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STANDARDS COMMITTEE

Day: Tuesday
Date: 14 December 2021
Time: 4.00 pm
Place: Lesser Hall - Dukinfield Town Hall

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATIONS OF INTEREST To allow Members an opportunity to declare any personal or prejudicial interests they may have in any items on the agenda. Members with a personal interest should declare that at the start of the item under consideration. If Members also have a prejudicial or disclosable pecuniary interest they must withdraw from the meeting during the consideration of the item.	
3.	MINUTES The minutes of the meeting of the Standards Committee on the 17 November 2020 to be approved as a correct record.	1 - 6
4.	UPDATE RE: MEMBER CODE OF CONDUCT To consider the attached report of the Monitoring Officer.	7 - 110
5.	CIVILITY IN PUBLIC LIFE To consider the attached report of the Monitoring Officer.	111 - 186
6.	ETHICAL UPDATE - HELPING TO PROMOTE HIGH STANDARDS OF CONDUCT To consider the attached report of the Monitoring Officer.	187 - 190
7.	INDEPENDENT PERSON(S) To consider the attached report of the Monitoring Officer.	191 - 202
8.	WORK PROGRAMME UPDATE To receive a verbal update from the Monitoring Officer	
9.	REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY The Register of Interests and Gifts and Hospitality will be available for inspection at the meeting.	
10.	DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)	

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Louis Garrick, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

Item No.	AGENDA	Page No
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11. URGENT ITEMS

Urgent Business (if any): To give consideration to any other matters arising.
To be accepted at the discretion of the Chair of the meeting.

12. DATE OF NEXT MEETING

To note that the next meeting of the Standards Committee will take place on
29 March 2022

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Louis Garrick, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

STANDARDS COMMITTEE

17 November 2020

Commenced: 14:00

Terminated: 15:20

Present: Mrs Bracken (Chair)
Councillors McNally, L Boyle, Dickinson, Ricci and M Smith

In Attendance: Sandra Stewart Director of Governance and Pensions

Apologies for Absence: Councillors Kitchen, and S Homer
Mrs Barnes

1 DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Members of the Standards Committee.

2 STANDARDS: RECOMMENDATIONS FOR RIGOROUS CHANGE

Consideration was given to a report of the Director of Governance and Pensions, which provided an update to the Committee on the Council's progress in implementing the 15 areas of best practices detailed in **Appendix B** to the report.

Members of the Committee heard that in early 2018 the Committee on Standards in Public Life (CSPL) had announced its first examination of local government standards since the complete transfer of responsibility for standards to local authorities in 2011.

Members were reminded that since 2011, councils had been responsible for setting and managing their own codes of conduct. In practice not all Local Authorities had a full code of conduct, this was one of the issues looked at in the review.

The report, Local Government Ethical Standards, published in January 2019, focused on principle councils and parish councils, and excluded combined and mayoral authorities. The Committee's remit was for England, but it had explored more widely, and included learning from Northern Ireland, Scotland and Wales as well as from the councils contributing to the review. Aspects of the current system were not working, requiring changes in the law and best practice.

The Director of Governance and Pensions highlighted the key changes in law:

- Councillors to be presumed to be acting in an official capacity in their public conduct, including in statements on publicly-accessible social media
- Disclosable pecuniary interests to include a number of unpaid roles coupled with repeal of criminal sanctions
- A public interest test for participating in a discussion or voting if councillors have an interest in an issue
- Increased powers and protections for Independent Persons
- Local authorities to have the power to suspend councillors without allowances for up to six months
- Councillors to have the right to appeal to the Local Government Ombudsman in the event of suspension
- Disciplinary protections for statutory officers to be extended to all disciplinary action, not just dismissal.

The Director reminded the Committee that these were recommendations and were yet to be brought into legislation. Nevertheless, the recommendations that had arisen from the CSPL translated into the following key best practice proposals:

1. The adoption of an updated model code of conduct, prepared by the LGA;
2. Including prohibitions on bullying and harassment in codes of conduct;
3. Requiring councillors to comply with formal standards investigations;
4. Strengthening aspects of the investigation of breaches of codes of conduct;
5. Publicly available information on how to make a complaint; and
6. A reports on relationships with separate bodies as part of the annual governance statement.

Additionally, the Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they had received; what the complaints broadly related to; the outcome of those complaints, including if they were rejected as trivial or vexatious; and any sanctions applied. Councils should be recording allegations and complaints they had received, even if they did not result in an investigation, and should certainly publish decisions on formal investigations. Information about how to make a complaint should be available on the council's website. Further, Council's should consult locally on what should be included in the code of conduct.

It was further explained that with regards to independent persons on the Standards Committee it was recommended that an independent person should be appointed for a fixed term of 2 years with the possibility of a 1 term renewal.

Members discussed different activities and engagements online that would be considered acting in an official capacity in their public conduct.

RESOLVED

That the report be noted and for the current position regards the best practice be noted and approved.

3 UPDATE RE: LOCAL GOVERNMENT ASSOCIATION MODEL MEMBER CODE OF CONDUCT

Consideration was given to a report of the Director of Governance and Pensions, which looked at the draft Model Code of Conduct for Members in comparison to Tameside's current Code of Conduct for Members and highlighted the main differences between them.

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

The Director of Governance and Pensions outlined the model Member conduct as set out in **Appendix A** 'Local Government Association Model Member Code of Conduct':

- 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

Further, Councillors would make a commitment to:

- Impartially exercise their role in the interest 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 were used prudently and in the public interest.

It was highlighted that the Committee on Standards in Public Life (CSPL) recommend that Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applied 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. Further, CSPL recommended that councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media and 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.

RESOLVED

That the Standards Committee note the changes and RECOMMEND TO COUNCIL to adopt the final version of the Local Government Association Model Code of Conduct for Members once published (and appended to these minutes) to take effect for the New Municipal Year and the Monitoring Officer undertake the necessary training to effectively implement the revised Code.

4 GENERAL DISPENSATION FOR MEMBERS

Consideration was given to a report of the Director of Governance and Pensions, which invited the Committee to readopt the existing, range of standard dispensations available to Members in discharging Council functions in accordance with the Localism Act 2011 and the Members' Code of Conduct.

It was explained that Members were required to declare under the Localism Act 2011 ('the Act') and Members' Code of Conduct ('the Code') their disclosable pecuniary interests in relation to matters discussed at formal Council meetings.

This report sought the agreement of the Standards Committee to grant in principle a dispensation to all Members for the same categories of otherwise disclosable pecuniary interests for a further four-year period. Such dispensations did not relieve the Member of the obligation to declare and register such interests, although on those occasions where something impacts on a majority of Members, the Borough Solicitor would usually make that declaration on behalf of all those affected Members.

It was explained that in 2013, the Government issued guidance on whether a Member had a pecuniary interest in respect of setting the Council Tax or a precept. While therefore it was not necessary to apply for the dispensation in order for Members to discuss and vote upon Council Tax, as there was ambiguity in the legislation which necessitated the Government guidance, it was considered advisable to continue to include the setting of Council Tax or any precept as one of the dispensation categories for the avoidance of doubt.

The Director of Governance and Pensions stated that the only dispensations in the last 8 years that had been awarded were for setting Council tax using the form at **Appendix A** on an annual basis.

RESOLVED

That the Standards Committee:

- (i) Delegate authority to the Borough Solicitor to, upon application by Members, grant a dispensation for four years from the date of this Committee, for Members to participate and vote in the following matters, irrespective of them otherwise having a pecuniary interest:**
 - (a) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless the matter relates particularly to the school, which the child attends;**

- (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of, such pay;
 - (c) an allowance, payment or indemnity given to Members;
 - (d) any ceremonial honours given to Members; and
 - (e) setting council tax or a precept under the Local Government Finance Act 1992.
- (ii) Note that such dispensation does not relieve the Member of the obligation to declare the interest or have such interest registered in accordance with the Members' Code of Conduct and the expectation is it will be produced in the form at Appendix A and declared at the meeting.

5 CIVILITY IN PUBLIC LIFE

Consideration was given to a report of the Director of Governance and Pensions, which detailed the programme undertaken by the LGA working with the WLGA, COSLA and NILGA on 'Civility in public life'.

It was reported that the LGA recognised the growing need among councillors for support related to intimidation, and have jointly developed a resource following advice from both councils, councillors, other council representative organisations, as well as national organisations such as the Suzy Lamplugh Trust and National Counter Terrorism Security Organisation.

The Councillors' guide to handling intimidation (**Appendix A** to the report) covered topics such as how to handle abuse, both face-to-face, letters or online, and the legal and practical remedies, including the nature of the criminal offences involved and would be continuously updated with the latest advice and information available.

It was explained that the Lawyers in Local Government recognised that the growing use of social media placed additional pressure on Monitoring Officers to advise officers, councillors and their authority on a range of legal implications based on wide-ranging posts, tweets and commentary published in the public domain.

On 26 August 2020 Lawyers in Local Government published the Social Media Toolkit (**Appendix B** to the report) that would support Monitoring Officers in providing advice to their officers and members covering defamation, abuse, standards, employment law, data protection, indemnities and guidance for councillors, it provided a comprehensive useful guide to an increasingly complex area.

RESOLVED

That the LGA Councillors' guide to handling intimidation (Appendix A) and the Lawyers in Local Government published their social media toolkit (Appendix B) be shared with all elected councillors to support them in their roles.

6 ETHICAL STANDARDS UPDATE

Consideration was given to a report of the Director of Governance and Pensions, which briefed Members on any developments and news on matters of local government ethics. The report looked at news items and any relevant case law, as well as any recent published decisions from other local authorities or any of the existing standards boards. It also provided an update on the work of the Committee on Standards in Public Life (CSPL) that followed on from their report "Ethical Standards in Local Government".

It was reported that in July 2020 Wakefield Council had to explain to residents that there were no powers to remove a councillor who had been convicted of sexual offences involving children, but was then yet to be sentenced. The Director of Governance and Pensions explained that under the current

laws a Councillor could not be disqualified as a Councillor until such time as they had been sentenced for a criminal offence and received a sentence for more than 3 months.

Members heard that in June 2020, Richard Harwood QC reported a case in which the High Court had considered the issues around lobbying. This followed the London Borough of Hackney advising planning committee members to not read correspondence sent to them concerning applications. The High Court found that such communications were an important part of the local democratic process.

It was stated in June 2020, the LLG website published a report about NALC calling for there to be a power of suspension and asking the government to take urgent action to introduce such a power.

Further, in June 2020, it was reported that a community councillor in Wales had failed to secure an injunction to prevent the Public Service Ombudsman for Wales investigating complaints about him.

RESOLVED

That the report be noted.

7 REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY

The Register of Interests and Register of Gifts and Hospitality were available online for inspection.

It was reported there had only been one gift declared in the last 6 months, which was flowers of the value of £25 given to a Councillor.

8 URGENT ITEMS (IF ANY)

There were no urgent items.

9 DATE OF NEXT MEETING

The date of the next meeting was scheduled for the 6 April 2021.

10 DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

The following items were raised during the discussion period:

Application of the Model Member Code of Conduct

In response to a question from a Member regarding how the Member code of Conduct would apply to social media pages, the Director of Governance and Pensions explained that it was not to prevent Councillors sharing their views. However, it was expected that when sharing views and opinions it would be done in a professional manner.

Conduct of Election Candidates

Members enquired on the conduct of election candidates. The Director of Governance and Pensions explained that there were codes of conducts relating to the conducts of political parties. Further, people could complain to the party offices of any political parties who had published complaints systems.

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REPORT TO:	STANDARDS COMMITTEE
DATE:	14 December 2021
REPORT OF:	Sandra Stewart – Executive Director Governance & Resources (Monitoring Officer)
SUBJECT MATTER:	UPDATE RE: MEMBER CODE OF CONDUCT
REPORT SUMMARY:	<p>The Standards Committee is responsible for monitoring the Councillor Code of Conduct and for making recommendations to Full Council on any changes to the code. The Local Government Association produced a New Model Councillor Code of Conduct and guidance document. The Council adopted the revised model with effect from the Municipal year 2021/22. Since then the Code has been revised by the LGA following concerns. This report recommends that the latest version of the Model Code, is adopted. The Committee is asked to note the update of the LGA Model Code of Conduct, LGA Guidance and proposed action plan detailed within the report.</p>
RECOMMENDATION(S)	<p>The Committee is asked to:</p> <ol style="list-style-type: none">1. note the update of the LGA Model Code of Conduct, which has been revised twice since the Council adopted, the original draft Model Code on the 12 January 2021 (Appendix 1) and recommends that the Council adopts the final updated version of the Model Code issued on the 17 May 2021 (Appendix 2);2. agrees that the Monitoring Officer puts in place the necessary training and development for elected members taking into account the guidance (Appendix 3); and3. reviews the Guidance on Member Model Code of Conduct Complaints Handling (Appendix 4) with the current procedures and brings back a report setting out any changes recommended..
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no significant financial issues arising from this Report.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
RISK MANAGEMENT:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
LINKS TO COMMUNITY PLAN:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.

**ACCESS TO
INFORMATION**

NON-CONFIDENTIAL

This report does not contain information which warrants its consideration in the absence of the Press or members of the public

**REFERENCE
DOCUMENTS:**

Appendix 1	Tameside Council adopted Model Code 12.01.2021
Appendix 2	Local Government Association Model Councillor Code of Conduct 2020 Local Government Association 17.05.2021
Appendix 3	Guidance on Local Government Association Model Councillor Code of Conduct Local Government Association 08.07.2021
Appendix 4	Guidance on Member Model Code of Conduct Complaints Handling Local Government Association 21/09/2021

The background papers relating to this report can be inspected by contacting the report writer, Sandra Stewart, the Council's Borough Solicitor and statutory Monitoring Officer by:



Telephone: 0161 342 3028



e-mail: Sandra.Stewart@tameside.gov.uk

1. INTRODUCTION

- 1.1 The Committee on Standards in Public Life conducted a review of Local Government Ethical Standards in 2018 and the subsequent report was published in January 2019. One of the recommendations of the report was that a new national code of conduct for members was to be created by the LGA for all local Authorities to use as a basis for their own code. 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.
- 1.2 The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We all want the role of councillor to be one that people aspire to and want to participate with. We need 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.
- 1.3 All councils are required to have a local Member Code of Conduct. The Local Government Association 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.
- 1.4 A councillor role is to represent local residents, work to develop better services and deliver local change. The public have high expectations of councillors and entrust them to represent everyone (be it ward/town/parish), taking decisions fairly, openly, transparently and with civility.
- 1.5 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. The Local Government Association Model Member Code of Conduct, therefore, has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

2. PURPOSE

- 2.1 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.
- 2.2 It is also to protect councillors, 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.
- 2.3 The overarching aim is to create and maintain public confidence in the role of member and local government.

3. APPLICATION OF THE CODE

3.1 The Code of Conduct applies to a councillor when they are acting [***or claiming or giving the impression that they are acting***]¹ in [***public or in***]² their capacity as a member or representative of the council, although councillors 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 a councillor could be deemed to be representing your council or if there are potential implications for the council's reputation.***]³ 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

3.2 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**.

Breaches of the Code of Conduct

3.3 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.

3.4 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.

3.5 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.

3.6 Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence.

3.6 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.

3.7 Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life⁴ and may be part of a future Government consultation. This includes possible future sanctions and appeals processes. This is a significant change from the current Code.

3.8 The current Members Code of Conduct, which applies to all elected members can be found on the website at: <https://tameside.moderngov.co.uk/documents/s13569/Part%20a%20-%20Code%20of%20Conduct.pdf>

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 See 1 and 2 above

⁴ See CSPL website for further details www.gov.uk/government/news/theprinciples-of-public-life-25-years

- 3.9 In 2012, the then Government significantly reduced the role of Standards Committee and Monitoring Officer to deal and consider complaints and abolished the Standards Board for England taking the view that the electorate should determine who the representative was and sanction their behaviour through the ballot box unless the elected member's behaviour was criminal.
- 3.10 Criminality was refined and narrowed to failures to declare interests.
- 3.11 Clearly all elected members are subject to the laws of the land and any such complaints would be investigated by the Police in the usual way.
- 3.12 The complaints process does not apply to complaints that are about:
- any conduct where the Councillor is not acting as a councillor for example in their private life
 - Incidents that happened before a member was elected or chosen to serve.
 - Incidents that generally happened more than 12 months ago
 - The way a council conducts or records its meetings.
 - The way a council as a whole has or has not done something. This may be a matter for the Local Government Ombudsman if the council has not dealt with the matter properly and it has not been resolved locally.
 - Decisions of the council or which are about one of the services it provides. In this case, you should ask how to complain using the relevant council's own complaints system.
- 3.13 Any complaints are considered by the statutory section 5 Monitoring Officer usually in consultation with the Independent Person appointed under the Localism Act 2012.
- 3.14 The options available include:
- Informal resolution through, for example, seeking an apology from the member who is the subject of the complaint or attempts at conciliation.
 - Formal investigation to the Standards Sub-Committee
 - No further action.
- 3.15 Where the elected member or the authority make a reasonable offer of local resolution, but a complainant is not willing to accept that offer, this is taken into account of this when deciding whether the complaint merits formal investigation.
- 3.16 Depending on the nature of the complaint, it may be referred for formal investigation to the Standards Committee.
- 3.17 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.
- 3.18 There is no right of appeal against the decision as to what steps, if any, the Council intends to take in relation to a complaint.
- 3.19 If a complainant feels that the authority has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman.
- 3.20 The Code of Conduct for Members makes it clear that the majority of the Code applies only to a Councillor's actions in his capacity as a Councillor. The High Court considered this issue in detail when it considered and upheld the decision of the Case Tribunal that Ken Livingstone was no longer discharging his functions as Mayor of London in telling a reporter that he was acting just "*like a concentration camp guard*" in obeying his employer's instructions to waylay Ken Livingstone and seek to interview him as he walked home after

an evening reception at City Hall. By making it clear to the reporter that he had no intention to reply to the reporter's questions and that he regarded himself as being "off duty", Ken Livingstone had done enough to take himself outside the Code of Conduct's requirement to "treat others with respect".

- 3.21 The High Court concluded that where the Councillor is doing something in an entirely private capacity, where his conduct had nothing to do with his position as a Councillor, he will not be covered by the Code of Conduct.
- 3.22 By way of illustration, the High Court referred to a Councillor who is caught shoplifting or found guilty of drunken driving and said that, if it had been the intention of Parliament to subject a Councillor to a Code of Conduct, which extends to conduct in his private life, Parliament should have spelled out what is to be covered. On that basis, Ken Livingstone was not performing his functions as Mayor of London when he made his remarks to the reporter, and so the Case Tribunal was wrong to find that the Code of Conduct could apply to his conduct at the time.
- 3.23 This interpretation is consistent with Article 10 of the Human Rights Act 1998, as the High Court pointed out. The presumption in that Article is that "*everyone has the right to freedom of expression*", and that right shall include the freedom to hold opinions and to impart information. So Ken Livingstone was entitled to hold the opinion that the reporter was acting unreasonably, and to express that view, and the law could only restrict that right, or penalise him for expressing it, where "*necessary in a democratic society for such purposes as the protection of morals or the reputation or rights of others*".
- 3.24 The High Court found that, since he was "off duty", he had the right to express himself as forcibly as he thought fit, at least on matters which were not so close to his official duties as to bring him back within the reach of the Code of Conduct. Mr. Justice Collins said that, however offensive and undeserving Ken Livingstone's remarks might be his right of freedom of speech as a private individual must prevail.
- 3.25 There is also a difference between actions which bring a Councillor into disrepute, and those which diminish the reputation of his office, or of the authority of which he is a member. The High Court was clear that Ken Livingstone's remarks might reasonably diminish public respect for him as an individual, but that it would have been necessary for the Case Tribunal to have gone a stage further and consider whether his words brought the office of Mayor of London into disrepute. By way of guidance, the High Court suggested that misuse of public office for personal advantage is likely to diminish public respect for that office, but personal misconduct is less likely to do so, even where the office holder is personally associated with the office.
- 3.26 The effect of this judgment is that, currently where a Councillor does something quite outside his functions as a Councillor, even where that action clearly reflects upon his/her credibility to act as a Councillor such as a criminal offence of dishonesty, the only way in which the law can prevent that Councillor from continuing to act as a Councillor is where the Councillor is disqualified under Section 80 of the Local Government Act 1972 as a result of being convicted of a criminal offence and given a custodial sentence of 3 months or more (whether or not suspended).
- 3.27 Even then, disqualification does not bite until any appeal, however unmeritorious, has been dismissed, as was demonstrated when Councillor Jim Speechley, the former Leader of Lincolnshire County Council, was given an 18 month custodial sentence for misconduct in public office but remained a Councillor for more than 6 months, whilst in prison, until his appeal was summarily dismissed. Otherwise, therefore in the absence of legislation regulating behaviour in councillors private lives the Court states that it is for the electorate not to re-elect a Councillor who has demonstrated by their conduct in their private life that they are unworthy of public trust.

- 3.28 **Consequently, it should be noted that generally, the Code doesn't apply to Social Media because members aren't carrying out their council duties and do so in a personal capacity as we do not host their social media accounts.**
- 3.29 Moreover, as explained Article 10 ECHR provides the right to freedom of expression and information, subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society".
- 3.30 This right includes the freedom to hold opinions, and to receive and impart information and ideas.
- 3.31 Article 10 protects both popular and unpopular expression – including speech that might shock others – subject to certain limitations.
- 3.32 *The case of Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin)* had confirmed that what was said by elected politicians was subject to "enhanced protection", applying to all levels of politics (including local politics); and that the protection "extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others".
- 3.33 Clearly, like everyone councillors are subject to the laws of defamation and any criminal obscenity restrictions.
- 3.34 Additionally, whilst some matters don't breach the very strict framework for councillors when undertaking their duties but it may in fact be in breach of their party political code of conduct and this may be an avenue that complainants want to follow.
- 3.35 The model code suggests a new duty of acting "with civility". There is clearly a major issue with regard to social media and the behaviour of Councillors. A recently reported case on the BBC News/"Lincolnshire Live" websites involved the Chair of a Parish Council and farmer who threatened on Twitter, to take action against those in the village seeking to take part in a vigil outside the Parish Church in support of "Black Lives Matter". He has now resigned. It would appear to give the necessary enforcement to the Council's social media.

4. INTERNAL RESOLUTION PROCEDURE / SANCTIONS

- 4.1 Under the new Code councils must have in place an internal resolution procedure to address conduct that is in breach of the Member Code of Conduct.
- 4.2 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.
- 4.3 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.
- (a) an informal discussion with the monitoring officer or appropriate senior officer
 - (b) an informal opportunity to speak with the affected party/ies
 - (c) a written apology
 - (d) mediation
 - (e) peer support
 - (f) requirement to attend relevant training
 - (g) where of a serious nature, a bar on chairing advisory or special committees for up to

two months.

- (h) 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.

4.4 The process for dealing is the same as it is now although it sets out more specifically the proposed sanctions.

5. PROGRESS ON IMPLEMENTING NEW CODE OF CONDUCT

5.1 Members will recall that the Committee on Standards in Public Life (“the CSPL”) published its report on its review of local government ethical standards on 30 January 2019. This report focuses on recommendation 1- ‘that the Local Government Association (‘LGA’) should create an updated code of conduct in consultation with representative bodies of councillors and officers of all tiers of local government’. The Government has yet to comment on the CSPL recommendations including relating to strengthening sanctions for the breach of the code.

5.2 On 20 November 2020, the Committee received a report, which provided information regarding the LGA the Model Code of Conduct.

5.3 Following the Committee’s recommendation Tameside Council adopted the LGA Model Code of Conduct on the 12 January 2021 effective from the 2021/2022 Municipal Year. This Code of Conduct is attached at **Appendix 1**.

5.4 Additional guidance was expected to be released by the LGA during 2 March 2021 and that the guidance was intended to aid Local Authorities with interpretation and implementation of the Model Code. Additionally the guidance was to form the basis of the training at Tameside to ensure a consistent national approach was taken.

5.5 However, owing to Covid there was a delay in the publication of the LGA Guidance and was not published until July 2021 and is set out at **Appendix 2**.

5.6 Since its issue, the LGA code has now been updated twice by the LGA to clarify issues that were not fully covered in the earlier versions. The latest version of the LGA code is attached at **Appendix 3**. It is because of the number of changes and the fact that the Model Code still seems unsettled whilst we work through the Covid Pandemic that only 2 of the GM Authorities have adopted the Code so far.

5.7 However, because the Model Code, together with the Guidance, has been designed to protect the democratic role, encourage good conduct, and safeguard the public’s trust and confidence in the role of councillor in local government – it is recommended to elected members that they adopt the latest version to ensure that the Code of Conduct for Councillors is fit for purpose, provides clarity on expected behaviours and manages and reflects public expectation.

5.8 On the 21 September of this year further guidance was issued, Guidance on Member Model Code of Conduct Complaints Handling (**Appendix 4**), which is intended together with the guidance prepared for councillors to help them understand and follow the revised Local Government Association (LGA) Code of Conduct. It is designed to assist monitoring officers, and anyone nominated by a monitoring officer to carry out investigations on their behalf and to assist councillors in understanding the process. Local authorities may have different practices and arrangements in place. However, the principles of fairness, proportionality, transparency and impartiality will still apply. Accordingly, it is recommended that this guidance and the Council’s current process agreed across GM are

reviewed to ensure they are fully aligned and achieve fairness, proportionality, transparency and impartiality.

5.0 RECOMMENDATION

5.1 As set out on the front of the report.

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Local Government Association Model Member Code of Conduct

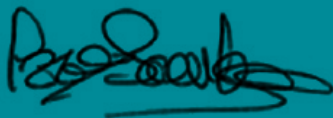
Introduction

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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Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

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

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

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

Definitions

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

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

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

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

Purpose of the Code of Conduct

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

General principles of councillor conduct

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

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

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

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

In undertaking my role:

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

Application of the Code of Conduct

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

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

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

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

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

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

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

Officer.

Standards of councillor conduct

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

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

General Conduct

1. Respect

As a councillor:

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

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

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

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

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

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

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

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

3. Impartiality of officers of the council

As a councillor:

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

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

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

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

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

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

5. Disrepute

As a councillor:

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

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

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

6. Use of position

As a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

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

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

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

8. Complying with the Code of Conduct

As a Councillor:

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

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

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

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

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

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

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

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

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

10. Gifts and hospitality

As a councillor:

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

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

- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

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

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

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

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

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

Non participation in case of disclosable pecuniary interest

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

Disclosure of Other Registerable Interests

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

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

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

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

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

Table 1: Disclosable Pecuniary Interests

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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

Appendix C – the Committee on Standards in Public Life

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

The recommendations cover:

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

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

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

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

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

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

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

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

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

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

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

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

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

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

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

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

Guidance on Local Government Association Model Councillor Code of Conduct

Part 1 - Introduction

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

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

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

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

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

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

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

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

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

General principles of Councillor conduct

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

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

Application of the Model Councillors' Code of Conduct

When does the Code apply?

S27(2) of the Localism Act 2011 says that a local authority must adopt ‘a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.’

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

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

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

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

There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA’s [Guidance](#) for new councillors is a helpful reference point.

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

The code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication

- in non-verbal communications
- in electronic and social media communication, posts, statements, and comments.

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

Acting as a private individual

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

Example

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

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

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

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

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

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

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

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

For example:

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

Examples

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

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

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

Social media postings

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

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

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

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

To help avoid some of these issues, some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy settings are not guaranteed that posts or actions will remain

private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting. If your local authority has guidance on the effective use of social media this can help.

The LGA has published [guidance on councillors](#) and social media.

Examples

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

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

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

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

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

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

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

What if I sit on more than one local authority?

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

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

What is a co-opted member?

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

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

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

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

Part 2 – General obligations under the Code of Conduct

Respect

As a councillor:

- 1. I treat other councillors and members of the public with respect.**
- 2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

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

Respect

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

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

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

Disrespectful behaviour

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

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

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

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

Freedom of expression

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

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

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

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

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

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

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

Can councillors criticise officers?

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

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

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

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

What kinds of conduct are not covered?

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

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

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

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

Examples

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

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

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

Bullying

As a councillor:

1. 1. I do not bully any person.

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

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

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

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

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying can sometimes be

overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a “poor leadership style” or a “bad attitude,” for example, or to the problem being due to a “personality clash”.

You should always be mindful of the overall potential impact of the behaviour on others. First and foremost, bullying can have a significant impact on the recipient’s well-being and health. Bullying can have an impact on a local authority’s effective use of resources and provision of services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave. Bullying can impact on a councillor’s ability to represent their residents effectively. It can also discourage candidates from standing in local elections, making local authorities less representative of their communities, and impacting local democracy.

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

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

Examples of bullying include but are not limited to:

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

[Freedom of expression 'Respect' guidance Part 2](#)

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

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You

are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.

Preventing bullying conduct from developing

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

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

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

Bullying and harassment and the law

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

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

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

Intimidation of councillors

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

The LGA and the Welsh Local Government Association recognise the growing need among councillors for support related to intimidation and have jointly developed a [“Councillors' guide to handling intimidation. Practical steps that you and your local authority can undertake to protect yourself as a person in a public position”](#). The guide covers topics such as how to handle abuse, both face-to-face, letters or online, guidance on personal safety, lone working and online abuse and the legal and practical remedies, including the nature of the criminal offences involved. It will be continuously updated with the latest advice and information available.

Harassment

As a councillor:

1. 1. I do not harass any person.

The Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. Harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

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

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

Examples of harassment include but are not limited to:

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

What does the law say about harassment?

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

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

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

Example

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

Discrimination

As a councillor:

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

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

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

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

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

There are four main forms of discrimination:

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

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

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

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

Examples of discriminatory behaviour include but are not limited to:

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

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

Questions

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

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

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

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

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

Examples

The complaint alleged that a councillor ‘liked’ several racially discriminatory comments on social media and one comment advocating violence against Travellers. The panel found that ‘Liking’ of the offensive comments did amount to a failure to treat those who were the subject of such comments with respect and a failure to promote equalities in breach of the Code of Conduct.

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

Impartiality of officers

As a councillor:

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

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

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

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

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

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

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

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

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

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

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

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

The fundamentally held principle is that "the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole^[1]".

Examples

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

A councillor who, over a period of six months, persistently sought to influence the decisions of officers dealing with a complaint by his son and daughter-in-law

against their local authority tenant neighbour was found, through his actions, to have compromised the impartiality of the officers and to have used his position improperly to promote the interest of his family and to have brought the role of councillor into disrepute in breach of the Code of Conduct.

What does working on behalf of the authority mean?

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

What if I disagree with the views of an officer?

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

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

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

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

Having regard to Officer advice

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

Decisions can be challenged if they are unreasonable, and the local authority could find itself facing an expensive legal bill if it takes a decision which is unlawful. When considering any decision, you must have regard to any professional advice you have been offered, for example from planning or licensing officers. Both the monitoring officer and the chief finance officer have a statutory duty to report formally to the local authority where they believe a local authority action or expenditure is, or may be, unlawful. Similarly, when it comes to elections, you will need to have regard to any advice given to you by the returning officer who may well be a senior officer but in that capacity is entirely

independent of and separate from the local authority and is required to be politically neutral.

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

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

If in any doubt – be safe and always seek advice from your monitoring officer before taking any action.

Local authorities have protocols for councillor-officer relations in their constitutions which are accessible on their websites.

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

Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

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

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

- 1. reasonable and in the public interest; and**
- 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
- 3. I have consulted the monitoring officer prior to its release.**

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

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

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

Confidential information

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

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

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

Disclosure in the public interest

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

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

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

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantial. If you do not believe this, the

disclosure is unlikely to be reasonable.

- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

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

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

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

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

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

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

Circumstances in which a local authority can treat information as confidential

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

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

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

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

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

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

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

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

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

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

- it has the necessary ‘quality of confidence’ about it (trivial information will not be confidential but information that you would expect people to want to be private would be);
- it was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential);
- disclosure of it would be detrimental to the party wishing to keep it confidential.

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

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

Examples

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

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

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

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

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

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

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

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

How does this relate to the Data Protection Act?

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

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

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

Access to information

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

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

The 'need to know'

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

In addition to rights set out in law or conferred by your local authority constitution, you have a right to inspect documents if you can demonstrate a "need to know". This isn't a right to a roving commission but must be linked to your performance of your duties and functions as a councillor. For example, the need could more easily be demonstrated by membership of a relevant committee,

such as a staffing committee than simply because you are interested in seeing the information. Local authorities have more justification for denying free access to particularly sensitive papers such as childcare or staffing records. You should not seek to get information if you have a declarable interest in it.

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

You can also exercise the “need to know” in respect of attending meetings. Access to Information Rules set out an Overview and Scrutiny Committee’s rights of access to documents and additional rights of access to documents for councillors to carry out their functions.

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

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

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

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

Please see the [ICO website](#) for helpful guidance on data protection and freedom of information.

Disrepute

As a councillor:

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

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 17 of the European Convention on

Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions.

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

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

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

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

Questions

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

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

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

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

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

Examples

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

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

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

Misuse of position

As a councillor:

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

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

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

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

Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned. This applies equally to parish councillors when your local authority is consulted on planning matters. Similarly, while it is reasonable to expect councillors to help constituents apply to the local authority, for example, for housing, it is quite improper to seek to influence the decision to be taken by the officers and would also be in breach of paragraph 3 of the code.

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

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

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

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

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

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

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

The wording of the Code of Conduct makes it clear that the use of position provision (paragraph 6) covers failed attempts as well as situations where an advantage or disadvantage has actually been achieved.

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

Examples

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

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

A local authority leader failed to declare a conflict of interest relating to land he owned. The court found that he used his position as a councillor and instructed a planning officer to alter the road route to benefit his own land's value to a

considerable extent. He was found guilty of misconduct in public life for trying to influence the route of a new by-pass to enclose his land in a new development belt, which would have significantly increased its value. He received an 18-month custodial sentence.

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

Misuse of resources and facilities

As a councillor:

7.1 I do not misuse local authority resources.

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

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

1. ensure that such resources are not used for political purposes unless

- 1. that use could reasonably be regarded as likely to facilitate, or**
- 2. be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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

Examples include:

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

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

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

[The recommended code of practice for local authority publicity](#) published by Ministry of Housing, Communities & Local Government provides guidance on the content, style, distribution, and cost of local authority publicity.

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

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

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

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

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

What are the “resources of the local authority”?

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

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

What constitutes using resources “improperly for political purposes”?

The code acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that councillors carry out their duties.

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

However, councillors and monitoring officers will need to exercise considerable care to ensure that this provision is not abused. You must ensure that there is a

sufficient connection between the use of resources and the business of the authority. Only **improper** use of resources will be a breach of the Code of Conduct.

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

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

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

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

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

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

Your local authority may also have a separate protocol on the use of social media which would also be relevant.

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

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

Examples

The complaint alleged a councillor used his computer equipment provided by his local authority for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. He was found to have

misused the local authority's equipment in breach of the code and had brought his office into disrepute.

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

Complying with the Code of Conduct

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

As a councillor:

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

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

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

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

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

While being the subject of a complaint that you have breached the Code of Conduct and having your conduct investigated may at times be unpleasant and stressful it is essential that councillors cooperate with any code investigations and determinations. Failure to cooperate will not stop an investigation but may simply drag matters and does not allow you to put your side of the story so increases the risk that inferences are drawn about your unwillingness to cooperate and that you will be found in breach of the Code.

It is equally important if you have made a complaint which the local authority has decided merits investigation that you continue to cooperate. Complaints made simply to damage the reputation of an individual through inferences but which

you are not willing to support through your cooperation will damage relationships and will also damage the reputation of you and your local authority.

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

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

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

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

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

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

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

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

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

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

The code requires you to register matters under 2 separate categories:

1. Gifts and hospitality, you receive in your role as a councillor; and

Registration of gifts, hospitality and interests

Gifts and hospitality

As a councillor:

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

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

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

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

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

What does “hospitality” mean?

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

How much detail should I include on the register?

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

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

The code says you must register any gift or hospitality received *in your capacity as a councillor* if the estimated value exceeds £50 or such other limit as agreed by your local authority.

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

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

What about gifts or hospitality I do not accept?

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

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

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

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

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

You should always notify the monitoring officer of any gift or hospitality offered to you if it could be perceived as something given to you because of your position, especially where the gift or hospitality is from somebody who has put in an application to the local authority (or is about to) even where that hospitality falls below £50 or the limit set by the local authority.

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

Also, an accumulation of small gifts you receive from the same source over a short period of say a couple of months that add up to £50 or over should be registered in the interests of transparency.

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

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

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

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

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

Is there a minimal threshold where I wouldn't have to notify the monitoring officer?

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

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

You should use your discretion and think how it might look to a reasonable person but always seek the views of the monitoring officer or clerk where you are a parish councillor if in doubt.

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

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

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

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

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

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

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

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

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

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

Register of interests

Section 29 of the Localism Act 2011 requires the monitoring officer to establish and maintain a register of interests of members of the local authority.

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

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the monitoring officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

You must register two different categories of interests:

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

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

Disclosable Pecuniary Interests

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

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

Offences

It is a criminal offence under the Localism Act 2011 to

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

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the 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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council:

	<p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the local authority for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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

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

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

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

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

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

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

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

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

What is a contract with the local authority?

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

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

How much detail is required of landholdings?

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

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

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

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

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

What about my home and tenancies?

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

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

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

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

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

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

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

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

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

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

Other registerable interests

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

- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your local authority;
- (b) Details of any body of which you are a member or in a position of general control or management and which –
 - exercises functions of a public nature
 - is directed to charitable purposes, or
 - is a body which includes as one of its principal purposes influencing public opinion or policy
- (c) Details of any gifts or hospitality with an estimated value of more than £50 or such other limit as your local authority has agreed, that you receive personally in connection with your official duties.

With Other Registerable Interests, you are only obliged to register your own interests and do not need to include interests of spouses or partners. Therefore, a spousal interest in a local group is not registerable as an 'other registerable

interest'. Failure to register these interests is **not** covered by the criminal offence but would be a breach of the code.

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

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

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

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

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

Do local campaigning or Facebook groups need to be registered?

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

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

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

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

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

If you need further information or specific advice, please speak to your clerk or monitoring officer.

What about membership of a political party or trade union?

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

Sensitive interests

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

What is sensitive information?

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

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

What happens if the monitoring officer does not agree that the information is sensitive?

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

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

What happens if the information stops being sensitive?

You must notify the monitoring officer of any change in circumstances which would mean that the sensitive information is no longer sensitive within 28 days of

the change, for example a change in employment. The information would then be included in the authority's register of interests.

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

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

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

Who should you notify when registering your interests?

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

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

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

Declarations of interest

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the monitoring officer to establish and maintain a register of interests of members of the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Disclosable Pecuniary Interests

(Annex B, paragraphs 4 and 5)

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

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

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

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

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

The Act says you need to declare the nature of the interest only if it is not on the public register. In addition, your authority’s rules might require you to leave the room where the meeting is held while any discussion or voting takes place.

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

If you have a **DPI**, you may in certain circumstances be granted a dispensation to take part (see guidance on **Dispensations in Part3**).

When does a Disclosable Pecuniary Interest arise?

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

This wording has led to some confusion as to what circumstances would lead to the need to declare a DPI. The Explanatory Notes to the Localism Act say that section 31 of the Act “requires a member of a relevant authority to disclose a disclosable pecuniary interest that they are aware of (apart from a sensitive

interest), at a meeting or if acting alone, where any matter to be considered **relates to** their interest. ... It prohibits a member from participating in discussion or voting on any matter **relating to** their interest or, if acting alone, from taking any steps in relation to the matter (subject to any dispensations).” [our emphasis].

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

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

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

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

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

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

Other registerable interests

[\(Paras 6, 8 and 9 of Annex B\)](#)

The second category of interests are ‘other registerable interests’ or ORIs.

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

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

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

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

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

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

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

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

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

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

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

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

Non-registerable interest

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

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

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

- **a.** when a matter directly relates to that interest. Or
- **b.** when a matter affects that interest to a greater extent than it affects the majority of inhabitants and
 - a reasonable member of the public would thereby believe that your view of the public interest would be affected

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

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

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

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

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

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

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

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

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

What are the definitions of relative or close associate?

The Code does not attempt to define "relative" or "close associate", as all families vary. Some people may have very close extended families, but others will have more distant relations. You should consider the nature of your relationship with the person (eg whether they are a close family member or more distant relation). The key test is whether the interest might be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a councillor. It would be a person with whom you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts. A close associate may also be somebody to whom you are known to show animosity as you might equally be viewed as willing to treat them differently.

What if I am unaware of the interest?

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

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

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

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

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

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

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

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

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

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

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

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

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

What does ‘withdraw from the meeting’ mean?

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

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

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

Executive decisions

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

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

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

Dispensations

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

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

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

What is a ‘sensitive interest’?

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

An interest will be a sensitive interest if the two following conditions apply: (a) That you have an interest (whether or not a DPI); and

(b) the nature of the interest is such that you and the monitoring officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.

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

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

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

What do I do if I need advice?

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

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

No.	TYPE	SPEAK*	VOTE	STAY	EXAMPLE	COMMENTS
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can “address” meeting if public can do, but not take</i>

						part in discussion.
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test</i> (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate- Unforeseeable- can “address” meeting if public can do, but not take part in discussion.</i>
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	<i>Affects finances or well-being-test</i> 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest

2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	<i>May not affect finances but Well-being=quality of life – apply 2-stage test</i>
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*speak-take part in discussion, as opposed to addressing a public meeting as a member of the public where others can also address the meeting

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

Bias and Predetermination

Bias and predetermination are not explicitly mentioned in the Code of Conduct. The code provisions on declarations of interest are about ensuring you do not take decisions where you or those close to you stand to lose or gain improperly. [\(See guidance on declarations of interest in Part 2\)](#)

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

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

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

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise the decision is at risk of being challenged on appeal or in the Courts. To quote a leading judgment in this field "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach." [\[1\]](#)

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

The first seeks accuracy in public decision-making.

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

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

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

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

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

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

Predetermination

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

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

You are therefore entitled to have a predisposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind and demonstrate that to the meeting by your behaviour, able to take account of all of the evidence and make your decision on the basis of that evidence.

How can bias or predetermination arise?

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

Connection with someone affected by a decision

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

Examples

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

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

Contrast this with:

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

Improper involvement of someone with an interest in the outcome

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

Examples

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of councillors are given delegated authority to make the statutory modification Order. They have a private meeting with local

representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

Commenting before a decision is made

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

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

Examples

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

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

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

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

What do I do if I need advice?

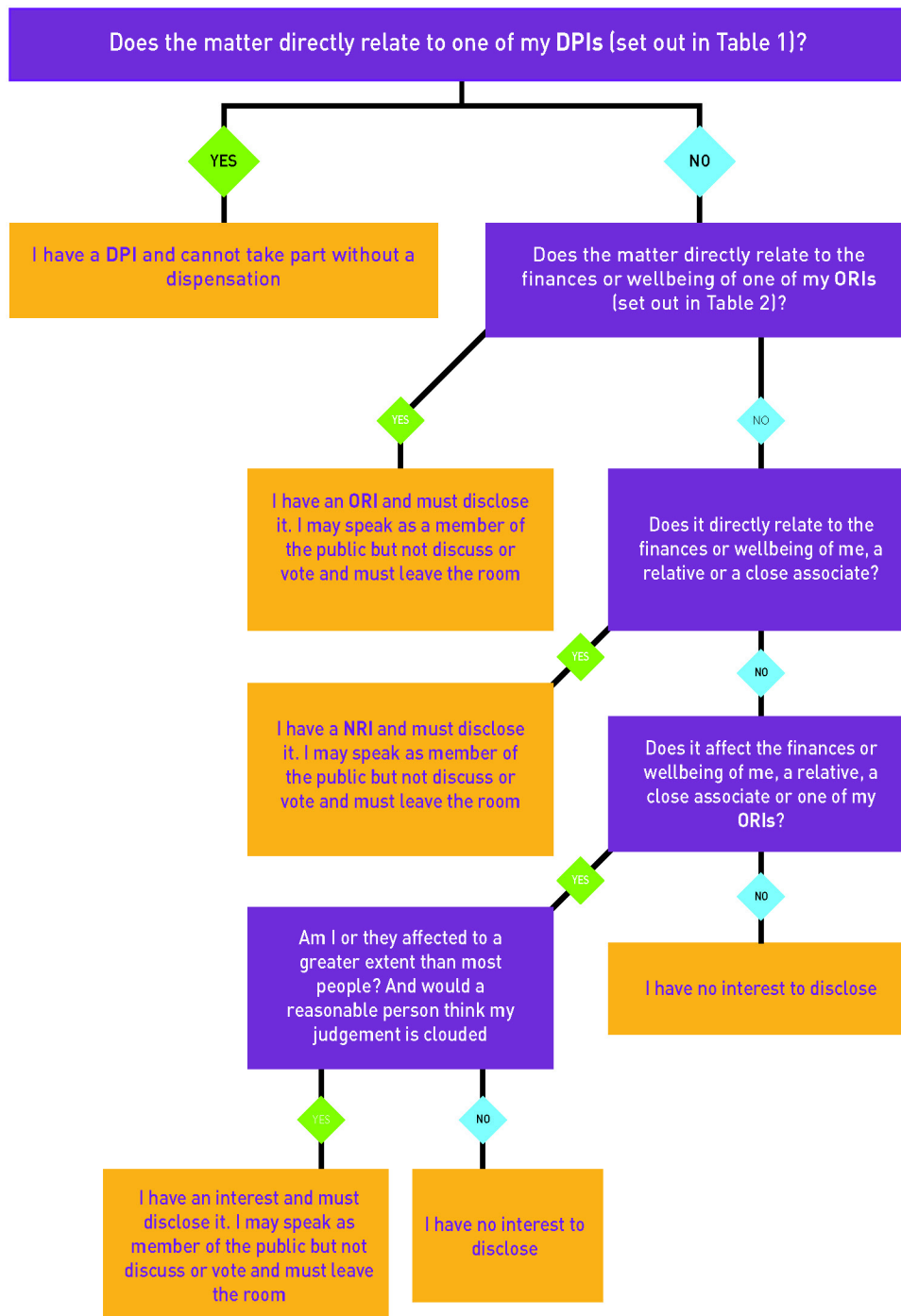
If you are unsure as to whether your views or any action you have previously taken may amount to predetermination you should always seek advice from the monitoring officer (or the clerk if you are a parish councillor).

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

Appendix 1 - Interests Flowchart

Interests Flowchart

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



Appendix 2 - General Principles

General Principles

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

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

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

Agenda Item 5

REPORT TO: STANDARDS COMMITTEE

DATE: 14 December 2021

REPORT OF: Sandra Stewart – Executive Director Governance & Resources
(Monitoring Officer)

SUBJECT MATTER: CIVILITY IN PUBLIC LIFE

REPORT SUMMARY: Increasing intimidation of politicians and increasing toxicity of public debate is having an impact on the democracy of our country. Across the UK, there are growing concerns about the impact an increasing level of public intimidation and toxicity of debate is having on our country's democratic processes. In response, the LGA is working closely with WLGA, COSLA and NILGA to coordinate a programme of work entitled '*Civility in public life*', primarily aimed at

- articulating good standards for anyone engaging in public and political discourse
- understand the scale and impact of intimidation and abusive behaviour on our membership organisations, and develop recommendations for achieving positive debate and public decision-making on a local level
- to support elected members and all democratically elected local representatives in addressing intimidation and abuse, so they deliver the best on behalf of their communities

Civility and respect should be at the heart of public life and good governance is fundamental to ensuring an effective and well-functioning democracy at all levels. The intimidation, abuse, bullying and harassment of councillors, professional officers and staff, in person or online, is totally unacceptable whether that is by councillors, professional officers, staff or members of the public. We are committed to working together to promote civility and respect in public life, good governance, positive debate and supporting the well-being of councillors, professional officers and staff'. This report updates on training provided to members for their safety and security and recommends (1) a bullying & harassment statement and (2) a member's pledge.

RECOMMENDATION(S) That the Committee consider the report and note the training undertaken and make final recommendations in respect of the proposed (1) bullying & harassment statement and (2) member's pledge to support civility in public life.

FINANCIAL IMPLICATIONS: There are no significant financial issues arising from this Report.
(Authorised by Borough Treasurer)

LEGAL IMPLICATIONS: The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
(Authorised by Borough Solicitor)

RISK MANAGEMENT:

Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.

LINKS TO COMMUNITY PLAN:

Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.

ACCESS TO INFORMATION


NON-CONFIDENTIAL

This report does not contain information which warrants its consideration in the absence of the Press or members of the public

REFERENCE DOCUMENTS:

Appendix A	copy of the training materials for personal safety and crime prevention development session for elected members on the 22 November 2021,
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The background papers relating to this report can be inspected by contacting the report writer, Sandra Stewart, the Council's Borough Solicitor and statutory Monitoring Officer by:

 Telephone:0161 342 3028

 e-mail: Sandra.Stewart@tameside.gov.uk

1. CIVILITY AND RESPECT IN PUBLIC LIFE

- 1.1 The LGA recognise the growing need among councillors for support related to intimidation, and have jointly developed a resource following advice from both councils, councillors, other council representative organisations, as well as national organisations such as the Suzy Lamplugh Trust and National Counter Terrorism Security Organisation.
- 1.2 The guide covers topics such as how to handle abuse, both face-to-face, letters or online, and the legal and practical remedies, including the nature of the criminal offences involved and will be continuously updated with the latest advice and information available.
- 1.3 Becoming and serving as a councillor is a responsibility, a privilege and a hugely rewarding undertaking. We are all aware that an increasing number of councillors and candidates are being subjected to abuse, threats and public intimidation, undermining the principles of free speech, democratic engagement and debate. The growth of social media has provided an additional and largely anonymous route for individuals and groups to engage in such activity.
- 1.4 We are also aware that the growth in public intimidation is putting people off standing as local councillors. This is of concern to the LGA, an organisation representing local government, as it should be to everyone.
- 1.5 The LGA want to encourage more people to stand as councillors as part of their *Be a Councillor* campaign. We all recognise we need a numerous and diverse set of candidates and councillors to represent our numerous and diverse local communities, ensuring that local decision making is robust and well-informed.
- 1.6 In the guide the LGA define public intimidation as “*words and/or behaviour intended or likely to block or deter participation in public debate, which could lead to an individual wanting to withdraw from public life*”.
- 1.8 While debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it.
- 1.9 Whilst the world under lockdown and since has become increasingly virtual, social media has become centre stage in both personal and private lives leading to all too many examples of social media causing embarrassment or loss of reputation. However, there is also a darker side to social media which has increased over recent years. Malicious abuse, threats of violence and harassment are unfortunately, all too prevalent across virtual platforms.
- 1.10 The Committee on Standards in Public Life’s review on ‘Intimidation in Public Life’ (2017) stated:

“The vitality of our political culture depends upon free and vigorous expression of opinion, and it is crucial that this freedom is preserved. The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about defending the fundamental structures of political freedom”.

This is a position that we should all agree with.

2.0 BULLYING AND HARASSMENT IS NEVER ACCEPTABLE

- 2.1 The LGA has committed to promoting civility in public life and supporting the well-being of elected members. This is a long-standing area of work for the LGA, but the recent tragic death of Sir David Amess MP has brought this issue into marked focus. Everyone in public life should be able to go about their daily business without fear of attack. Now, more than ever, this is a challenge that we as a sector are determined to meet. To support their Civility in Public Life programme, the LGA has been developing and now launched a call for evidence of abuse and intimidation of councillors - Click here [Civility in public life call for evidence: Abuse and intimidation of councillors \(local.gov.uk\)](#) to go to the survey (or search for Civility in Public life on the LGA website).
- 2.2 The call for evidence is an ongoing part of the LGA Civility in Public Life Programme, capturing elected members' experiences and emerging trends around abuse and intimidation from the public. The survey is primarily designed to capture the experience of councillors, but candidates who have run for election, officers who have supported candidates or councillors and members of the public can also share their reflections.
- 2.3 The evidence gathered will help the LGA develop a body of evidence to support LGA calls for legislative and systemic change and develop support for elected members.
- 2.4 In light of some of these issues, the Council's Organisational Development team with support of CMA Training a specialist training company offering training and consultancy in personal safety and crime prevention provided elected members with a development session on the 22 November 2021, which was very well attended by over 90% of Councillors. A copy of the training materials are provided herewith at **Appendix 1**.

3. BULLYING AND HARASSMENT STATEMENT

- 3.1 As a first step in the promotion of civility and respect, councils are recommended to add a statement to their websites stating that bullying, harassment and intimidation will not be tolerated.
- 3.2 This is a suggested LGA statement:

**CIVILITY AND RESPECT IN PUBLIC LIFE
BULLYING AND HARASSMENT STATEMENT**

We treat everyone with courtesy and respect and ask for the same in return. We ask that you treat your councillors and council staff courteously without violence, abuse or harassment. Councillors and council staff have the right to carry out their civic duties and work without fear of being attacked or abused. Any behaviour whether that be verbal, physical or in writing, which causes either councillors or council staff to feel uncomfortable, embarrassed, or threatened, is totally unacceptable. The zero tolerance policy includes abuse, aggression or threats made in person, over the telephone or in written communication, including on social media. The council considers threatening behaviour to be: Attempted or actual aggressive, or physical actions made towards any councillor or member of staff. The use of aggressive, or abusive language, (including raising of the voice, swearing, shouting or in writing) which threatens or intimidates councillors or council staff. This policy applies throughout all council meetings, but it also applies to any councillor or council employee whilst undertaking their duties on behalf of the Council.

4. CIVILITY AND RESPECT IN PUBLIC LIFE – MEMBERS POLITICS BEFORE PERSONALITIES PLEDGE

- 4.1 At our last Standard Committee members proposed that Tameside Council Members from across the political spectrum are asked to agree on a pledge that will set a tone of civility and respect that can be mirrored by everyone. As Community Leaders, Tameside Council Members attend formal public meetings, have active social media presence and are very much present in the community. With the privilege of being elected to serve our residents comes a responsibility to lead by example of how we should be conducting ourselves in today's modern world.
- 4.2 As we see all too increasingly, the often-toxic culture of online debate, and poor public arena etiquette we need to set an example to the residents we represent. Politics revolves around differing opinions, and while it is natural to criticise other politicians' policies and views, our debates should be respectful and constructive. Anything other than that only causes divide and, in the worse cases, unnecessary and unwarranted negativity towards individual members themselves.
- 4.3 A suggested Member pledge is set out below for discussion:

CIVILITY AND RESPECT IN PUBLIC LIFE MEMBERS PLEDGE

We pledge to treat each other with respect and decency, whatever colour rosette we wear as we work co-operatively to shape and form services and the place we live for the benefit of our residents.

Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work and never be aimed at aspects of a person's private life.

We honour the role we have been elected into and will lead by example in the way we conduct ourselves in public debate and forums.

5. RECOMMENDATION

- 5.1 As set out at the front of the report.

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Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

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

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

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

Definitions

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

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

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

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

Purpose of the Code of Conduct

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

General principles of councillor conduct

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

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

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

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

In undertaking my role:

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

Application of the Code of Conduct

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

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

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

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

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

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

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

Officer.

Standards of councillor conduct

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

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

General Conduct

1. Respect

As a councillor:

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

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

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

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

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

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

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

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

3. Impartiality of officers of the council

As a councillor:

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

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

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

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

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

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

5. Disrepute

As a councillor:

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

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

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

6. Use of position

As a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

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

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

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

8. Complying with the Code of Conduct

As a Councillor:

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

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

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

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

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

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

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

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

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

10. Gifts and hospitality

As a councillor:

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

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

- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

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

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

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

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

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

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

Non participation in case of disclosable pecuniary interest

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

Disclosure of Other Registerable Interests

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

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

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

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

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

Table 1: Disclosable Pecuniary Interests

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(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.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and (b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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</p>

	spouses/civil partners have 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 Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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

Appendix C – the Committee on Standards in Public Life

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

The recommendations cover:

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

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

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

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

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

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

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

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

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

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

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

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

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

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

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

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

Elected Member Briefing Personal Safety & Security

22 November 2021

Welcome

Executive Leader,
Cllr Brenda Warrington

Introduction

- Christine Morrison – CMA Training
- Chief Superintendent Rob Cousens GMP

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Personal Safety for Members
November 22, 2021
Christine Morrison

Today's Session

- ✓ General good practice strategies
- ✓ Specific 'hotspots'
- ✓ Travelling safely
- ✓ Staying safer on social media
- ✓ Dealing with aggression

What Do We Mean By Personal Safety?

Freedom from

Page 138



Violence



Aggression



Other
Unacceptable
Behaviour

What Are Your Responsibilities?



Go home safe!



Follow Tameside Council's guidelines



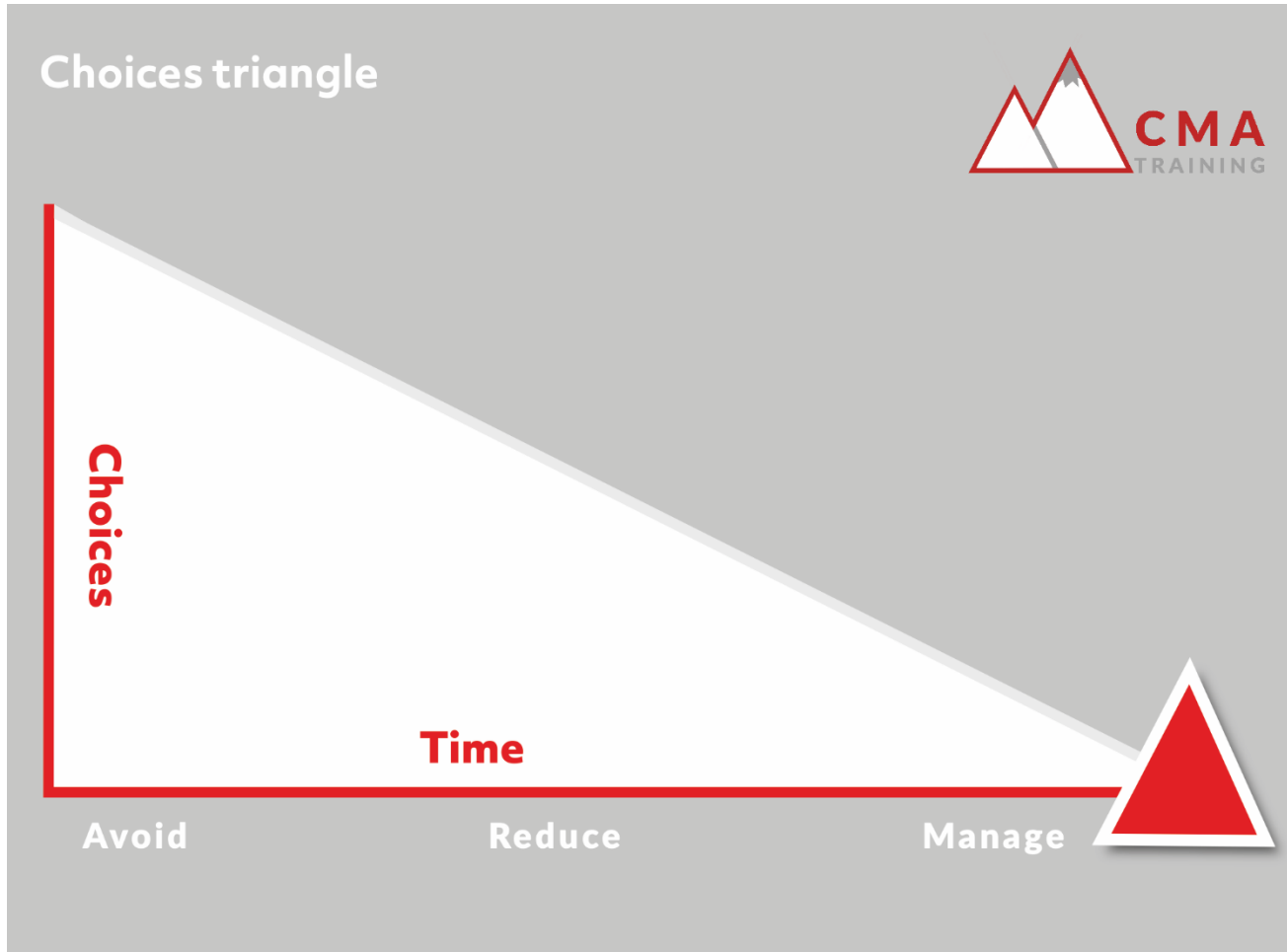
Report any incidents and near-misses



Use common sense

General Good Practice Strategies

- ✓ PLAN for your Personal Safety
- ✓ ARM
- ✓ Effective tracing system
- ✓ Dynamic risk assessment
- ✓ 3 Ws
- ✓ Choices Triangle



Ward Surgeries

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Zoom,
WhatsApp,
Phone



Choosing
premises









Control the
layout



Have a plan

Home Visits

-  Is it necessary?
-  Do your research
-  Call ahead
-  Parking
-  Doorstep routine
-  Layout and escape routes

Receiving Personal Callers To Your Door

- ✔ Is it necessary?
- ✔ Offer alternatives
- ✔ You don't have to open the door
- ✔ Report incidents/concerns
- ✔ Home security

Travelling Safely

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Social Media

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Summary

- ✓ General good practice strategies
- ✓ Choices Triangle
- ✓ Communication models
- ✓ Report all incidents, near-misses and concerns
- ✓ Guidance and checklist

SUPPORT AND ADVICE FOR ELECTED MEMBERS

Robert Cousen
Chief Superintendent
Tameside District Commander

We are committed to fighting, preventing and reducing crime. Keeping people safe. Caring for victims.

It is vital that we are told of any instances where criminal offences may have been committed, in order that we have a true and accurate reflection of criminality within our areas. We are asking you to work with us to ensure that we accurately and efficiently record and investigate criminal offences and prosecute criminals.

If you are concerned about the behaviour of anyone, or feel intimidated, or feel that yourself or a colleague may have been the victim of crime, please report this to us. Such incidents may be:

- Unwanted communications, which are abusive, threatening, or grossly offensive,
- Repeated unwanted contact or communications, which could be viewed as harassment,
- Hate offences,
- Acts of criminal damage or threats of violence.

Tameside Neighbourhood staff – Not an emergency. Advice is required and no immediate requirement for a Police officer or PCSO. Details on last slide,

EMERGENCY - 999

This is when you need immediate help. You or someone else is in immediate danger or harm, property is being damaged or in danger of being damaged; a serious disruption to the public is likely.

ONLINE LIVE CHAT - [Report a crime or incident | Police.uk \(www.police.uk\)](https://www.police.uk)
[WWW.POLICE.UK/PU/CONTACT-THE-POLICE/REPORT-A-CRIME-INCIDENT](https://www.police.uk/PU/CONTACT-THE-POLICE/REPORT-A-CRIME-INCIDENT)

NON-EMERGENCY – 101

You don't need emergency help but you need to see a Police Officer or PCSO

CRIMESTOPPERS – if you wish to report anonymously, or report intelligence, you can call 0800 555 111 or use [WWW.CRIMESTOPPERS-UK.ORG](https://www.crimestoppers-uk.org)

SOCIAL MEDIA – this should not be used for the reporting of crime, but you can use it to contact, seek advice, etc.

[HTTPS://TWITTER.COM/GMPOLICE](https://twitter.com/GMPOLICE)

[HTTPS://FACEBOOK.CO/GTRMANCHESTERPOLICE](https://facebook.co/GTRMANCHESTERPOLICE)

Harassment and Stalking offences under the Protection from Harassment Act 1997,

Public Order Offences under the Public Order Act 1986,

Communications offences under the Malicious Communications Act 1988 and the Communications Act 2003,

Hate offences under the Crime and Disorder Act 1998,

Criminal Damage offences under the Criminal Damage Act 1971,

Assaults and Threats to Kill under the Offences Against the Person Act 1861.

Blackmail offences under the Theft Act 1968.

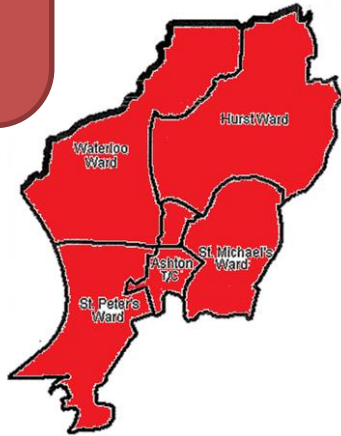
Case Study

- Person x sends a tweet and receives replies containing expletives and general distasteful comments
- Person x receives emails making threats, abusive and vile content
- Person x receives voicemail messages making threats
- Criminal investigation
- Risk assessment and mitigation
- Court powers

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Ashton-Under-Lyne ~ Audenshaw ~ Denton ~ Dukinfield ~ Droylsden ~ Hattersley ~ Hyde ~ Longendale ~ Mossley ~ Stalybridge

TAMESIDE DISTRICT



ANY
QUESTIONS
?

Next Steps

- Next Steps:

- Politics before Personalities Pledge
- A commitment to set a tone of civility and respect
- To rise above the often toxic culture of online debate
- To set a strong example
- Progress through governance

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Personal Safety for Tameside Councillors – a checklist

This checklist will help you to think about the risks you face and some strategies to help protect your Personal Safety. Many things are ‘common sense’ but be honest – do you do them all the time? Take some time to complete the checklist and then make a note of some actions that you need to integrate into your daily practices.

Working Alone

- ▶ Do you carry out a general risk assessment on all activities?
- ▶ Do you ensure someone always knows where you are?
- ▶ If you change your plans, do you let someone know?
- ▶ Is your mobile accessible, switched on and charged?
- ▶ Do you carry a personal alarm or have a personal safety app?
- ▶ Do you vary your routines when you park or walk?
- ▶ Have you a buddy you can work alongside or keep in touch with?

Ward Surgeries

- ▶ Have you carried out a risk assessment on the venue and room you are using in terms of Personal Safety?
- ▶ Are Tameside Council staff/friends/family aware of where and when you are holding your surgery?
- ▶ Have you considered other options to working alone, such as a fellow Tameside Councillor supporting you during the surgery or using Tameside Council premises?
- ▶ Have people been 'vetted' before attending?
- ▶ Are staff or helpers around you aware of safety procedures and know how to raise an alarm?
- ▶ Do you have a Personal Safety alarm or panic button that is working?
- ▶ Can you see the reception area from your room so that you are forewarned of any unusual behaviour?
- ▶ Have you removed any items that could be used as a weapon?
- ▶ Is your chair nearest the door, so you can get out quickly if you need to?
- ▶ Are you aware of the quickest way out of the area or building?
- ▶ Is there a safe location identified for you to go to in case of any issues?

Home Visits

- ▶ Do you vet people you are about to visit?
- ▶ Do you arrange visits during normal working and daylight hours?
- ▶ Do you let somebody know who you are visiting, where, when and the duration of the visit?
- ▶ Do you contact the person before the meeting to confirm arrangements and establish their mood/state of mind?
- ▶ Do you have a code word or phrase for use on your mobile that you can use to raise the alarm?
- ▶ Do you park in a well-lit area near other vehicles and in a way so you can easily get away?
- ▶ Do you take as little with you as possible, so your hands are free, and hide any valuables?
- ▶ Do you ensure your mobile is fully charged and available in a pocket?
- ▶ Do you have a prepared excuse to leave if you need to?
- ▶ After knocking at the door do you always stand back and to the side of the door?

Attending Meetings

- ▶ Do you risk assess the mood of any members of the public who attend a meeting?
- ▶ If there is a risk of members of the public being angry, do you take avoiding action?
- ▶ Do you check out alternative exits from buildings?
- ▶ Do you park in well-lit areas or car parks with CCTV?
- ▶ Do you vary your routes when walking to or from meetings or using public transport?

Receiving callers at your home

- ▶ Do you use the Town Hall address instead of your personal address?
- ▶ Do you and other family members screen callers at the house through a window, spyhole, or camera prior to opening the door?
- ▶ Have you checked your social media settings and ensured they are private?
- ▶ Have you removed any photos from social media that give information about where you live or where family members go to work or school?
- ▶ Have you taken measures to make your home safe and secure?

Driving

- ▶ Do you have your car keys in your hand or easily accessible when approaching your vehicle?
- ▶ Do you park under good lighting and not in dark, deserted streets or isolated car parks?
- ▶ Do you always lock the car doors and windows when you get into the car and when leaving it?
- ▶ Do you approach your vehicle cautiously and check inside it?
- ▶ Do you avoid placing handbags, valuables, personal papers or other such items on the passenger seats?
- ▶ Do you park so you can easily drive off?
- ▶ Do you always have sufficient fuel or charge for the journey and refuel during daylight hours?
- ▶ Do you keep your vehicle in good working order?
- ▶ Are you a member of a vehicle breakdown organisation?

Public transport and taxis

- ▶ Do you check timetables and routes before you travel?
- ▶ Do you wait for a bus or train in a well-lit place near other people and pay attention to your environment?
- ▶ Do you avoid empty train carriages and sit on the lower deck, near the driver if a bus is empty or it is after dark?
- ▶ Do you have the telephone number of a trusted, licensed taxi company with you?
- ▶ Do you ensure the taxi is genuine before entering?
- ▶ Do you sit in the back of the taxi?

Walking

- ▶ Do you check your route beforehand and know where you are going?
- ▶ Do you avoid taking short cuts through parks, alleys, waste ground or deserted carparks?
- ▶ Do you wear comfortable shoes that you can move quickly in?
- ▶ Do you carry any bag or handbag across your shoulder and tuck in scarves or long hair?

Social Media

- ▶ Have you recently checked and updated your privacy settings on Facebook or other social media platforms that you use?
- ▶ Do you ensure that there are no photographs or personal information on websites or social media that would allow your home or family members to be identified?
- ▶ Do you ensure that you don't give away too much information on social media about your movements locally that would allow people to stalk you or premeditate an attack?

Action Plan

AREA	ACTIONS	HELP NEEDED	BY WHEN?
e.g. Ward surgeries	Find several new venues with better security and staff available Look at how we advertise surgeries	Talk to other ward Tameside Councillors	By next month



Personal Safety Advice for Tameside Councillors

Personal Safety Advice for Tameside Councillors

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A Guide to Personal Safety for Tameside Councillors

An important role of a Tameside Councillor is to be available for residents and communities including helping individuals with any problems they might have. These contacts are usually rewarding and non-adversarial. However, occasionally Tameside Councillors can find themselves in a position where they need to manage angry and frustrated residents who often contact their elected representative when they feel that they have no other avenue to pursue. Tameside Councillors deal with constituents on a face-to-face basis when alone in a ward surgery or a home visit as well as simply out and about. Tameside Councillors also may well be a target for aggression simply by being a public figure or as a member of a particular political party.

The purpose of this guide is to set out what actions and security measures you can take to reduce the risks to your everyday Personal Safety as well as what to do in more difficult, confrontational situations where you are concerned for your safety.

This guide does not cover working practices linked to limiting the spread of Covid. Please contact Tameside Council for the latest advice for safe working and Covid.

Most Tameside Councillors will not experience any problems during their term(s) of office, but a little time given to preparation and planning can help to reduce any risk.

General Good Practice Personal Safety Tips

- ▶ Preparation – assess the risks
- ▶ Alert attitude
- ▶ Look confident
- ▶ Avoid risk
- ▶ Never assume it can't happen to you
- ▶ Plan ahead
- ▶ Do your research
- ▶ Listen to your gut
- ▶ Carry out dynamic risk assessment continually
- ▶ Leave/end a meeting if something doesn't feel right

Risk Assessment

You should always carry out a risk assessment prior to any new activity or event. You should also conduct dynamic risk assessment at all times. Although for a large event a formal recorded risk assessment would be required, for everyday activities just thinking through the activity yourself can be enough.

It can be helpful to think of the 3 Ws – **WHO? WHERE? WHAT?**

Who?

Who are you going to see? Do you know them? Can you find out anything about them before the meeting? Do they have a history of being difficult? Are drugs, alcohol, mental health issues or stress likely to have an impact on their behaviour? Are there multiple people going to be present? Are they aggrieved and likely to be angry?

Where?

Where are you seeing them - in their home, in a public space? Will there be security available? Are you alone or will there be other people around? Do you know the local area, where to park or walk safely? Is there an issue with gangs or others hanging about?

What?

What are you seeing them for? Is it to help them? Do they have a complaint? Have you got negative or positive news for them? Are you challenging their behaviour in any way?

Thinking through the 3 Ws before embarking on a meeting or visit can help you to plan which strategies will keep you safe. If you know someone has a history of being difficult then you would not meet them alone in their home.

Always try to:

Avoid, reduce, and manage risk.

Below are some safe working practices to integrate into your everyday behaviour or implement following your risk assessment.

Working Alone

If you are working alone, consider the following:

- ▶ Carry out a risk assessment – if you are in any doubt discuss the risks with another Tameside Councillor or officer. If there are several risks associated with a particular activity don't do it. Ensure you are not alone or rearrange it to a safer environment.
- ▶ Ensure someone always knows where you are:
- ▶ Leave details of where you are going and how long you expect to be with a colleague, friend, or partner
- ▶ Make regular check-in calls to a colleague, friend or partner or ask them to call you at regular intervals
- ▶ If you change your plans – let someone know
- ▶ Keep your mobile accessible, switched on and charged
- ▶ Consider carrying a personal alarm or installing a personal safety app on your phone
- ▶ Vary your routines – don't be predictable where you park or walk.
- ▶ Team up with another Tameside Councillor in your own or a neighbouring ward and keep in touch via WhatsApp

Ward Surgeries

Since Covid, many more Tameside Councillors are choosing to hold surgeries over the phone, using WhatsApp or internet options such as Zoom. Consider these options first as these reduce the risks to your Personal Safety. They are Covid secure and accessible to people who have mobility issues. However, you may feel that this is not appropriate for all your constituents.

If you do need to hold a face-to-face surgery, there are a range of strategies you could employ to reduce the risks. Some of these may appear excessive and against the natural democratic ideals of having access to elected representatives. They will, however, help to reduce the risks to yourself and any other volunteers who may be involved in helping organise your surgeries.

This guide does not cover working practices linked to limiting the spread of Covid. Please contact Tameside Council for the latest advice for safe working and Covid.

Choosing premises

- ▶ Consider the premises very carefully – do not use locations that are isolated where you will be working alone.
- ▶ Choose Premises and rooms that have:
 - ▶ other members of staff nearby in case you need assistance – such as Tameside Council premises like libraries during opening hours
 - ▶ a reception area where visitors' names are recorded
 - ▶ a comfortable waiting area where visitors can be observed
 - ▶ easy access to a landline or an alarm linked to reception
 - ▶ a clear and agreed procedure for dealing with a call for assistance
 - ▶ a view of reception
 - ▶ a vision panel in the door
 - ▶ a swift means of escape
 - ▶ visitors are not able to lock the door from the inside
- ▶ If you are currently holding surgeries alone, discuss how this can be overcome with fellow Tameside Councillors or Tameside Council officers. You could buddy up with other Tameside Councillors and run a surgery together or run your surgery in another organisation's premises such as CAB
- ▶ When you advertise surgeries ask people to email or phone for an appointment giving their name and address and the general subject of their query. This allows you or someone to research the person, check that they are a genuine constituent and check out any history they may have before agreeing to a face-to-face appointment. If you have any concerns offer a telephone, WhatsApp or Zoom appointment first

- ▶ When you advertise surgeries give the date, times, and general location but not the exact address. Let people know the location a short time before. This means it is more difficult for anyone to carry out a premeditated attack. Try to vary times, days, and locations
- ▶ Have a plan for any helpers or reception staff regarding what to do if they have concerns or in an emergency that you review and test regularly. This could include having an emergency word or phrase you can use to ask for assistance
- ▶ Wherever you hold the surgery consider the layout of the room you are in. For example, sit nearest to the door with the constituents seated on the other side of the table. Seating is best set out at an angle of 45 degrees (seating directly opposite can be confrontational). Make sure there are no items in the room that could be used as weapons
- ▶ If there is no panic alarm in the space that you are using, have a personal alarm readily available so you can quickly summon help
- ▶ Report any incidents using the accident and incident reporting forms available on the Tameside Council intranet. Send to healthandsafety@tameside.gov.uk with Robert Landon (Head of Democratic Services) in cc

Home Visits

Tameside Councillors do sometimes visit residents in their homes, especially those who are elderly, have a disability, have additional needs or where they simply want to see for themselves the conditions that are the subject of complaints. If possible, you should visit with another person. This person does not have to take part in the conversation but provides support in the event of an incident. It can also help to prevent unwarranted accusations of impropriety or theft.

Most Tameside Councillors trust their own instincts as to whether to meet someone alone. However, if you have any doubts about the safety of the premises you are to visit, and the purpose of the visit is not about the premises itself, then arrange for the meeting to take place at a neutral venue.

Planning home visits

- ▶ Understand the reason for the personal visit and try to get some information from officers prior to your visit; this not only makes the meeting more meaningful, but it may also highlight any Personal Safety concerns others have had in the past
- ▶ You can also carry out an internet search on the person to help you decide if a home visit is appropriate
- ▶ Arrange the visit during normal working and daylight hours
- ▶ Let somebody know who you are visiting, providing details of address, date and time of the visit, and expected duration
- ▶ Consider calling the person before the meeting to confirm arrangements and establish their mood/state of mind
- ▶ During the call find out if they are alone or not – a relative, neighbour or friend may be in attendance to support them, however this comes with more risks to you
- ▶ Set up a code word or phrase for use on the telephone that you can use to raise the alarm. This needs to be something you have agreed with someone which will alert them that you think you might have a problem
- ▶ Park in a well-lit area near other vehicles but so you can easily get away
- ▶ Take as little with you as possible so your hands are free
- ▶ Ensure your mobile is fully charged and available in a pocket
- ▶ Have a prepared excuse to leave if you need to

During a home visit

- ▶ Stay alert when approaching the property and look around the environment for threats such as people hanging about, groups or dogs
- ▶ Avoid entering or using lifts or stairwells if you feel ill at ease

- ▶ After knocking, stand back and slightly sideways so that you present a narrow, protected target. Do not stand on the edge of any steps
- ▶ Ask for any dogs or other pets to be secured
- ▶ Assess the situation and mood of the resident and any other people present. If in any doubt or you feel threatened, do not enter, make an excuse, and leave
- ▶ Follow the occupants in when entering houses and other buildings – stay nearest to the exit
- ▶ If the person locks their door after letting you in immediately ask them to unlock it – don't wait until you are trying to escape
- ▶ Be aware of potential weapons
- ▶ Only sit down when the resident does and choose a seat nearest the door
- ▶ Where possible, sit in an upright chair as this is easier to stand up from without a barrier. If you must sit in an armchair or settee, sit on the edge near the arm which will enable you to stand up more easily
- ▶ Look for any alternative escape routes
- ▶ If the situation changes and you feel threatened, make an excuse, and leave
- ▶ Back out rather than turning your back on the resident
- ▶ If a serious situation occurs, leave immediately and report the incident

If you are unable to leave immediately when a serious situation occurs, you can:

- ▶ Place defensive barriers between yourself and the resident
- ▶ Continue talking to the resident, reassuring them that you mean them no harm – look at the PALMS and LEAPS models at the end of the handbook
- ▶ Set off your personal alarm, if you have one, or scream or shout to attract the attention of others. The use of reasonable force to protect yourself is a last resort

Receiving personal callers to your home

It is easy to find out where a local Tameside Councillor lives when they are part of the community. However, remember – even though you are a councillor you are still entitled to a personal life. It is inadvisable to see an unannounced caller in your home. It is wise to always check who is at the door through a window, spyhole, or security camera before opening it. Encourage family members to do the same. If you have any doubts as to their intention, or if they appear angry or aggressive, do not open the door. Consider keeping a personal alarm by the front door so that you or any family member have a means of raising an alarm quickly.

The following strategies can help to keep you and your family safe

- ▶ Use the Town Hall address instead of your personal address
- ▶ Don't hold any meetings at your home
- ▶ Only open the door if you feel confident it is safe to do so
- ▶ If you do open the door, politely make an excuse that you are busy but offer alternatives such as a telephone call, Zoom meeting or surgery appointment
- ▶ Maintain a physical distance
- ▶ Do not let people enter your home – step outside to talk to people, if necessary, with the door remaining open
- ▶ If more than one individual who are not known to you turn up unannounced and you are concerned that they pose a threat, it is advisable to decline to open the door and contact the police
- ▶ Once any incident is over, record the details including descriptions. Always report any incident to Tameside Council and/or the police.
- ▶ Avoid giving out personal details about your house or family in general conversation with members of the public or on social media

Home Security

As a person with a public profile, it is advisable to maintain a decent level and awareness of home security. Additional useful information is available at **SecuredbyDesign**. The following is general advice on what to consider in making your home safe and secure:

- ▶ Try to make it clear via boundaries the difference between public and private space. Front boundaries should be kept low, so they don't provide hiding places and to enable good natural surveillance
- ▶ Keep fences and walls in a good state of repair and consider your planting to reduce the availability of handholds and to put off prospective intruders
- ▶ Remember to lock your garages, outbuildings, sheds, etc. Ensure they are fitted with high-quality and secure locking devices, and you can add extra locks if you are concerned
- ▶ Ensure tools and ladders, which could be used to access your home, are locked away, and remove anything that could potentially be used to cause damage, such as loose bricks or large stones
- ▶ If possible, keep your dustbin and recycling bins secure until collection day to prevent them being used as climbing aids.
- ▶ Obscure the view into your home by fitting blinds, curtains or film including glazed exterior doors. Get into the habit of closing curtains or blinds when occupying a well-lit room
- ▶ Do not label your keys – if you need to identify keys, use a colour-code theme, and keep control of your door keys. Do not leave keys with people you do not know e.g. trades people.
- ▶ Do not leave keys in your locks at night – keep them out of sight but easily available to those in the house
- ▶ Utilise deadlocks all the time, not just when you go on holiday
- ▶ Good external lighting is recommended to illuminate all external doors, car parking and garage areas and footpaths leading to your home at night-time
- ▶ There are many different home security products now available – some controllable from your phone. Many of these are available to set up yourself and are both cost effective and flexible. If you prefer to have an alarm or CCTV system fitted professionally the police recommend that you select an installer who is affiliated to one of the recognised alarm and CCTV inspectorate bodies such as the National Security Inspectorate or Alarms Inspection Board.

Attending Meetings

Councillors will have to attend various public and council meetings, many of which are in the evening after dark. It is possible, depending on the nature and outcome of the meeting, that members of the public may be feeling angry or upset. In such instances there are several strategies that will reduce the risks to your Personal Safety.

- ▶ Ask to be accompanied to your vehicle or transport stop by a colleague or Tameside Council staff member after the meeting or use a taxi
- ▶ Leave the building by a side or rear exit but ensure you are not then going into a deserted area where little help will be available
- ▶ Remember that many meetings are publicly advertised so people can plan premeditated attacks. Be aware of anyone hanging about or following you
- ▶ Be aware of where and how you park – choose well-lit areas or car parks with CCTV, and park so you can get away quickly and easily
- ▶ Vary your routes to and from meeting venues if you are walking and stick to well-lit public areas
- ▶ Avoid being the last at meetings on your own in a building – leave with others

Demonstrations

It is possible, due to the nature of difficult decisions that Tameside Councillors must make, that you may experience a protest. If this does occur:

- ▶ Stay calm – protests may feel intimidating but will not necessarily lead to a physical threat
- ▶ Remain inside, close windows and lock doors, draw blinds/curtains and telephone the police
- ▶ Do not confront, try to explain, or reason with protestors – if they get no response they will usually leave
- ▶ If you are concerned that the protest is aggressive and weapons are in evidence, if it is safe to do so, take photographs of people and vehicles, and note descriptions to pass onto the police. Do not leave the building until the police say it is safe to do so

Travelling Safely

Most of the advice below you will already be aware of and will think of as 'commonsense'. However, at times we all become complacent especially when in familiar locations. It is good to be reminded of these simple practices that can help to keep you safe when out and about.

Driving

- ▶ Have your car or house keys in your hand or easily accessible
- ▶ Park under street lighting and not in dark, deserted streets or isolated car parks
- ▶ Park on the ground floor in multi-storey car parks near to pedestrian exits and reverse into the parking space
- ▶ Always keep windows and doors locked when you get into the car and when leaving it (Including service stations) and never leave your key in the ignition when the car is unattended
- ▶ Don't take boxes, bags or valuables to the car when other people are around - lock them in the boot prior to leaving home or a car park
- ▶ Use the torch on your mobile phone when it is dark in a car park or approaching your vehicle
- ▶ Look around your vehicle and inside as you approach in case someone is crouching down or hiding inside
- ▶ Avoid placing handbags, valuables, laptops, mobiles, or documents on the passenger seat which could be stolen if you come to a stop or when away from the vehicle
- ▶ Park on the left-hand side of the road facing the way you want to drive off or reverse into car parking spaces for a quicker getaway, if needed
- ▶ Avoid having identifying stickers in your car
- ▶ Ensure your vehicle has sufficient fuel or charge for the journey, and refuel during daylight hours
- ▶ Keep your vehicle in good repair with regular checks and be a member of a breakdown service. Have the number of the breakdown organisation in your phone
- ▶ In the event of a breakdown do not accept a lift from a stranger; ask them to get help for you. Check the identity of any service member that comes to help you
- ▶ Do not give lifts to strangers e.g. a person who has broken down and requests a lift. If you see an incident or someone tries to flag you down, think first. Is it genuine? How can you best help? It might be safer and more helpful and practical to report the incident, or request help, on your mobile or at a garage

- ▶ If a car pulls up in front of you and causes you to stop, never turn off the engine so that you can drive off quickly if necessary. If the driver or passenger approaches, reverse back from their car as far as is safely possible and check that windows and doors are locked. If necessary, draw attention to yourself by sounding the horn and use your mobile phone to contact emergency services
- ▶ Do not get out if you are followed in your vehicle; ensure the car is locked, flash your lights, and sound your horn to attract attention. Drive to a well populated area
- ▶ Do not wind down your window if someone taps on it, unless the individual is well known to you
- ▶ Be alert to any visual changes to your vehicle. If you notice a suspicious object on or near the vehicle, do not approach or enter it. Contact the police and give them the location and registration number of your vehicle

Public transport and taxis

When travelling by public transport there are some simple tips that can reduce the risks to your Personal Safety:

- ▶ Have the correct change, your pass or debit card to hand
- ▶ Ensure that you know travel times – particularly the details of the last bus/train of the day
- ▶ Wait for a bus or train in a well-lit place near other people, whenever possible, and pay attention to your environment
- ▶ Sit on the lower deck, near the driver if a bus is empty or it is after dark
- ▶ On trains, choose carriages that are well-populated and do not hesitate to move seats if you feel uncomfortable where you are
- ▶ On trains, if you sit next to the door make sure that you keep your mobile phone close to you. A common crime is for a thief to grab a phone and make a dash just as doors are closing
- ▶ If you do feel threatened, make as much noise as possible to attract the attention of the driver, guard, or other passengers
- ▶ If you can, arrange for someone to meet you at the bus stop or train station, particularly if travelling at night or in an unfamiliar area. If this is not possible, try to walk near other people with whom you feel safe, and walk purposefully to your destination
- ▶ Always carry the telephone number of a trusted, licensed taxi company with you
- ▶ Ensure any pre-booked licensed minicab driver has ID and that it matches the driver and the vehicle's photographic licence. Check that they know the name you gave when ordering. If in doubt, do not get in the cab
- ▶ Share a taxi or minicab with a colleague and sit in the back of the car

Cycling Safety

- ▶ Keep your bike in good working order
- ▶ Wear a fluorescent belt or jacket and always use lights at night
- ▶ Wear a cycling helmet
- ▶ Secure your bicycle with a good quality chain and padlock in a busy area
- ▶ Have a charged mobile phone readily available on your person

Walking

- ▶ Check your route beforehand – know where you are going
- ▶ Be prepared to walk a longer way around to keep safe
- ▶ Do not take short cuts through parks, alleys, waste ground, deserted car parks or similar
- ▶ Wear comfortable shoes that you can move quickly in if you need to
- ▶ Consider carrying a personal alarm, and if you do, make sure that it is accessible
- ▶ Tuck a scarf or long hair inside your coat and carry any bag or handbag across your shoulder
- ▶ Do not stop or respond to any request from a stranger on the street when in an isolated area
- ▶ If you think you are being followed, cross the street and make for a well-populated area

Dealing with Aggressive Phone calls and Emails

Receiving abusive phone calls

Do not ignore nuisance or aggressive calls. They may be a sign that someone is stalking you. Look for patterns, inform colleagues and Tameside Council and involve the police if necessary. These calls may form part of a larger pattern and may be happening to other councillors or Tameside Council staff.

- ▶ If possible, use a Tameside Council number for your work rather than your personal home or mobile number
- ▶ If a call is abusive or concerning (silence or heavy breathing) hang up immediately
- ▶ Always try 1471 to see if the number is available. Make a note of the date and time of the call and complete an incident form
- ▶ If you cannot trace the number make a note of the date and time of the call. If any further calls take place complete an incident form
- ▶ If a call becomes abusive and you know the caller warn them that you are going to put the phone down, then do so. Make a note of the time, date and outline of the conversation and complete an incident form
- ▶ Report any incidents using the accident and incident reporting forms available on the Tameside Council intranet. Send to healthandsafety@tameside.gov.uk with Robert Landon (Head of Democratic Services) in cc. With your consent Tameside Council may contact the police

Electronic Communication

If you receive abusive or prolific emails, texts or messages via social media that give you cause for concern about your safety:

- ▶ Stop all communication with the person
- ▶ Seek advice on blocking messages from that person from Tameside Council and/or the police
- ▶ Inform Tameside Council via an incident form and/or the police depending on the seriousness, and forward copies of the messages
- ▶ Do not delete the emails – keep them as evidence

Staying safe on Social Media

- ▶ If you have a public-facing Facebook or Twitter account, or website, ensure that you do not give personal details or have photographs that would enable people to know where you live, about members of your family, your date of birth (birthday photographs or comments), or other personal information
- ▶ Be aware of giving information on social media about your general whereabouts before activities such as meetings or events. Balance the need to publicise such activities with your Personal Safety. Advanced knowledge can aid a stalker or someone planning an attack
- ▶ If you use social media in a private capacity consider using a different name and check your privacy settings regularly.

Terrorism

Although the purpose of this handbook is not to cover terrorism in detail, it provides a good opportunity to highlight the current safety advice should such an incident occur.

The main 'Stay Safe' principles are to 'Run-Hide-Tell'. If you would like more information you can refer to the **National Counter Terrorism Support Office's website**.

You can discuss your personal security with your **local counter-terrorism security adviser**.

Handling a Difficult or Angry Person

It is possible that in the course of your work as a Tameside Councillor you will have to defuse a situation where someone has become angry. Below are two useful models that you can use to help defuse a situation.

Communication models to help you to defuse aggressive situations.

Using effective communication models can reduce conflict and resolve tension. They promote understanding and can be useful for finding common ground as well as providing a framework to support resolution.

Two well-known communication models **LEAPS** and **PALMS** are summarised below.

Communication model 1 - LEAPS

LEAPS is a communication model that might help if you are confronted with aggressive behaviour.

The acronym stands for:

- L - Listen** actively to what the person has to say and demonstrate that with your body language. Make sure you identify key pieces of information you may need later.
- E - Empathise** with what is being said and demonstrate that you are concerned about the situation and the feelings it is causing.
- A - Ask** questions to find out more so that you know exactly what you are dealing with and can start to formulate how you may be able to help resolve it in some way. Ask open, general questions. Don't use closed questions that simply invite the answers "yes" and "no". You can use the TED style of questions or statements. For example "Tell me...", "explain to me...", "describe to me...". For example, "Tell me about the problem you are having with your neighbour...", "Please take your time...", "Take me back to the very beginning". Don't panic if there is silence. Ask an open question and let them fill the gap.
- P - Paraphrase** facts into your own words and check out with the person that you have understood these correctly. Angry people often repeat themselves and bring up a lot of different issues at once making it difficult to work out exactly what the problem is.
- S - Summarise** a course of agreed action by identifying clear actions that you can go through with the person. Be clear about who is going to do what and when by. If necessary write this down for the person.

Communication model 2 - PALMS

The **PALMS** model is designed to help you to communicate to the other person that you do not want to confront or fight them, but instead you want to help them.

- P - Position** - Be aware of where you are and what is around, i.e. exit routes. Ensure the person does not feel trapped or hemmed in. Let them see any exit routes. The person needs to see a way past you. If you block the possibility of 'flight' they may see little choice but to fight. Equally, ensure that you are not blocked in.
- A - Attitude** - Display a positive and helpful attitude and try to avoid sending the conflict around in a circle. Smile and talk calmly as it is your responsibility to emphasise a willingness to help and find a solution to the problem.
- L - Look and Listen** - Make normal eye contact and demonstrate active listening. Eye contact is vital in signalling non-aggression. Maintain a normal level of eye contact, do not stare. Demonstrate active listening with appropriate head nodding, gestures and repeating phrases you hear to show you understand.
- M - Make Space** - Maintain a comfortable distance from the person. Do not invade someone's intimate space. Create and measure personal space using the following as guidance:
 - ▶ Can you see the other person's feet? ▶ Do you feel a vague sense of discomfort?
 - ▶ Would they have to take a step forward to touch (hit) you?
- S - Stance** - Relaxed and slightly side on for safety and balance. Stand slightly to one side of the person and place one foot backwards to support you. Open your stance to show the route to an exit.



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REPORT OF A VIOLENT INCIDENT

This form should be completed after any incident where a member of staff has been threatened, verbally abused, attacked or otherwise harassed in the course of their duty.

On completion the form will be sent to the relevant Health and Safety link person. The Senior Manager will retain a copy for their records and also send a quarterly statistics report to the Internal Health and Safety Unit.

Name of Staff Member

Workplace

Date and Time of Incident

PRN

Service Unit

Names of Other Staff Involved

Names of Witnesses

Place where incident occurred.

(Give accurate description e.g. in corridor, interview room, clients premises etc.).

First Aid. Was first aid given? Yes/No

If yes, by whom (name and address)

Did the injured person go to the hospital or need further medical attention? Yes/No

Details of any injuries sustained.

Details of incident: Did any of the following occur? (Tick relevant items)

Verbal aggression/threats
Throwing of/damaging objects
Physical violence
Posturing/challenging behaviour
Verbal/emotional abuse
Were weapons or objects used to injure/threaten?

Description of the incident: Mention any others involved eg. other resident, family member, adult or animal. If so describe briefly:

Did any property get damaged?

Brief description of the incident: Comment on whether the violence was directed at you or occurred indirectly, eg. while you were walking away, dealing with another incident etc.

What do you think caused the incident? Consider your own and others actions and try to identify other circumstances that may have contributed, e.g. shortage of staff, location, training, facilities etc.

If a physical assault took place were the Police called? Yes/ No:

If no, please give details as to why not

Debrief:-

Was the incident later discussed? Yes/No If so with whom?

Did you feel supported by your colleagues? Yes/No

Did you feel supported by your service unit? Yes/No


Were you happy with the outcome of the debrief? Yes/No

Comments:

Signed	Manager.....
Designation	Designation
Date	Date

Agenda Item 6

REPORT TO:	STANDARDS COMMITTEE
DATE:	14 December 2021
REPORT OF:	Sandra Stewart – Executive Director Governance & Resources (Monitoring Officer)
SUBJECT MATTER:	ETHICAL UPDATE – HELPING TO PROMOTE HIGH STANDARDS OF CONDUCT
REPORT SUMMARY:	This report is intended to brief members on any developments and news on matters of local government ethics.
RECOMMENDATION(S)	Members are asked to consider the report and comment on its contents (as applicable) and note its contents
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no significant financial issues arising from this Report.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
RISK MANAGEMENT:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
LINKS TO COMMUNITY PLAN:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.
ACCESS TO INFORMATION	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public
REFERENCE DOCUMENTS:	The background papers relating to this report can be inspected by contacting the report writer, Sandra Stewart, the Council's Borough Solicitor and statutory Monitoring Officer by:

 Telephone: 0161 342 3028

 e-mail: Sandra.Stewart@tameside.gov.uk

1. ETHICAL UPDATE – HELPING TO PROMOTE HIGH STANDARDS OF CONDUCT

1.1 An update is provided on the following issues:

- (a) Information Commissioner launches investigation into use of private email
- (b) Councillor censured following complaints
- (c) Councillor jailed after sending threatening email to MP and chief executive
- (d) Reminder: Register of Interests
- (e) Reminder: Dispensations

2. INFORMATION COMMISSIONER LAUNCHES INVESTIGATION INTO USE OF PRIVATE EMAIL

2.1 The Information Commissioner's Office has launched an investigation into the use of private correspondence channels at the Department of Health and Social Care.

2.2 In a [blog](#) Information Commissioner Elizabeth Denham said the ICO had served information notices on the department and others to preserve evidence relevant to her inquiry. The ICO's investigation will establish if private correspondence channels have been used, and if their use led to breaches of freedom of information or data protection law. The watchdog will publish the results of that investigation in due course. The ICO has said the suggestion of ministers and senior officials using private correspondence channels, such as private email accounts, to conduct sensitive official business was a concerning one.

2.3 The Commissioner also highlighted the public concern about a lack of transparency about decisions that affect individuals and their families. The Information Commissioner pointed to the ICO's guidance on the use of private communication channels and the government's own code of practice, which sets clear standards, and emphasises the importance of good records management in ensuring public trust and confidence.

2.4 The Information Commissioner noted that the use of private correspondence channels for official government business does not break freedom of information law, but her concerns relate to information in private emails and messages being forgotten or otherwise not considered when a freedom of information request is later received. This frustrated the freedom of information process, and put at risk the preservation of official records of decision-making, the Information Commissioner said, adding that she also worried that emails containing personal detail were not properly secured in people's personal email accounts.

2.5 The Commissioner pointed to the ICO's [guidance on the use of private communication channels](#), which she said had been available on its website for a considerable period of time. The government's own [Code of Practice](#) also sets clear standards, and emphasises the importance of good records management in ensuring public trust and confidence, particularly following a national crisis.

2.6 The Commissioner noted that the ICO has a range of powers following the completion of an investigation, ranging from good practice recommendations and enforcement notices, up to the option of criminal prosecution of individuals where information has been deliberately destroyed, altered, or concealed after it has been requested under the Freedom of Information Act.

3. COUNCILLOR CENSURED FOLLOWING COMPLAINTS

3.1 In September 2021, Maldon District Council (the Council) upheld six complaints against a member who was found to have failed to treat others with respect; bullied officers and other

members; to have disclosed confidential information about another member on social media; and had deliberately attempted to undermine the Council's Code of Conduct process, bringing his office and the Council into disrepute.

- 3.2 The allegations included that the member had disrupted a Planning Committee meeting by repeatedly shouting over the chair, insulting her and other members of the committee. It was also alleged that the member had made abusive, haranguing and potentially slanderous comments towards council officers, and had acted in an aggressive and intimidating manner.
- 3.3 In another incident, the member was alleged to have taunted an officer at a meeting while filming the encounter and subsequently publishing it on Facebook, after which he 'liked' a comment which described the officer as the "worst kind off [sic] human filth we have in our society".
- 3.4 It was also alleged that the member made repeated attempts to undermine and publicly discredit the members' complaints process, such as by livestreaming his investigation interview on Facebook Live. This resulted in the council having to report a personal data breach to the Information Commissioner.
- 3.5 The committee found that the member's behaviour during the investigation process showed contempt for the principles of accountability and integrity and also brought his office and the council into disrepute.
- 3.6 The Councillor was censured after complaints upheld from officers and other members. As well as the decision to formally censure the member, the Chair of the Joint Standards Committee also recommended that the member be removed from committee meetings and working groups; that access to ICT and email to be restricted until May 2022; and that the member is provided with training on conflict management and resolving disputes.
https://www.maldon.gov.uk/download/downloads/id/18712/joint_standards_committee_decision_letter.pdf

4. COUNCILLOR JAILED AFTER SENDING THREATENING EMAIL TO MP AND CHIEF EXECUTIVE

- 4.1 An Allerdale councillor has been sentenced to six weeks in prison after pleading guilty to sending a threatening email to his local MP and the borough council's chief executive.
- 4.2 Workington Magistrates' Court sentenced Peter Little for breaching section 127(1)(a) and (3) of the Communications Act 2003, which says a person is guilty of an offence if they send a message that is grossly offensive or of an indecent, obscene or menacing character.
- 4.3 According to [a BBC report](#), Mr Little used a sexual swear word to suggest Andrew Seekings, Allerdale's Chief Executive, and Mr Jenkinson would come to harm.
- 4.4 Upon handing down the sentence on the 19 October 2021, District Judge Mark Hadfield mentioned the serious nature of threatening MPs and referred to the recent "tragic" events surrounding the death of MP Sir David Amess.
- 4.5 "*If you were of good character I would consider a community order,*" Judge Hadfield added. But Mr Little's case was aggravated by his record for "disorder and violence" and "more particularly by the fact that it was committed whilst subject to a suspended sentence recently imposed for threats to neighbours and your appalling behaviours towards officers that day," according to the judge.
- 4.6 Mr Little had earlier received a 12-week suspended prison sentence for separate

threatening behaviour aimed at two police officers in August. In that case, he pled guilty to breaching the Public Order Act 1986.

4.7 Mark Jenkinson, MP for Workington, said: "*Abuse and threats from a tiny, but often loud, minority is sadly part and parcel of political life today. This needs to change.*" Mr Jenkinson added that "*Andrew Seekings, as the Chief Executive of Allerdale Borough Council, has not chosen that political life. He is a paid officer undertaking an often difficult role diligently, efficiently, and with good grace.*"

4.9 Mr Little took office in May 2019 and was a member of the Allerdale Independents. The Independents removed him from its ranks following the sentencing. A spokesperson for Allerdale Borough Council stated that Mr Little's tenure at the local authority had ended as a result of his conviction. This is because pursuant to Section 80 of the Local Government Act 1972, a councillor is automatically disqualified as a councillor with immediate effect when convicted to an imprisonable sentence of 3 months or more whether suspended or not.."

5. REMINDER: REGISTER OF INTERESTS- KEEPING IT UP TO DATE

5.1 Members ordinarily are required to complete their register within the 28 day period of being elected and within 28 days of a change in circumstances relating to their interests, change of job, additional interest group etc.

5.2 Consequently, members are reminded that this is a live document and therefore needs to be reviewed regularly to ensure it is up to date. Failure to keep Councillor register of interests up to date could lead to a complaint being received that it is not accurate and also misleading.

5.3 Accordingly to assist Democratic Services provide a paper copy of the individual submissions currently on line at every Council meeting (5 a year) to enable members to update and confirm as correct. It acts as a useful reminder especially when members are in the meeting for about 2 hours.

5.4 If any member is unsure of something should be registered they are recommended to contact Democratic Services or the Monitoring Officer.

6. REMINDER: DISPENSATIONS

6.1 The Council may grant a Councillor a dispensation, but only in limited circumstances, to enable such Councillor to vote on a matter in which Councillor has a Disclosable Pecuniary Interest or a prejudicial interest.

6.2 The main reason why a dispensation may be granted is where so many Members have an interest in a matter that it would not be possible for the business in question to go ahead. This is particularly relevant at the Council budget setting meeting as every members is a Council Tax payers etc. If a Councillor wants a dispensation that Councillor needs to make an application to the Monitoring Officer in good time before the meeting.

6.3 The Monitoring Officer will write to all Members reminding them of the requirement to submit a written request for a dispensation for the February 2022 Council budget meeting.

6 RECOMMENDATIONS

6.1 As set out at the front of the report.

Agenda Item 7

REPORT TO:	STANDARDS COMMITTEE
DATE:	14 December 2021
REPORT OF:	Sandra Stewart – Executive Director Governance & Resources (Monitoring Officer)
SUBJECT MATTER:	UPDATE ON INDEPENDENT PERSON
REPORT SUMMARY:	<p>This report concerns the recruitment and appointment of Independent Persons who will work with the Monitoring Officer on standards matters in accordance with the Localism Act 2011 and the Council’s Code of Conduct. Independent Persons will also work closely with the Standards Committee on all aspects of the Committee’s work in relation to wider ethical and governance issues affecting the Council, providing independent input.</p>
RECOMMENDATION(S)	<p>Members are asked to consider the report and</p> <ul style="list-style-type: none">(a) Acknowledge the tremendous work overtaken by the Chair and Deputy over the last decade which has maintained high standards of conduct and thank them for agreeing to cover the pandemic period;(b) Consider and approve the Independent Person Protocol attached at Appendix A.(c) That the Monitoring Officer be authorised to undertake a recruitment process to appoint two Independent Persons in the capacity as Chair and Deputy of the Standards Committee for a term of 4 years (from the start of the 2022/23 Municipal Year until the end of the 2025/26 Municipal Year - with such term of office being extended to a maximum of 8 years.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	<p>The Independent Person and Deputy are paid in accordance with the Members Allowances Scheme pursuant to the Local Authorities (Members’ Allowances) Regulations 2003 currently these stand at £6,692 and £2,492 for the Deputy together with any necessary travel expenses and is within existing budgetary provisions.</p>
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	<p>The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications. Section 28 of the Localism Act provides that arrangements must be put in place under which allegations can be investigated and action taken which must include provision of at least one independent person, although no term of office is specified. The Act does not limit the number of independent persons who can be appointed but does require appointments to be approved by “the majority of members of the authority”.</p> <p>Although the role of the Independent Person is voluntary, an allowance is paid (per role) to cover any expenses incurred whilst carrying out the role. The law is clear that such an allowance does not negate independence.</p>

RISK MANAGEMENT:

Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.

LINKS TO COMMUNITY PLAN:

Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.

ACCESS TO INFORMATION

NON-CONFIDENTIAL

This report does not contain information which warrants its consideration in the absence of the Press or members of the public

REFERENCE DOCUMENTS:

The background papers relating to this report can be inspected by contacting the report writer, Sandra Stewart, the Council's Borough Solicitor and statutory Monitoring Officer by:



Telephone: 0161 342 3028



e-mail: Sandra.Stewart@tameside.gov.uk

1. CONTEXT

- 1.1 Councils have a duty to promote and maintain high standards of conduct by their elected councillors and co-opted members.
- 1.2 The Localism Act 2011 (the Act) requires every council to have in place a process under which allegations of misconduct can be investigated and decisions made on such allegations.
- 1.3 To comply with the requirements of the Act, the Council is required to appoint at least one Independent Person to deal with standards matters and, in some circumstances, must seek the views of an Independent Person before taking a decision on an allegation of misconduct that has been investigated.
- 1.4 An Independent Person has a number of roles:
 - (a) The views of an Independent Person must be sought and taken into account by the Council before it makes a finding that any Member has failed to comply with its code of conduct or imposes any sanction;
 - (b) The views of an Independent Person may be sought on whether to investigate a complaint and how to deal with a particular allegation; and
 - (c) Any Member against whom an allegation has been made may consult the Independent Person regarding that allegation.
- 1.5 In addition, Independent Persons are required to advise Full Council in the event of any disciplinary action being proposed against three key statutory officers: Head of Paid Service, Monitoring Officer and Chief Finance Officer.

2. CURRENT POSITION

- 2.1 The Council has been very well served by Valerie Bracken as Chair of the Standards Panel and supported by Judith Barnes who have through their dedication and commitment supported and maintained high standards of integrity and conduct at the Council. The intention was that they would serve two terms of four years. However, the impact and uncertainty meant that it was an inappropriate time to seek a new Chair and Deputy and both kindly agreed to support the Council by extending their tenure. However, it is now felt appropriate and in line with good corporate governance that we should now look to recruit two independent persons to act as Chair and Deputy of the Standards Committee seeing their guidance and support to recruit to the roles.
- 2.2 Additionally, as we will lose a lot of experience and knowledge it was thought useful if an Independent Person protocol was drafted to help clarify the role and that is set out at **Appendix A** for consideration and approval.

3. PROPOSAL AND REASONS

- 3.1 The Council has been operating with two Independent Persons since 2011, when they were created by legislation and such an approach is in line with best practice and recommendations from the Committee on Standards in Public Life., and one of the 15 best practice recommendations of the Committee on Standards in Public Life (CSPL) local government ethical standards report of January 2019. This provides the Council with greater flexibility, to cover for absence or conflicts of interest, and will negate a situation where both the Monitoring Officer and subject member are calling upon the same Independent Person.
- 3.2 Individuals appointed as Independent Persons must be recruited through a formal procedure. As a result, in accordance with the Act, a public advertisement campaign is recommended. A copy of the proposed advert and candidate information pack is attached at **Appendix B**.

- 3.3 The Localism Act requires the appointment of Independent Persons to be approved by “the majority of members of the authority”. As a result, the Standards Committee will make recommendations to Council to appoint to serve as Independent Persons.
- 3.4 An initial one year term of office is recommended, for the Municipal year 2022/3, which can be extended annually at Annual Council to a maximum 8 year period to provide stability of tenure where appropriate.
- 3.5 Section 28 of the Localism Act provides that arrangements must be put in place under, which allegations can be investigated and action taken, which must include provision of at least one independent person, although no term of office is specified. The Act does not limit the number of independent persons who can be appointed but does require appointments to be approved by “the majority of members of the authority”.
- 3.6 The Localism Act also stipulates that a person is not independent (and cannot therefore be considered for appointment) if the person is or has been within the last five years:
- (i) a Member, co-opted member, or officer of the authority;
 - (ii) a Member, co-opted member, or officer of a parish council of which the authority is the principal authority; or
 - (iii) a relative, or close friend, of a person within (i) or (ii) above.

4. RISK MANAGEMENT

- 4.1 The absence of an Independent Person would place the Council in breach of its statutory duty under the Act and would prevent the Monitoring Officer from dealing with complaints in accordance with the Council’s Code of Conduct.
- 4.2 Appointing at least two Independent Persons will aid resilience, provide cover in the case of conflicts of interest or absence while also providing a wider range of external views and skills/knowledge.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.
- 5.2 While there are no specific equalities implications arising from this report, the recruitment process will seek to find a variety of candidates that whilst meeting the profile, offer a variety of different backgrounds and experiences.

6. RECOMMENDATION

- 6.1 As set out at the front of the report.

INDEPENDENT PERSON PROTOCOL

Introduction

1. The purpose of this Protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Person will interact in relation to the assessment of an allegation that a Member of the Council or a Member of the Mossley Town Parish Council within the Borough, has failed to comply with the Council's Code of Conduct.
2. Any reference in this Protocol to the Independent Person applies to however many Independent Persons the Council has and Independent Persons could also include an Independent Person from a neighbouring authority.
3. The Localism Act 2011 requires the Council to appoint at least one Independent Person to assist the Monitoring Officer, as a consultee, during the pre-investigation, investigation, pre-hearing and hearing process.
4. The Council intends to appoint two Independent Persons in capacity as Chair and Deputy of the Standards Committee to act in this role. If required, the Council can request for an Independent Person appointed by another Greater Manchester Authority to act as their Independent Person(s).
5. The role of the Independent Person is set down in legislation (section 28(7) of the Localism Act 2011) - 'Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate'.
6. The Independent Person will be considered an office-holder of the Council in accordance with the duty under s28(7) of the Localism Act 2011 and will therefore be entitled to be covered by the Council's indemnity insurance provided they act reasonably and within the terms of this Protocol.
7. The Council has adopted a Code of Conduct for Members and has agreed arrangements for dealing with any allegation that a Member of the Borough Council or a Mossley Town Parish Council Member, has failed to comply with the Council's Code of Conduct.

Role of Independent Person

8. The purpose of the Independent Person's role is to enable the public to have confidence in how the Council deals with allegations of misconduct.
9. In carrying out the role, the Independent Person will ensure s/he will be available for consultation at various points in the arrangements for dealing with complaints concerning Councillors and or Town Parish Councillors.
10. If the Independent Person has or has had a personal relationship with the complainant or the Member who is the subject of the complaint, they should advise the Monitoring Officer at the earliest opportunity and the Monitoring Officer will consider making appropriate arrangements to ensure an Independent Person can be made available.
11. The Monitoring Officer function (including the Deputy Monitoring Officer) will review every complaint received and may, at their discretion, consult the Independent Person. If it is the

initial view of the Monitoring Officer function that the complaint would not amount to a breach of the Member Code of Conduct and the Monitoring Officer will not progress the matter further.

12. Where an initial fact-finding investigation has been undertaken, a report will be submitted by the Investigator (usually the Deputy Monitoring Officer) to the Monitoring Officer. The Monitoring Officer, having consulted with the Independent Person, will consider and decide whether there is evidence of a failure to comply with the Code of Conduct and, if so, what action should be taken.
13. The Independent Person shall provide an objective and impartial opinion, which the Monitoring Officer will consider in making the decision.
14. The Monitoring Officer, having consulted the Independent Person may consider resolution of the complaint by one of the following means:
 - (a) The Member accepting that his/her conduct was unacceptable and offering an apology or other remedial action to the Council.
 - (b) Referring the matter to the Member's Group Leaders.
 - (c) The Member being required to attend training.
 - (d) The member being required to meet with the Monitoring Officer and/or other Chief Officers.
 - (e) Such other action as is considered appropriate by the Monitoring Officer and Independent Person.
15. Where a complaint is the subject of a Hearings Panel, the Independent Person or their Deputy must attend and Chair the meeting.
16. Where the Independent Person nor their Deputy is not available to deal with a particular matter or where the Independent Person and Deputy has a potential conflict of interest, the Council shall appoint another Independent Person who shall act in the particular matter. Such Independent Person may be an Independent Person appointed by another Authority to act as their Independent Person.

Relationship with the Standards Committee

17. The Monitoring Officer is the principal advisor to the Standards Committee supported by the Deputy Monitoring Officer(s) and Officers within Democratic Services.
18. The Independent Person is the Chair of the Standards Committee and their Deputy the Deputy of the Standards Committee.

Right of access to documentation

19. The Independent Person shall have a right of access to such files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. The Independent Person shall not have a right to undertake a roving commission. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

Duty to declare interest

20. The Independent Person shall promptly disclose in writing any actual or potential conflict of interest that they may have in a matter, which has been referred to them.

Register of Members' Interests and the Seven Principles of Public Life

21. The Independent Person is not a Member, so they are not required to notify and register any interests in the Register of Members' interests. The Independent Person is however required to abide by the Seven Principles of Public Life ('the Nolan Principles').

Protecting the independence of the Independent Person

22. No Member or Officer shall do anything, which does or is likely to compromise the independence of the Independent Person or to otherwise inappropriately interfere in the discharge of the Independent Person's lawful duties.

Miscellaneous

23. The Monitoring Officer will ensure that the Independent Person is kept up to date with changes to the Code of Conduct, procedures for handling allegations, in legislation, national guidance and/or good practice.
24. A further role of the Independent Person arises from the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). By amending regulations in 2015, there is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council, which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least two Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority.
25. The Independent Person together with the Monitoring Officer will meet at least once a year to discuss Member behaviour in a general context.
26. This Protocol will be kept under review by the Monitoring Officer and amended where necessary, considering legislation, guidance, good practice etc.

APPENDIX B

TAMESIDE METROPOLITAN BOROUGH COUNCIL APPOINTMENT OF INDEPENDENT PERSON (ETHICAL STANDARDS)

Do you want to help us to maintain and promote high ethical standards at Tameside Council and be a better Tameside? Are you interested in:

- making a difference to your local community
- upholding high ethical standards
- shaping the discussion on ethical behaviour in local government in Tameside
- supporting good judgement and governance

We are seeking to appoint two “Independent Person(s)” as the Chair of Standards Committee and the Deputy Chair to provide an impartial, balanced and informed view on complaints about the behaviour of councillors and contribute to the oversight of ethical standards in local government in Tameside. The role is defined in the Localism Act 2011.

Independent Persons Chair and deputise our Standards Committee, which meets three or four times a year is responsible for monitoring our Code of Conduct and promoting high ethical standards amongst elected councillors.

Independent Persons liaise with local authority staff and councillors, review and comment on Standards proposals (and complaints) and get involved in ethical accountability conversations with local leaders and senior council officials, working collegiately with fellow committee members.

The role will require those appointed to be available for consultation if an allegation of breach of the Members Code of Conduct is received by the Council and to Chair or deputise the Standards Committee and attend meetings, as required, to discuss and contribute to wider ethical and governance issues

Some of the fundamental skills and qualities required of the role are:

- Honesty and integrity;
- Fair mindedness and impartiality;
- Mature and sound temperament;
- Good communication skills;
- Evidence of ability to exercise sound judgement;
- Commitment and reliability; and,
- Interest in ethical standards.

Suitable candidates for this role will ideally have experience of dealing with complaints or monitoring and compliance at a high level within a previous organisation. Some knowledge of corporate governance in local government, charities, schools or public bodies would be an advantage, but no particular qualifications or experience are required.

To apply, you will need to be:

- over the age of 18
- **not** be involved as a member of a political party or in the management of a local lobbying group.
- **not** a current or recent employee or councillor of the Tameside Council (within the last five years), or a relative or close friend of such a person.

For an informal discussion about the role please contact – Sandra Stewart Director of Governance and Pensions sandra.stewart@tameside.gov.uk

The Independent Person and Deputy are paid in accordance with the Members Allowances Scheme pursuant to the Local Authorities (Members' Allowances) Regulations 2003 currently these stand at £6,692 and £2,492 for the Deputy.

Papers for the Council's Standards Committee and a role description and person specification for the Independent Person together with the application form can be viewed on the Council website at

The closing date for applications is xxxx.

**TAMESIDE METROPOLITAN BOROUGH COUNCIL
INFORMATION PACK:**

INDEPENDENT PERSON: ROLE DESCRIPTION

Role:	Independent Persons
No of Roles:	2 Chair and Deputy of Standards Committee
Responsible to:	Council's Monitoring Officer
Responsible for:	Advising on allegations of breach of the Members' Code of Conduct and the Council in respect of disciplinary proceedings against the Head of the Paid Service, the Monitoring Officer, or the Chief Finance Officer

We are looking to appoint an 'Independent Person' to provide an important service to Tameside Council and contribute to maintaining the high ethical standards of the authority.

The appointment of independent members for the purposes of consultation is required by the standards provisions in the Localism Act 2011.

The role will require the successful applicants to be available for consultation if an allegation of breach of the Code of Conduct is received by the Council and to attend meetings, as required, of the relevant Committees to discuss and contribute to wider ethical and governance issues.

The Independent Persons will liaise, as necessary, with Tameside Council's Monitoring Officer (in accordance with the Council's complaints procedure) to consider complaints against Members and offer their impartial views on the respective case, including any investigations undertaken.

The Independent Persons will also chair or deputise the Council's Standards Committee to participate in the consideration and discussion of wider ethical and governance issues affecting the Council, as they relate to elected Members of the Council.

In addition, as part of a Panel of at least two Independent Persons, the successful applicants will be required to advise the Full Council in the event of any disciplinary action being proposed against the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer.

In accordance with the Localism Act 2011, the Council must promote and maintain high standards of conduct by members and co-opted members of the authority.

The Council has adopted a Code of Conduct for Members and has agreed arrangements for dealing with any allegation that a member Mossley Town Parish Council or co-opted member has breached the code. These arrangements include the appointment of one or more Independent Person(s) to advise on breaches of the Member Code of Conduct.

The Independent Person will:

- Be consulted if an allegation of a breach of the Members' Code of Conduct is received by the Monitoring Officer.
- Liaise as necessary with the Council's Monitoring Officer to consider complaints against Members and offer his/her impartial views and independent perspective on the case, including any investigations undertaken.
- Advise the Council prior to any decision to investigate an allegation or complaint relating to whether a member has failed to comply with the Code of Conduct.
- Chair or deputise the meetings of the Standards Committee as a co-opted member, reviewing meeting papers (including confidential documents), contributing their own perspective to the meeting's informed discussion and debate.
- Contribute to any review of the operation of the standards arrangements and complaints procedure established by the Council under the provisions of the Localism Act 2011.

The Independent Person may be consulted:

- by the Council's Monitoring Officer in respect of an allegation against a member.
- by a member or co-opted member of the Council against whom an allegation or complaint has been made.

As part of the statutory role, the Independent Person will also be available for consultation by any Council (and Mossley Town/Parish Council) member who is the subject of an alleged breach of the Code of Conduct. Such consultation may be sought at any time during the process and may be carried out by telephone, written correspondence (e mail or letter) or at a meeting (including at a final hearing). This advisory role to an individual Council member will only arise where the member is subject to an alleged breach of the relevant code of conduct. An Independent Person will not be expected – and should decline - to give advice to Council or Mossley Town/Parish Council members in any other circumstances. Where such advice is required, Council members will be expected to seek it from the Monitoring Officer, or some other appropriate Council officer).

The views of the Independent Person will be considered, and formally noted, by the Monitoring Officer on initial assessments and by the Council's Standards Committee, who are responsible for recommending on the outcome of any complaints and any remedial action.

TAMESIDE METROPOLITAN BOROUGH COUNCIL INDEPENDENT PERSON: PERSON SPECIFICATION

The Independent Person will possess the following attributes, to be assessed through an application and interview process:

- Personal integrity and honesty.
- A keen interest and commitment to maintaining high standards in public life.
- A wish to serve the local community and uphold local democracy.
- An interest in and awareness of the functions of local government relating to ethical governance, in particular the role of elected Members and the relevant Code of Conduct.
- Independence, impartiality and experience of exercising sound, objective judgements in relation to complex matters
- Excellent questioning, analytical and evaluation skills in order to advise whether a breach of the Code of Conduct or complaint should be investigated.
- A commitment to promoting equality and an awareness of the issues affecting a diverse community.
- Excellent communication skills in particular the ability to provide clear rationale for advice and to explain decision making when required.
- Experience of dealing with private and sensitive issues, exercising discretion and maintaining confidentiality of information received.
- Flexibility to deal with urgent requests.
- Be aged 18 or over and with a mature and sound temperament.

Some of the fundamental skills and qualities are required for the following reasons:

Honesty and integrity This role carries a high level of moral responsibility and the successful appointments will be placed in a position of high regard and trust within the authority. The Independent Persons may, due to the nature of the role, be privy to sensitive, private or personal information which must be treated in confidence. Any information disseminated to an Independent Person in relation to an allegation of breach will be entirely confidential and there will be a fundamental expectation that the matters discussed are not disclosed further. The successful candidates will be able to evidence that they are able to be placed in a position of trust, handle confidential information with integrity and exercise discretion when discussing matters relating to the authority.

Fair mindedness and impartiality The Independent Persons will have a responsibility to consider

the facts of any case and offer fair, impartial views to the Monitoring Officer about an allegation of breach of the Code of Conduct. Applicants will be able to evidence the ability to exercise sound objective judgments, including a willingness to thoroughly challenge and impartially assess complaints, reports or defences; and act without bias when forming their views.

Good communication skills and an enquiring mind - The Independent Persons will Chair or Deputise the Standards Committees and attend Full Council as necessary – either in relation to an allegation case, or to discuss other ethical and governance matters relating to the authority. The Independent Persons will be expected to fully participate in these discussions and good communication skills are essential. The allegations of breaches, which the Independent Persons will be consulted about may be complex, involve numerous pieces of evidence, and involve a degree of investigation by the Council's delegated Monitoring Officer. Applicants will be able to evidence an enquiring mind and be adept at analysing information and formulating views accordingly.

Mature and sound temperament This role is not age restricted, but those appointed will require a mature temperament and a fundamental appreciation of the responsibility attached to this role, having a genuine interest in dealing with standards hearings.

Commitment and reliability The role is expected to be a long-term commitment. Whilst the Council reserves the right to terminate the appointment (should, for example, an individual prove to be unsuitable), it is expected that the post-holders will provide a commitment to undertake the role long-term.

Previous experience and knowledge The successful candidates should be able to evidence the attainment of the aforementioned skills and qualities in a similar role at another local authority, auditing body, legal institution, or public or private organisation.

They should also need to show a commitment to upholding high ethical standards, and demonstrate an understanding of governance matters, such as the Council's Constitution, and of the work of the Council.

The Independent Person must not be:

Please note that this role is legally restricted as detailed below Sections 28(8)(a) and (b) of the Localism Act 2011 stipulates that a person is not independent (and cannot therefore be considered for appointment) if the person is or has been within the last five years:

- A Member, co-opted member or employee of the Tameside MBC or Mossley Parish Council or have held such a post within the previous 5 years.
- A relative or close friend of such a person.
- A member of a political party or involved in the management of a local lobbying group

Expenses This is a voluntary role and The Independent Person and Deputy are paid in accordance with the Members Allowances Scheme pursuant to the Local Authorities (Members' Allowances) Regulations 2003 currently these stand at £6,692 and £2,492 for the Deputy to cover any expenses incurred whilst carrying out the role.

How to apply: You can apply by submitting a application to sandra.stewart@tameside.gov.uk the Director of Governance and Pensions by **xxxx**