

Public Document Pack



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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 24 June 2020

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 2 July 2020** in via Teams Live Event, the agenda for which is set out below.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'S Hobbs', written over a light blue horizontal line.

Simon Hobbs
Director of Legal and Democratic Services

AGENDA

PART I - NON-EXEMPT ITEMS

1. Apologies for absence
To receive apologies for absence (if any)
2. Declarations of Interest
To receive declarations of interest (if any)
3. Minutes (Pages 1 - 4)
To confirm the non-exempt minutes of the meeting of the Governance,

Ethics and Standards Committee held on 09 January 2020.

4. Annual Report of the Governance, Ethics & Standards Committee (Pages 5 - 14)
5. Updates to the Constitution (Pages 15 - 30)
6. Local Government Association - Consultation on a Model Code of Conduct for Elected Members (Pages 31 - 46)

PUBLIC

MINUTES of a meeting of the **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on 09 January 2020 at County Hall, Matlock

PRESENT

Councillor C Short (in the Chair)

Councillors K Buttery, J Coyle, K Gillott, L Grooby (substitute), W Major, C Moesby, and J Perkins (substitute)

Also in attendance – Messrs K Jackson-Horner and L Newby MBE (Independent Persons)

There were no apologies for absence received.

The Chairman reported the death of Councillor Alison Fox, all Members were invited to pay tribute.

All Members were invited to observe a one Minute silence.

01/20 **MINUTES RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 03 October 2019 be confirmed as a correct record and signed by the Chairman.

02/20 **REPORT OF THE LOCAL GOVERNMENT OMBUDSMAN ON AN INVESTIGATION INTO COMPLAINT NO 16 00 61 95 AGAINST DERBYSHIRE COUNTY COUNCIL** A recent case had been investigated by the Local Government Ombudsman (LGO) who had made a finding of fault by the Council causing injustice to the complainant.

Mrs C had been discharged to the Grange Care Home in Eckington in November 2015 following an admittance to hospital. She suffered from dementia, type 2 diabetes and osteoporosis.

During her time at the Grange, care home staff recorded finding Mrs C on the floor on 25 occasions and had sustained a number of injuries following these falls. A referral to the falls team had not not made and a risk assessment had not been completed. In December 2015 Mrs C reported that she had been hit by someone and that this happened 'all the time'. A record of Mrs C's allegation had been made but no further action was taken. Also in December 2015 Mrs C's GP visited her as she had a swollen and sore mouth. She was diagnosed with a mouth infection but the GP had not been told that Mrs C may have swallowed paint from the wall. Mrs C went to hospital in January 2016 when staff called paramedics after finding her unresponsive.

Mrs C experienced an unwitnessed fall on in March 2016. Standard procedure had been followed and staff did not find any apparent injuries. Later in that month Mrs C was found unresponsive and she was admitted to hospital. When she arrived at hospital she was found to have four fractured ribs and serious chest injuries. The hospital raised a safeguarding alert with the Council on the day of Mrs C's admission.

Mrs C sadly passed away three weeks later in hospital on 16th April 2016. The safeguarding investigation opened following the alert from the hospital continued to run after Mrs C's death and the handling of this was the subject of part of the complaint.

A complaint had been made by a family member to the Care Quality Commission. This resulted in the CQC prosecuting the Council for breaching regulation 12, failing to provide safe care and support resulting in avoidable harm. The Council pleaded guilty and was fined £500,000 at Chesterfield Magistrates Court on 9th December 2019.

The LGSCO found the following faults, causing injustice in the following areas:

- Failings to carry out an adequate pre-admission assessment.
- Repeat fails to complete a falls risk assessment as well as the falls not being consistently or adequately recorded and the family not being informed of the extent of the pattern of falls.
- The pattern of falls not being acted upon during monthly reviews.
- Failings to complete an adequate nutritional assessment or keep adequate records.
- A lack of clarity around whether or not the Council considered Mrs C's diabetes when managing her diet.
- Not considering whether an allegation made by Mrs C that she was hit by a member of staff justified a safeguarding investigation.
- Flaws in the way records were kept following a GP visit.
- The response to staffing problems following the restructure had been ineffective which meant that mandatory risk assessments were not being completed.
- Failing to consider whether Mrs C's death should have been referred to Derbyshire's Safeguarding Adults Board.

In addition to the above recommendations the following actions had been taken:

- A full and unreserved apology had been offered to Mr B and the Executive Director, and the Service Director were to meet family members in January 2020.

- An agreement had been made to make a payment of £1,000 to a registered charity of Mr B's choice and to pay for a memorial as well as Mrs C's estate being refunded.
- Further reviews of Mrs C's death were being undertaken, as well as a Quality Improvement Board being established.
- A review of all safeguarding policies had been conducted and the Council's Lead for safeguarding had conducted two workshops.
- A new incident form was being finalised with the data feeding in to the Council's 'Dashboard' programme.
- The Service Manager responsible for Mosaic had attended workshops in order to provide guidance about the recording and completion of Personal Service Plans and risk assessments.
- All daily paper logs were now to be uploaded to electronic files at the end of every day. A review was currently being undertaken as to whether the use of handheld tablets would have benefits.
- The Council recognised that it needed to improve the way that directly provided services were monitored. To effect this change three additional officers had been employed to work within the central Quality and Compliance Team.
- Clear process for social workers to highlight any concerns about particular care homes or home care services had been established.
- The Council had improved its ability to monitor which members of staff had completed mandatory training.
- The Council were to include in any restructure the identification of all associated risks and proposed mitigations.

In response to the review into Mrs C's death the Council commissioned an independent expert to review practice at the Grange. There were some minor recommendations which had been addressed but the independent expert concluded that the quality of care provided at the Grange was 'good' in accordance with CQC standards. This had been confirmed at the most recent inspection of the Grange completed by the CQC.

RESOLVED to (1) note the findings of the Local Government Ombudsman and the action which had been taken by the Council in response to the Ombudsman's report; and (2) bring back a further report to the Committee in six months regarding progress.

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DERBYSHIRE COUNTY COUNCIL

2ND JULY 2020

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

CHAIRMAN'S REPORT

1. Purpose of the Report

To consider the draft annual report of the Chairman of the Governance, Ethics and Standards Committee.

2. Information and Analysis

The terms of reference for the Governance, Ethics and Standards Committee as outlined at Article 11 of the Constitution require the Chairman to provide an annual report. It is proposed that the annual report would outline the work done by the Committee over the last year and give an indication of the work programme for the next municipal year.

The Council's current Constitution was implemented in May 2019. However, it is proposed that this initial annual report under the new Constitution should also cover the work done towards implementation of the new Constitution during the year 2018 – 2019.

The draft report for consideration by the Committee is attached at Appendix 1.

3. Legal Considerations

In accordance with the terms of reference at Article 11 of the Constitution, the Chairman of Governance, Ethics and Standards Committee is required to provide an annual report.

4. Other Considerations

In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

The Constitution and the file held by the Director of Legal and Democratic Services

6. Officer Recommendation

That the Committee considers the draft annual report of the Chairman of the Governance, Ethics and Standards Committee attached at Appendix 1 to this report.

Simon Hobbs

Director of Legal and Democratic Services and Monitoring Officer

DERBYSHIRE COUNTY COUNCIL

[date]

**ANNUAL REPORT OF THE GOVERNANCE, ETHICS & STANDARDS
COMMITTEE (FORMERLY KNOWN AS THE STANDARDS COMMITTEE)
FOR THE YEARS 2018/19 AND 2019/20**

Introduction from Councillor C Short, Chairman of the Governance, Ethics and
Standards Committee

I am very pleased to present this report detailing the work undertaken by the Governance, Ethics and Standards Committee (formerly known as the Standards Committee) for the years 2018 to 2019 and 2019 to 2020.

This last 2 years has been a very busy period for the Committee as a comprehensive review of the Council's Constitution has been undertaken. In doing so, the Council's Ethical Governance Framework has been expanded and improved. In undertaking this piece of work, the Committee very much feels that the integrity and transparency of the Council's decision-making principals has been greatly enhanced. The Committee also took the opportunity to consider the implications of the Annual Report of the Committee for Standards in Public Life and the Committee is committed to ensuring that it continues to progress the many recommendations which have been suggested as delivering good practice.

The LGA has launched a consultation on a draft code of conduct for members as recommended by the Committee on Standards in Public Life's report into Local Government Ethical Standards. The consultation opened on 8th June and will run until 17th August. I would wish to encourage all members to consider the model code and respond to the consultation.

Councillor C Short

Chairman of the Governance, Ethics and Standards Committee

Membership of the Governance, Ethics and Standards Committee (formerly the Standards Committee) during the years 2018/19 and 2019/20

Membership of the Committee 2018/19:

Councillor C Short (Chairman)
Councillor K Buttery (Vice-Chairman)
Councillor J Coyle
Councillor A Fox
Councillor L Grooby
Councillor W Major
Councillor D McGregor
Councillor C R Moesby
Independent Person Lloyd Newby
Independent Person Keith Jackson-Horner

Membership of the Committee 2019/20:

Councillor C Short (Chairman)
Councillor K Buttery (Vice-Chairman)
Councillor J Coyle
Councillor A Fox
Councillor L Grooby
Councillor W Major
Councillor D McGregor
Councillor C R Moesby
Independent Person Lloyd Newby
Independent Person Keith Jackson-Horner

The Committee would also like to thank the Independent Persons, Peter Smith, Keith Jackson-Horner and Lloyd Newby for their commitment and support to the Committee.

We also wish Peter Smith and Keith Jackson-Horner well following their retirement. During the next municipal year, the Committee will be seeking to recruit Independent Persons as a result of the two retirements and also due to the term of office for Mr Newby drawing to a close.

Refreshing the Council's Constitution

In July 2018, the Committee invited the Council's Monitoring Officer to undertake a review of the Council's Constitution.

The refreshed Constitution focussed on streamlining the Council's decision-making principals, whilst maintaining a governance framework which could deliver a commitment to integrity and transparency. As part of this process, the Articles of the Constitution, the Rules of Procedure and Protocols were reviewed and as such, the composition of the new Constitution is now broken down into a series of Articles and Appendices. The Articles set out the overarching functions and the decision-making framework of the Council, whilst the Appendices to Articles contain the details as to how the functions listed in the Articles will be carried out.

This was also an opportunity for the Committee to invite the committees of the Council to undertake a review of their respective terms of reference to ensure that they too would be effective going forward. However, upon reviewing the range of committees promoted by the Council, a decision was taken to cease the Regulatory Licensing Committee, due to the work being absorbed into the revised Schemes of Delegation. A new committee, the Appointment and Conditions of Service Committee was created.

The Standards Committee, as it was previously known, also undertook a fundamental review of its own terms of reference and this has resulted in a comprehensive wide ranging scope for the Committee which offers assurance to the Council for the promotion of the Council's Governance and Ethical Governance Frameworks. The Committee also decided to rename itself as the Governance, Ethics and Standards Committee so as to truly reflect its new profile.

During this period, the Committee felt that training and awareness raising of the proposed refreshed Constitution was of paramount importance to members and officers alike, and the Monitoring Officer was asked to convene a number of

training sessions and presentations to the Committees, including to the Resources, Improvement and Scrutiny Committee.

The Committee took the decision to review the aspects of the Constitution relating to the improvement and scrutiny arrangements during the next municipal year due to the publication of relevant Government guidance being delayed.

In revising the Constitution, the Committee was able to fully consider the recommendations made by the Committee for Standards in Public Life in their Annual Report as it sought to confirm the Committee had adopted good practice by virtue of its wider development of the Council's Ethical Governance Framework, for example, Member Officer Protocols and Guidance for Members appointed to outside bodies.

After a number of lengthy meetings, the Committee recommended the refreshed Constitution to the Full Council at the Annual Meeting on 15 May 2019. Going forward, the Committee have given an assurance to the Council that the Constitution will be the subject of regular reviews.

Role Profiles

During the process of refreshing the Constitution, the Committee has overseen the revision to the Member Role Profiles and disestablished the Member Role Profile for the Chairman of the Council and established:

- 1) a revised Member Role Profile for the Chairman of the County Council;
- 2) created a new Member Role Profile for the Civic Chairman of Derbyshire County Council; and
- 3) created a new Member Role Profile for Vice Civic Chairman of Derbyshire County Council.

Complaints received pursuant to the Member's Code of Conduct

During 2018/19, the Committee received the following complaints pursuant to the Code of Conduct. The Council's Code of Conduct was implemented in July 2012 and is supported by a procedure for the handling of complaints received. The Code of Conduct is published in the Council's Constitution and appears on the Council's website.

The Committee is grateful for the support received from the Independent Persons in determination of these complaints.

	Complaint received from	Substance of the complaint	Outcome
Councillor 1	Member of the public.	Failure to respond to repeated requests for support and information relating to a local issue.	Complaint not upheld as the investigation indicated that there had been a communication error between the complainant and a council department as opposed to the role of the councillor in question.
Councillor 2	Member of the public.	Failure to treat with respect, allegations of defamation of	Complaint not upheld as the complaint fell

		character via use of social medial.	outside the remit of the Code of Conduct. Councillor 2 was not acting in the capacity of a councillor when using social media and had already provided an apology in a private capacity.
Councillor 3	Member of the public.	Allegation of failure to act with honesty when information was printed in a political newsletter. The allegation was that comments printed were inaccurate.	Complaint not upheld as the complaint fell outside the remit of the Code of Conduct. The printed material in question was of a political nature and not related to the County Council.
Councillor 4	Member of the public.	Allegation that all aspects of Code Conduct had been breached due to alleged disrespectful behaviour by Councillor 4.	Complaint not upheld.

Over the course of the year 2018 to 2019, 4 potential complaints against councillors were received. However, on undertaking preliminary enquiries, none of

those complaints were upheld and 2 were considered to fall outside the remit of the Code of Conduct.

A report for the 2019 to 2020 will be provided to the Committee but has been delayed and will be presented during the next municipal year.

Other activity undertaken by the Committee

The Committee has overseen a project which has delivered the newly fitted audio visual equipment in the Council Chamber and it is hoped that this will considerably enhance the delivery of council meetings.

Work Programme for the next municipal year (May 2020 – 2021)

It is proposed that during the next municipal year, the work programme for the Governance, Ethics and Standards Committee will include the following;

1. further review of the Constitution as necessary and as an evolving document to reflect council changes and/or new initiatives. A detailed review is currently underway and a report will be presented to the Governance, Ethics and Standards Committee in July and subsequently to the Council. Therefore, the purposes of future reviews will be to ensure that the Constitution remains up to date;
2. overview of complaints against the Council, both corporately and across departments, with reports and presentations from representatives who deal with complaints in departments;
3. overview of complaints against elected members and receipt of the annual report, including consideration of the procedure in relation to the involvement of the Chair of the Committee in considering complaints.
4. Member Safety - following the concerns within the report of the Committee on Standards in Public Life regarding elected members

dealing with members of the public, consideration will be given to occasions when they may feel threatened, practical solutions and how this can be monitored and considered by the Council. This would also include consideration of the Members Safety Policy and a report/presentation from Audit on the work they have undertaken regarding this.

5. Recruitment of Independent Persons - following receipt of resignations from two of the Independent Persons and the term of office for the third drawing to a close. It is proposed that the recruitment arrangements will be delegated to officers.
6. Code of Conduct for Members - consideration of refresher training and also to provide a forum for debate on conduct issues in order to canvass views for elected members on potential changes.

The Committee will use its discretion to adapt this work programme in response to any matters arising.

DERBYSHIRE COUNTY COUNCIL

2ND JULY 2020

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

UPDATES TO THE CONSTITUTION

1. Purpose of the Report

To consider proposed amendments to the Constitution to ensure that the Constitution remains up to date and fit for purpose.

2. Information and Analysis

The revised Constitution was implemented in May 2019. However, it is regularly reviewed in order for it to remain up to date and fit for purpose. As a result of such a review, a number of amendments to the Constitution are proposed and detailed in the draft report to Council attached at Appendix 1 for consideration by the Governance, Ethics and Standards Committee. Changes to the Constitution may only be approved by the Council after consideration of the proposals by the Governance, Ethics and Standards Committee.

3. Legal Considerations

In accordance with the Council's Constitution, approval by the full Council is required for any change to the Constitution. However, under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required *to advise the County Council on the monitoring, amendments to and overall operation of the Constitution.* Therefore, prior to the amendments being considered by the full Council, they must be considered by the Governance, Ethics and Standards Committee.

4. Other Considerations

In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

The Constitution and the file held by the Director of Legal and Democratic Services

6. Officer Recommendation

That the Committee considers the proposed amendments to the Constitution as detailed in the draft report to Council attached at Appendix A and commends them to the Council.

Simon Hobbs

Director of Legal and Democratic Services and Monitoring Officer

DERBYSHIRE COUNTY COUNCIL

15th July 2020

Council – Draft Report

Updates to the Constitution

1. Purpose of the Report

To consider proposed amendments to the Constitution to ensure that the Constitution remains up to date and fit for purpose.

2. Information and Analysis

The revised Constitution was implemented in May 2019. However, it is regularly reviewed in order for it to remain up to date and fit for purpose. As a result of such a review, the Council is invited to consider the following amendments to the Constitution:

- a) Within Appendix 1 – Responsibility for Functions, the list of legislation included under delegation 1 of the Delegations to the Director – Community Services be replaced with the list attached to this report at Appendix A. As the list of legislation is regularly updated, it is proposed that the wording of delegation 1 to the Director –Community Services be amended to read:

“To undertake enforcement and administrative duties under the legislation detailed in the list at Appendix A”.

Updated lists (i.e. a replacement Appendix A) can then be included from time-to-time as necessary with the agreement of the Director of Legal and Democratic Services, with the Governance, Ethics and Standards Committee and the Council being notified in accordance with delegation 18 to the Director of Legal and Democratic Services, to *“undertake any revisions or amendments to the Constitution required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council”.*

- b) Within, Appendix 1 – Responsibility for Functions, delegation 4 of the Delegations to the Director of Legal Democratic Services be amended to widen the authority to include the ability to settle or compromise potential as well as actual proceedings. It is proposed that the delegation be amended to read as follows:

“To prosecute, withdraw, defend, compromise, settle, appeal and appear in proceedings, or compromise or settle proceedings or potential proceedings on behalf of the County Council in any court of law, whether criminal or civil, tribunal, inquiry, chamber or other hearing or before any Judge, Registrar, Recorder, Magistrate, Coroner, Inspector, Arbitrator, Mediator or expert.”

- c) Within Appendix 1 – Responsibility for Functions, an additional function added to the list of *“Functions of the Full Council”* to include consideration of settlements and exit packages on termination of employment or remuneration on appointment in excess of £100,000.
- d) Amend Appendix 9 – Officer Procedure Rules to enable Executive Directors to appoint Directors on a temporary basis and pending recruitment to the permanent role. As mentioned in point 2 above, full Council must be involved whereby the annual remuneration package of a role is or exceeds £100,000 and Appendix 9 requires the appointment of Chief Officers and Deputy Chief Officers, which includes Executive Directors and Directors within the Council to be considered by Elected Members. Therefore, it is proposed to include an exception to Appendix 9 to provide for the temporary appointment to the role of director; that is an appointment for a maximum period of 6 months, so that the total remuneration awarded under the arrangement would not total £100,000. To provide for this additional wording would be included at paragraphs 3 (c) (ii) and (iv) of Appendix 9 as follows:

“ save where the appointment is on a temporary basis of no more than 6 months.”

- e) To clarify the position with regard to delegated authority for the making of key decisions, it is proposed to amend Part B1 of *Powers delegated to Executive Directors in Consultation with Cabinet Members* within Appendix 1 – Responsibility for Functions to read as follows:

Part B

B1 Delegations to Executive Directors and Directors do not include:-

(d) any matter which constitutes a key decision except as provided for in Article 7.3(c)

The making of a key decision as outlined above would be subject to call-in as specified at paragraph 13(1) of Appendix 5 – Improvement and Scrutiny Procedure Rules. Should the matter be urgent, call-in could be waived in accordance with paragraph 13 (6) of Appendix 5. include decisions taken by an individual member of Cabinet, a Committee of Cabinet , or a key decision made by an officer with delegated authority from Cabinet or under joint arrangements, as well as by Cabinet.

Consequently, it is proposed to amend paragraph 13(6) to read *“the call-in procedure set out above shall not apply where the decision being taken by Cabinet, an individual member of Cabinet, a Committee of Cabinet or a key decision made by an officer with delegated authority from Cabinet or under joint arrangements is urgent.....”*

- f) Within Appendix 2 - the Council’s Petition Scheme, to be considered further, a petition must be signed by 10 or more persons who, live, work or study in the Council’s area. It is proposed to increase the number of signatures required for further consideration of a petition to 100

Should the Council still wish to consider petitions with fewer signatures, Council may consider that it be reasonable to delegate such petitions to officers to consider. It is therefore proposed that the relevant section of the Petition Scheme be amended to read as follows:

“The County Council has decided that a petition for the purposes of this Petition Scheme must be signed by 50 or more persons who live, work or study in the Council’s area. Any petition with fewer than 50 signatures will be passed to the relevant department to consider in accordance with the departmental complaints process.”

3. Legal Considerations

In accordance with the Council’s Constitution, approval by the full Council is required for any change to the Constitution. However, under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required *to advise the County Council on the monitoring, amendments to and overall operation of the Constitution.* Therefore, prior to the amendments being considered by the full Council, they were considered by the Governance, Ethics and Standards Committee at its meeting on 2nd July and the Committee commends the proposed amendments to the Council.

4. Other Considerations

In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

The Constitution and the file held by the Director of Legal and Democratic Services.

6. Officer Recommendation

That the Council approves the amendments to the Constitution outlined in the report and commended by the Governance, Ethics and Standards Committee.

Simon Hobbs

Director of Legal and Democratic Services and Monitoring Officer

DERBYSHIRE COUNTY COUNCIL

15TH JULY 2020

COUNCIL – DRAFT REPORT

UPDATES TO THE CONSTITUTION

1. Purpose of the Report

To consider proposed amendments to the Constitution to ensure that the Constitution remains up to date and fit for purpose.

2. Information and Analysis

The revised Constitution was implemented in May 2019. However, it is regularly reviewed in order for it to remain up to date and fit for purpose. As a result of such a review, the Council is invited to consider the following amendments to the Constitution:

- a) Within Appendix 1 – Responsibility for Functions, the list of legislation included under delegation 1 of the Delegations to the Director – Community Services be replaced with the list attached to this report at Appendix A. As the list of legislation is regularly updated, it is proposed that the wording of delegation 1 to the Director –Community Services be amended to read:

“To undertake enforcement and administrative duties under the legislation detailed in the list at Appendix A”.

Updated lists (i.e. a replacement Appendix A) can then be included from time-to-time as necessary with the agreement of the Director of Legal and Democratic Services, with the Governance, Ethics and Standards Committee and the Council being notified in accordance with delegation 18 to the Director of Legal and Democratic Services, to *“undertake any revisions or amendments to the Constitution required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council”.*

- b) Within, Appendix 1 – Responsibility for Functions, delegation 4 of the Delegations to the Director of Legal Democratic Services be amended to widen the authority to include the ability to settle or compromise potential as well as actual proceedings. It is proposed that the delegation be amended to read as follows:

“To prosecute, withdraw, defend, compromise, settle, appeal and appear in proceedings, or compromise or settle proceedings or potential proceedings on behalf of the County Council in any court of law, whether criminal or civil, tribunal, inquiry, chamber or other

hearing or before any Judge, Registrar, Recorder, Magistrate, Coroner, Inspector, Arbitrator, Mediator or expert.”

- c) Within Appendix 1 – Responsibility for Functions, an additional function added to the list of “*Functions of the Full Council*” to include consideration of settlements and exit packages on termination of employment or remuneration on appointment in excess of £100,000.
- d) Amend Appendix 9 – Officer Procedure Rules to enable Executive Directors to appoint Directors on a temporary basis and pending recruitment to the permanent role. As mentioned in point 2 above, full Council must be involved whereby the annual remuneration package of a role is or exceeds £100,000 and Appendix 9 requires the appointment of Chief Officers and Deputy Chief Officers, which includes Executive Directors and Directors within the Council to be considered by Elected Members. Therefore, it is proposed to include an exception to Appendix 9 to provide for the temporary appointment to the role of director; that is an appointment for a maximum period of 6 months, so that the total remuneration awarded under the arrangement would not total £100,000. To provide for this additional wording would be included at paragraphs 3 (c) (ii) and (iv) of Appendix 9 as follows:

“ save where the appointment is on a temporary basis of no more than 6 months.”

- e) To clarify the position with regard to delegated authority for the making of key decisions, it is proposed to amend Part B1 of *Powers delegated to Executive Directors in Consultation with Cabinet Members* within Appendix 1 – Responsibility for Functions to read as follows:

Part B

B1 Delegations to Executive Directors and Directors do not include:-

(d) any matter which constitutes a key decision *except as provided for in Article 7.3(c)*

The making of a key decision as outlined above would be subject to call-in as specified at paragraph 13(1) of Appendix 5 – Improvement and Scrutiny Procedure Rules. Should the matter be urgent, call-in could be waived in accordance with paragraph 13 (6) of Appendix 5. include decisions taken by an individual member of Cabinet, a Committee of Cabinet , or a key decision made by an officer with delegated authority from Cabinet or under joint arrangements, as well as by Cabinet.

Consequently, it is proposed to amend paragraph 13(6) to read “*the call-in procedure set out above shall not apply where the decision being taken by Cabinet, an individual member of Cabinet, a Committee of Cabinet or a key decision made by an officer with*

delegated authority from Cabinet or under joint arrangements is urgent.....”

- f) Within Appendix 2 - the Council’s Petition Scheme, to be considered further, a petition must be signed by 10 or more persons who, live, work or study in the Council’s area. It is proposed to increase the number of signatures required for further consideration of a petition to 100

Should the Council still wish to consider petitions with fewer signatures, Council may consider that it be reasonable to delegate such petitions to officers to consider. It is therefore proposed that the relevant section of the Petition Scheme be amended to read as follows:

“The County Council has decided that a petition for the purposes of this Petition Scheme must be signed by 50 or more persons who live, work or study in the Council’s area. Any petition with fewer than 50 signatures will be passed to the relevant department to consider in accordance with the departmental complaints process.”

3. Legal Considerations

In accordance with the Council’s Constitution, approval by the full Council is required for any change to the Constitution. However, under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required *to advise the County Council on the monitoring, amendments to and overall operation of the Constitution.* Therefore, prior to the amendments being considered by the full Council, they were considered by the Governance, Ethics and Standards Committee at its meeting on 2nd July and the Committee commends the proposed amendments to the Council.

4. Other Considerations

In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

The Constitution and the file held by the Director of Legal and Democratic Services.

6. Officer Recommendation

That the Council approves the amendments to the Constitution outlined in the report and commended by the Governance, Ethics and Standards Committee.

Simon Hobbs
Director of Legal and Democratic Services and Monitoring Officer

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List of Legislation as at 19 January 2020

Part 1

Authorisation for officers enforcing legislation generally.

Agriculture (Miscellaneous Provisions) Act 1968
Animal Health Act 1981
Animal Welfare Act 2006
Animals Act 1971
Anti-social Behaviour Act 2003
Brucellosis (England) Order 2015
Cancer Act 1939
Children and Families Act 2014
Children and Young Persons (Protection from Tobacco) Act 1991
Children and Young Persons Act 1933
Clean Air Act 1993 – Motor Fuel (Composition and Content) Regs.
Companies Act 2006
Consumer Credit Act 1974
Consumer Protection Act 1987
Consumer Rights Act 2015
Copyright, Designs and Patents Act 1988
Criminal Justice Act 1988
Criminal Justice and Police Act 2001
Customs & Excise Management Act 1979
Education Reform Act 1988
Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015
Enterprise Act 2002
Environmental Protection (Microbeads)(England) Regulations 2017
Estate Agents Act 1979
European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty including:
 African Horse Sickness (England) Regulations 2012
 Animal By-Products(Enforcement)(England) Regulations 2013
 Avian influenza (Preventative Measures)(England) Regulations 2006
 Avian Influenza (Vaccination)(England) Regulations 2008
 Biofuel Labelling Regulations 2004
 Bluetongue Regulations 2008
 Business Protection from Misleading Marketing Regulations 2008
 Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008
 Cattle Identification Regulations 2007
 Construction Products Regulations 2013
 Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
 Consumer Protection from Unfair Trading Regulations 2008
 Consumer Rights (Payment Surcharges) Regulations 2012
 Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009
 Crystal Glass (Descriptions) Regulations 1973
 Detergents Regulations 2010
 Diseases of Swine Regulations 2014
 EC Fertilisers (England and Wales) Regulations 2006
 Eggs and Chicks (England) Regulations 2009
 Electrical Equipment (Safety) Regulations 2016

Electromagnetic Compatibility Regulations 2016
Energy Information Regulations 2011
Energy Performance of Buildings (England and Wales) Regulations 2012
Equine Identification (England) Regulations 2018
Financial Services (Distance Marketing) Regulations 2004
Fluorinated Greenhouse Gases Regulations 2015
Foot-and-Mouth Disease (Control of Vaccination)(England) Regulations 2006
Footwear (Indication of Composition) Labelling Regulations 1995
Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018
General Product Safety Regulations 2005
Package Travel and Linked Travel Arrangements Regulations 2018
Packaging (Essential Requirements) Regulations 2015
Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001
Personal Protective Equipment (Enforcement) Regulations 2018
Pressure Equipment (Safety) Regulations 2016
Products of Animal Origin (Disease Control)(England) Regulations 2008
Pyrotechnic Articles (Safety) Regulations 2015
Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018
Radio Equipment Regulations 2017
REACH Enforcement Regulations 2008
Recreational Craft Regulations 2017
Registration of Establishments (Laying Hens)(England) Regulations 2003
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013
Simple Pressure Vessels (Safety) Regulations 2016
Supply of Machinery (Safety) Regulations 2008
Textile Products (Labelling and Fibre Composition) Regulations 2012
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
Tobacco and Related Products Regulations 2016
Toys (Safety) Regulations 2011
Trade in Animals and Related Products Regulations 2011
Transmissible Spongiform Encephalopathies (England) Regulations 2018
Veterinary Medicines Regulations 2013
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012
Welfare of Animals at Time of Killing (England) Regulations 2015
Zoonoses (Monitoring) (England) Regulations 2007

Fireworks Act 2003
Fraud Act 2006
Hallmarking Act 1973
Health Act 2006
Knives Act 1997
Legal Services Act 2007
Licensing Act 2003
Motor Cycle Noise Act 1987
Offensive Weapons Act 2019
Olympic Symbol etc. (Protection) Act 1995
Prices Act 1974
Protection of Animals Act 1911
Psychoactive Substances Act 2016
Registered Designs Act 1949
Road Traffic Acts 1988 and 1991
Single Use Carrier Bags Charges (England) Order 2015

Tenant Fees Act 2019
and the Housing and Planning Act 2016 as it relates to Client Money Protection Schemes
Theft Act 1968
Tobacco Advertising and Promotion Act 2002
Trade Descriptions Act 1968
Trade Marks Act 1994
Unsolicited Goods and Services Acts 1971 and 1975
Video Recordings Act 1984
Vehicles (Crime) Act 2001

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

Part 2

Additional List of Legislation for officers with qualification/competency in:

Food Law

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty including:

Animals and Animal Products (Examination for Residues and Maximum Residue Limits)(England and Scotland) Regulations 2015

Beef and Veal Labelling Regulations 2010

Country of Origin of Certain Meats (England) Regulations 2015

Food for Specific Groups (Information and Compositional Requirements)
(England) Regulations 2016

Food Information Regulations 2014

Food Safety and Hygiene (England) Regulations 2013

Genetically Modified Organisms (Traceability and Labelling)(England) Regulations 2004

Infant Formula and Follow-on Formula (England) Regulations 2007

Materials and Articles in Contact with Food (England) Regulations 2012

Novel Foods (England) Regulations 2018

Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 *in so far as it relates to food law*

Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to food law*

Olive Oil (Marketing Standards) Regulations 2014

Organic Products Regulations 2009

Poultrymeat (England) Regulations 2011

Quick-frozen Foodstuffs (England) Regulations 2007

Scotch Whisky Regulations 2009

Specified Products from China (Restrictions on First Placing on the Market)
(England) Regulations 2008

Spirit Drinks Regulations 2008

Wine Regulations 2011

Food Act 1984

Food and Environment Protection Act 1985

Food Safety Act 1990

Part 3

Additional List of Legislation for officers with qualification/competency in: Feed Law

Agriculture Act 1970

Animal Feed (Composition, Marketing and Use)(England) Regulations 2015

Animal Feed (Hygiene, Sampling etc and Enforcement)(England) Regulations 2015

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty including:

Animal Feed (Basic Safety Standards) (England) Regulations 2019

Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 *in so far as it relates to feed law*

Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to feed law*

Part 4 Additional List of Legislation for officers with qualification in: Weights and Measures Law

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty including:

Measuring Container Bottles (EEC Requirements) Regulations 1977

Measuring Instruments Regulations 2016

Non-automatic Weighing Instruments Regulations 2016

Weights & Measures (Packaged Goods) Regulations 2006

Weights and Measures Act 1985

Part 5

A separate authorisation is required under the Health and Safety at Work etc Act 1974 referring to the following:

- i) Sections 20, 21, 22 and 25 of the 1974 Act;
- ii) The following Regulations made under the 1974 Act:

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009

The Dangerous Substances and Explosive Atmospheres Regulations 2002,

The Explosives Regulations 2014,
The Petroleum (Consolidation) Regulations 2014, and

iii) The provisions of the following Acts mentioned in Schedule 1 to the 1974 Act;

Explosives Act 1875
Public Health Acts 1936 and 1961

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DERBYSHIRE COUNTY COUNCIL

2 JULY 2020

GOVERNANCE, ETHICS & STANDARDS COMMITTEE

REPORT OF THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**LOCAL GOVERNMENT ASSOCIATION – CONSULTATION
ON A MODEL CODE OF CONDUCT FOR ELECTED MEMBERS**

1. Purpose of the Report

To inform the Governance, Ethics and Standards Committee of the Consultation launched by the Local Government Association on the draft Member Code of Conduct which will run for 10 weeks from Monday 8 June until Monday 17 August 2020.

2. Information and Analysis

At its meeting on 25 February 2019, the Committee (then the Standards Committee) considered the findings of the review of the Committee on Standards in Public Life dated January 2019. The purpose of the review was for the Committee to assure themselves that the current standards framework was conducive to promoting and maintaining the high standards expected by the public.

The review identified some specific areas of concern and identified a number of risks in respect of the current rules around conflicts and declaring of interests, gifts and hospitality and the increased complexity of local government decision making.

The Committee made 26 recommendations and identified 15 recommendations of best practice to improve ethical standards in local government. The recommendations included the suggestion for the Local Government Association (LGA) to create an updated Model Code of Conduct to enhance consistency and the quality of local authority codes.

The LGA has now developed a Model Code of Conduct and has indicated that it intends to create additional guidance, working examples and explanatory text. The LGA has also launched consultation on the draft Member Code of Conduct which will run for 10 weeks from Monday 8 June until Monday 17 August. The consultation details and questionnaire, together with a copy of the Model Code of Conduct can be accessed on line at <https://www.local.gov.uk/code-conduct->

[consultation-2020](#). A copy of the Model Code of Conduct is also attached at Appendix 1.

3. Legal Considerations

Requirements to maintain high ethical standards for members, together with the requirement to adopt a code of conduct, was introduced by the Localism Act 2011.

4. Other Considerations

In preparing this report the relevance of the following factors have also been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Officer recommendation

That the Committee notes the consultation and draft model code of conduct for elected members launched and prepared by the LGA.

Simon Hobbs
Director of Legal and Democratic Services and Monitoring Officer

Local Government Association Model Member Code of Conduct

Introduction

The Local Government Association (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 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 as councillors we 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. We want the role of councillor to be one that people aspire to and want to participate with. We want 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.

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 councils and councillors on the application of the Code, whilst the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

As a councillor we all represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent everyone (in our ward/town/parish), taking decisions fairly, openly, transparently and with civility. Councillors 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. This Code, therefore, has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.



Councillor Izzi Seccombe OBE
Leader, LGA Conservative Group



Councillor Nick Forbes CBE
Leader, LGA Labour Group



Councillor Howard Sykes MBE
Leader, LGA Liberal Democrats Group



Councillor Marianne Overton MBE
Leader, LGA independent Group

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]¹ in [public or in]² 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 and interaction, including written, verbal, non-verbal, electronic and via social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.] 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. 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.

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 and 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.

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.

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', 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.

Example

LGA guidance and recommendations

Internal resolution procedure

Councils must 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.

Endnotes

1. 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”.
2. 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.”
3. Subject to footnotes 1 and 2 above
4. See CSPL website for further details www.gov.uk/government/news/the-principles-of-public-life-25-years
5. ACAS’s definition of bullying

Appendices

Code Appendix A

The principles are :

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

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 1 (Disclosable Pecuniary Interests) and Table 2 (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 1 or 2, 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 1, 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 2, 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: Disclosable Pecuniary Interests

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 2: Other Registerable Interests

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;	
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.	



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