to the Police for investigation. The Monitoring Officer has asked for an update and, if received, will report this at the meeting.

7.0 Committee on Standards in Public Life

- 7.1 In January 2019, the Committee on Standards in Public Life published their report on Ethical Standards in Local Government. Legislative changes would be required to enact many of the recommendations put forward and this has still not happened. However, the Standards Working Group did consider the examples in the report of perceived best practice and reported back in October 2019.

8.0 Gifts, hospitality and registers of interests

- 8.1 There were 4 declarations of gifts and hospitality made by officers. During the course of the year, as part of the review of the report from the Committee on Standards in Public Life (see paragraph 7.1), changes were made to the way

in which members declared gifts and hospitality. Members will recall that some members were using a form and some were updating their registers of interests. All members have now been instructed to use a specific form, but no declarations have been made to date.

9.0 Sensitive interests

- 9.1 There is a statutory requirement to publish the register of interests on the Council's website – this includes the parish council registers, although those parishes with their own websites are required to publish them as well (if necessary by a link to this Council's website). Sensitive interests can be removed from the website version if the Monitoring Officer receives a request and agrees that the publication of such information might lead to violence or intimidation.
- 9.2 The Monitoring Officer dealt with one informal enquiry from a parish councillor about redacting certain personal data from the website version and this was resolved without a redaction being made.

Contact for more Information: Kathryn Tebbey, Head of Legal (Monitoring Officer), (01884) 234210 ktebbey@middevon.gov.uk

Circulation of the Report: Cabinet Member for the Working Environment and Support Services

List of Background Papers: None

Reference	Parish or District	Allegation	Decision
CCOC.21	District	Failure to show respect and to act impartially and consistently – related to a decision not to call in a planning application	No breach – councillor entitled to make decision in accordance with conscience and sometimes had to respond robustly to requests
CCOC.22	District	Failure to show respect with comments made on social media	No breach – not acting in an official capacity
CCOC.23	Parish	Failure to follow procedures in co-option – indicating potential bias/lack of objectivity	Withdrawn
CCOC.24	Parish	Failure to deal impartially and potential discrimination arising from a planning application	On-going
CCOC.25	Parish	Failure to act objectively and without bias, including failure to declare interest and influencing decision.	No breach – appropriate interest declared at meeting and no evidence of improper participation
CCOC.26	Parish	Failure to treat with respect – by comments made at an on-site visit in relation to potential highway obstruction offence	No breach – matter of fact and, in any event, a minor matter arising from ongoing disagreement with the parish council.
CCOC.27	District	Inappropriate comments at a meeting	Resolved through apology and withdrawn
CCOC.28	Parish	Bringing council/office into disrepute	No breach – not acting in an official capacity (conduct in private life)
CCOC.29	Parish	Failure to act objectively and using position to bully/secure disadvantage to a company	No further action – complaint not sufficiently detailed as to conduct and also delay in making referral
CCOC.30	Parish	Bringing office into disrepute by making adverse comments about a national politician on social media	No further action – councillor had already apologised publicly via the press

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The Local Government Association Model Member Code of Conduct Consultation Draft

LGA introduction

The LGA is providing this Model Member Code of Conduct as part of its work on supporting the sector to continue to aspire to high standards of leadership and performance.

The role of councillors 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 adopt the behaviors and responsibilities associated with their role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to and want to participate in. We want 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.

All councils are required to have a local Member Code of Conduct. This Model Member Code of Conduct has been developed in consultation with the sector and is offered as a template for councils to adopt in whole and/or with local amendments. The LGA will undertake an annual review of the Code to ensure it continues to be fit-for-purpose, particularly with respect to advances in technology, social media and any relevant changes in legislation. The LGA can also offer support, training and mediation to member councils and councillors on the application of the Code.

Introduction

As a Councillor you represent local residents, work to develop better services and deliver local change. The public have high expectations of you and entrust you to represent everyone (in your ward/town/parish), taking decisions fairly, openly, transparently and with civility. You should also be treated with civility by members of the public, other councillors and council employees. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Purpose

The purpose of this Code of Conduct is to assist councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow councillors, council officers and the reputation of local government. It sets out the conduct expected of all Members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of Member and local government.

Application of the Code

The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting]ⁱ in [public or in]ⁱⁱ your capacity as a Member or representative of your council, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of Member communication, including written, verbal, non-verbal, electronic and social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.]ⁱⁱⁱ Model conduct and expectations is for guidance only, whereas the specific obligations set out instances where action will be taken.

The seven principles of public life

Everyone in public office at all levels – Ministers, civil servants, Members, council officers – all who serve the public or deliver public services should uphold the seven principles of

public life^{iv}. This Code has been developed in line with these seven principles of public life, which are set out in appendix A.

Model Member conduct

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

- act with integrity and honesty
- act lawfully
- treat all persons with civility; and
- lead by example and act in a way that secures public confidence in the office of Councillor

In undertaking my role, I will:

- impartially exercise my responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently and in the public interest

Specific obligations of general conduct

This section sets out the minimum requirements of Member conduct. Guidance is included to help explain the reasons for the obligations and how they should be followed. These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media.

As a Councillor I commit to:

Civility

1. Treating other councillors and members of the public with civility.
2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.

Civility 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 civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police. This also applies to Members, where action could then be taken under the Member Code of Conduct.

Bullying and harassment

3. Not bullying or harassing any person.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The 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 not always be obvious or noticed by others.^v

The Equality Act 2010 defines harassment as “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

Impartiality of officers of the council

4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.

Officers work for the council 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. Although 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, 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.

Confidentiality and access to information

5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.
6. Not preventing anyone 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 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 council are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Disrepute

7. Not bringing my role or council into disrepute.

Behaviour that is considered dishonest and/or deceitful can bring your council into disrepute. As a Member you have been entrusted 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 other councillors and/or your council.

Your position

8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a Member of the council provides you with certain opportunities, responsibilities and privileges. However, you should not take advantage of these opportunities to further private interests.

Use of council resources and facilities

9. Not misusing council resources.

You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a councillor more effectively, not to benefit you personally.

Interests

10. Registering and declaring my interests.

You need to register your interests so that the public, council employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You are responsible for deciding whether or not you should declare 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 declared by you or other Members, 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. Discuss the registering and declaration of interests with your Monitoring Officer/Town or Parish Clerk and more detail is set out in appendix B.

Gifts and hospitality

11. Not accepting significant gifts or hospitality 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.
12. Registering with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

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 Member. However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your Monitoring Officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.

Breaches of the Code of Conduct

Most councillors conduct themselves appropriately and in accordance with these standards. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by Members and co-opted Members of the authority. Each local

authority must publish a code of conduct, and it must cover the registration of pecuniary

interests, the role of an 'Independent Person' to advise on and investigate alleged breaches, and sanctions to be imposed on any councillors who breach the Code.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a Member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made.

Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence. Taking part in a meeting or voting, when prevented from doing so by a conflict caused by disclosable pecuniary interests, is also a criminal offence.

Political parties may have its own internal standards and resolution procedures in addition to the Member code of conduct that Members should be aware of.

Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes.

LGA Guidance and recommendations

Internal resolution procedure

Councils should have in place an internal resolution procedure to address conduct that is in breach of the Member Code of Conduct. The internal resolution process should make it clear how allegations of breaches of the Code of Conduct are to be handled, including the role of an Independent Person, the appeals process and can also include a local Standards Committee. The internal resolution procedure should be proportionate, allow for Members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the Council as a whole.

In the case of a non-criminal breach of the Code, the following escalating approach can be undertaken. If the breach is confirmed and of a serious nature, action can be automatically escalated.

1. An informal discussion with the Monitoring Officer or appropriate senior officer
2. An informal opportunity to speak with the affected party/ies
3. A written apology
4. Mediation
5. Peer support
6. Requirement to attend relevant training
7. Where of a serious nature, a bar on chairing advisory or special committees for up to two months
8. Where of a serious nature, a bar on attending committees for up to two months

Where serious misconduct affects an employee, a Member may be barred from contact with that individual; or if it relates to a specific responsibility of the council, barred from participating in decisions or information relating to that responsibility.

ⁱ CSPL recommend that "Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a Member when they claim to act, or give the impression they are acting, in their capacity as a Member or as a representative of the local authority".

ⁱⁱ CSPL recommend that “councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.”

ⁱⁱⁱ Subject to footnotes 1 and 2 above

^{iv} See CSPL website for further details <https://www.gov.uk/government/news/the-principles-of-public-life-25-years>

^v acas’s definition of bullying.

DRAFT

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Code Appendix A

The principles are¹:

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.

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life>

Code Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the council or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table A (Disclosable Pecuniary Interests) and Table B (Other Registerable Interests).
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Table A or B, or of any change to a registered interest, notify the Monitoring Officer.

Declaring interests

3. Where a matter arises at a meeting which directly relates to an interest in Table A, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
4. Where a matter arises at a meeting which directly relates to an interest in Table B, you must declare 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 declare the nature of the interest.
5. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare 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 declare the nature of the interest.
6. 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 friend, relative, close associate; or
 - c. a body covered by table 1 below

you must disclose the interest.

7. Where the matter affects the financial interest or well-being to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you must declare 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 declare the nature of the interest.

Table 1: Interests described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
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.
Licences	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.
Securities	Any beneficial interest in securities* of a body where—
	(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; 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 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.

*'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 B

- (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;
- (ii) Any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) 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.