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To: The Chair and Members  
of the Standards  
Committee

County Hall  
Topsham Road  
Exeter  
Devon  
EX2 4QD

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Date: 15 March 2021

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### **STANDARDS COMMITTEE**

Tuesday, 23rd March, 2021

A virtual meeting of the Standards Committee is to be held on the above date at 2.15 pm to consider the following matters. The [livestream of the meeting can be viewed here](#).

Phil Norrey  
Chief Executive

## **A G E N D A**

### **PART I - OPEN COMMITTEE**

1 Apologies for absence

2 Minutes

Minutes of the meeting of the Committee held on 16 November 2021, previously circulated.

3 Items Requiring Urgent Attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

## **MATTERS FOR DECISION**

4 **New Model Code of Conduct Update** (Pages 1 - 32)

Report of the County Solicitor (CSO/21/3) on the current position with the new model code of conduct, attached.

*Electoral Divisions(s): All Divisions*

5 **Standards Annual Report 2020/2021** (Pages 33 - 38)

In line with best practice the Committee has previously produced an Annual Report outlining the range of its activities and related developments during the year and identifying any issues for consideration or that might impact upon future arrangements. The draft Annual Report for 2020/21 submitted for endorsement and publication is attached.

The publication, independently, of an Annual Report by this Committee complements and gives rigour to the Council's Annual Governance Statement which it is required to publish separately on an annual basis.

**Recommendation:** that the Annual Report for 2020/21 be approved and published.

*Electoral Divisions(s): All Divisions*

## **STANDING ITEMS**

6 **Ethical Governance Framework: Monitoring** (Pages 39 - 42)

Report of the County Solicitor ([CSO/21/9](#)) on co-opted members' attendance at meetings of the Council, Cabinet and Committee meetings, monitoring compliance with the Council's ethical governance framework, attached.

*Electoral Divisions(s): All Divisions*

## **MATTERS FOR INFORMATION**

7 **Local Determination of Complaints**

County Solicitor to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting, if any.

## **PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED**

NIL

*Members are reminded that Part II Reports contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). They need to be disposed of carefully and should be returned to the Democratic Services Officer at the conclusion of the meeting for disposal.*

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## **New Model Code of Conduct Update**

Report of the County Solicitor

### **Recommendation:**

- (a) that the process by which the Local Government Association (LGA) Model Code of Conduct was prepared and written be noted;
- (b) that Members note further guidance is awaited and is anticipated towards the end of March;
- (c) that Members' views be sought on the new Local Government Association (LGA) Code of Conduct, attached to the Report; and
- (d) that the Committee note the intention to further review the Local Government Association (LGA) Code, together with the guidance (when received) and the views expressed at this meeting, with a view to bringing a proposed Code of Conduct to the New Council for adoption.

### **Introduction**

1. Members will be aware that this Committee had previously considered the Report of the Committee on Standards in Public Life 'Local Government Ethical Standards - A Review by the Committee in Public Life'. This final Report was published on 30 January 2019.
2. Whilst that Report covered a number of issues surrounding behaviours and governance in public life, there was a recommendation that the Local Government Association should create an updated model Code of Conduct which should be produced in consultation with representative bodies of Councillors and Officers of all tiers of Local Government and representatives thereof.

### **Background**

3. The Board of the Local Government Association on the 11<sup>th</sup> September 2019 agreed to commence reviewing the Code ahead of central Government's response to all the recommendations of the Report and the work was part of a wider programme on civility in public life.
4. As part of the process, a series of workshops were held with national representative bodies (Monitoring and Democratic Services Officers and Elected Members from the main parties), to review what worked and develop some broad principles. There were mutual concerns expressed by both Members and Officers about the current codes, inconsistencies in application and a lack of guidance and sanctions.

# Agenda Item 4

## Aim and Purpose of the Code

5. The purpose of the new Code of Conduct is to assist Councillors in modelling the behaviour 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.
6. The Code sets out general principles of conduct expected of all Councillors and their specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim being to create and maintain public confidence in both the Councillor role and Local Government.

## Consultation and Timeline

7. The original proposed timeline was delayed due to the COVID-19 pandemic, with the original launch planned to coincide with the first day of the Local Government Association conference. The consultation ran between the 8<sup>th</sup> June 2020 until the 17 August 2020.
8. Four webinars were conducted with over 1000 participants and over 1600 written responses to the consultation received. Whilst there was support for the Code, a number of issues were raised nationally such as use of the first person or third person, the use of the word civility, social media issues including confidentiality, thresholds for the declaration of gifts, the need for accompanying guidance with examples, the Equality Act, an obligation to cooperate with investigations, compulsory training for members and sanctions.
9. Devon's response was broadly in support of the aims of the Code, but raised concerns over the lack of sanctions in the new proposals, in line with many other Councillors and Officers.
10. The feedback from the consultation was intended to help the Local Government Association develop a final draft, which was subsequently considered at their Councillors Forum on the 22<sup>nd</sup> October 2020.
11. The final Code was presented to the Local Government Association board on 3<sup>rd</sup> December 2020 and was issued to Local Authorities in early December, but was then withdrawn and reissued on the 23<sup>rd</sup> December, citing editing issues.
12. A copy of the final Model Code is attached and a summary overleaf.



## Contents of the New LGA Code

13. The Code contains a number of general principles of Councillor conduct, based on the Seven Principles of Public Life, also known as the Nolan Principles (outlined in full at appendix A of the Code), which Members will no doubt be familiar with.
14. The Code of Conduct applies as soon as a Member signs their declaration of acceptance of the office of Councillor and continues to apply until they cease to be a Councillor. It also applies when acting in the capacity as a Councillor and applies to all forms of communication and interaction including electronic and social media communication. It clarifies that this can include when a member of the public could reasonably have the impression a member was acting as a Councillor.
15. The Standards of Councillor Conduct section sets out obligations, which are the minimum standards of conduct required of a Councillor. These cover treating people with respect, not bullying, harassing or unlawfully discriminating, promoting equality, impartiality, confidentiality and access to information, not bringing the Council into disrepute, use of a Member's position and use of Council resources, compliance with the Code, including participating in training, registration of interests and disclosure of gifts and hospitality.
16. The standards are set out in the first person ("I ...") so a Member reads the Code as a personal commitment to behave in accordance with the standards.
17. The model Code specifies declaration of gifts and hospitality in excess of £50, following consultation with local authorities. The Council's current Code specifies gifts and hospitality in excess of £25.
18. The model Code sets out what Members must do to register, declare and behave in meetings where they have a disclosable pecuniary interest under the Localism Act 2011, another registrable interest and a non-registrable interest. "Non-registrable interests" are a new introduction to the Code of Conduct to cover situations where a matter affects a member's financial interest or wellbeing, or that of a friend, relative or close associate.
19. The new model Code is non-statutory and can be adopted in whole or in part by Local Authorities.
20. It is anticipated guidance will be issued by the Local Government Association to support the application of the new Code and clarify some of the current queries raised by colleagues on interests, when and how they might apply or need to be declared, and what constitutes close family members.

# Agenda Item 4

## Devon County Council Code of Conduct

21. The current Code of Conduct for the Council is attached for ease of reference but as the Committee will know has been adapted on numerous occasions.
22. The Report 'Local Government Ethical Standards - A Review by the Committee in Public Life' which led to the new Local Government Association Code also contained a number of other recommendations (26 in total), and many of these involved legislative change which would be a matter for Government to implement, including sanctions.
23. This Report also identified a number of 'best practice' recommendations. Members will recall that much of this was already in train, for example, regular meetings with leadership officers and compliance with the best practice suggestions regarding Independent Persons; consultation mechanisms; publication timescales of decision notices / minutes; and accessible guidance on the website regarding the complaints process.
24. However a number of additional suggestions were made that the Council adopted, for example amending the Code of conduct to require Councillors to comply with any formal standards investigation, including prohibitions on bullying and harassment in the current Code of conduct, agreeing to review the Code of conduct annually, ensuring a Member who had been the subject of an investigation was consulted on both drafts and final copies of investigation reports, publishing a gifts and hospitality register (which soon afterwards became available on Members individual profile pages) and the writing of a public interest test which was also available on the website.
25. Members can therefore see that the current Code has been thoroughly reviewed to ensure it is fit for purpose.

## Summary

26. The anticipated additional guidance to support the application of the new Local Government Association Code is expected in late March.
27. Whilst many of the additions to the new Code are welcomed, for example the inclusion of social media and other electronic communications, the lack of sanctions is still a cause for concern, although it is acknowledged these require primary legislative changes.
28. Some feel the new Code misses an opportunity to strengthen current Standards regimes. One of the overriding reasons for a new Code was for all Local Authorities to adopt it, ensuring consistency across many tiers of Local Government, especially for those who represent at both County and Districts levels and even Parish, where different Codes could apply. This of course is a cause of confusion for those Members and also the public.

29. Whilst the Local Government Association is promoting the new Code for adoption, there is no statutory requirement to do so.
30. Early conversations with colleagues are already showing a mixed picture, with some proposing to adopt the new Code but with local tweaks and others in its entirety and others proposing to adopt parts of the new Local Government Association Code into their own Code which they feel is more robust than the new offering.

## Conclusion

31. This is the first significant rewrite of a new model Code for a number of years.
32. In light of additional guidance being awaited, it is proposed that Members give their views on the new Code and that the feedback from this meeting is reviewed alongside that new guidance (when received) and recommendations made to a new Council on the proposals for a Code of Conduct to then be approved and adopted.
33. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed.

JAN SHADBOLT  
[Electoral Divisions: All]

### **Local Government Act 1972: List of Background Papers**

Contact for Enquiries: K Strahan  
Tel No: 01392 382264 Room: G31

<b><u>Background Paper</u></b>	<b><u>Date</u></b>	<b><u>File Reference</u></b>
Nil		



## **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 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 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 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.

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 friend, relative, close associate; or
- c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

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 **affects** your 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 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.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.



**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](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	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.
<b>Contracts</b>	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>
<b>Land and Property</b>	<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>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<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>
<b>Securities</b>	<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 has 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 Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body 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)

## 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.***



## **MEMBERS' CODE OF CONDUCT**

### **PART 1: GENERAL PROVISIONS**

#### **Public Duty and Private Interests: An introduction**

- 1.1. This Code applies to you as a Member or a Co-opted Member of Devon County Council.
- 1.2. When acting in your capacity as a Member or Co-opted Member of the County Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.
- 1.3. When acting in your capacity as a Member or Co-opted Member of the County Council –
  - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
  - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
  - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
  - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the County Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council or contained in its Constitution,
  - (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring

interests in a manner conforming with the procedures set out at Part 2 of this Code;

- (g) you must, when using or authorising the use by others of the resources of the County Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the County Council's reasonable requirements;
- (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the County Council;
- (i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- 1.4. Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5. Do nothing as a Member which you could not justify to the public.
- 1.6. The reputation of the County Council depends on your conduct and what the public believes about your conduct.
- 1.7. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8. It is your responsibility to comply with the provisions of this Code and also any formal Standards process / investigation that may occur.

## **Definitions**

### **2. In this Code –**

- "*interest or interests*" have the meanings set out in Part 2 of this Code
- "*Relevant person*" means:
  - you or
  - your spouse or civil partner, or
  - a person with whom you are living as husband and wife or as if they were civil partners or in a same sex marriageand you are aware that that other person has an interest



- “*relevant period*” means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest
- “*meeting*” means any meeting of –
  - the County Council;
  - the Cabinet of the County Council;
  - any of the Council’s or the Cabinet’s, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area committees;
  - one or more Members, formal or informal and with or without officers, relating to the discharge of the County Council’s functions where a formal record is made by a Council Officer.
- “*member*” includes a co-opted member

## Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
  - (a) you are engaged on the business of the County Council; or
  - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the County Council.

## General obligations

4. You **must** –
  - (a) treat others with courtesy and respect,
  - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest **and** have reasonable regard to any relevant advice provided to you by an officer of the County Council.
5. You **must not** –
  - (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
  - (b) do anything which may cause the County Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
  - (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating

behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);

- (d) intimidate or attempt to intimidate any person who is or is likely to be –
- i) a complainant,
  - ii) a witness, or
  - iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or

- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council;

- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where–

- i) you have the consent of a person authorised to give it;
- ii) you are required by law to do so;
- iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- iv) the disclosure is:
  - a. in the public interest; and
  - b. made in good faith and
  - c. in compliance with the reasonable requirements of the Council;

- (g) prevent another person from gaining access to information to which that person is entitled by law;

- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

*[NB: A complaint may be made to the Monitoring Officer or Standards Committee where any person thinks they have evidence which they think shows that a councillor has not followed the Council's Code of conduct; see*

*[http://www.devon.gov.uk/index/councildemocracy/county\\_councillors/councillorcomplaints.htm](http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm)]*

## **PART 2: INTERESTS**

### **Registration of Interests**

6. You must, within 28 days of—

(a) this Code being adopted by, or applied to, the County Council;  
or

(b) your taking office as a Member or Co-opted Member of the  
County Council,

whichever is the later, and annually thereafter, provide written  
notification to the County Council's Monitoring Officer of:

- i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
- ii) any other personal interest laid down by the County Council, as set out at paragraph 7 below;

which will be recorded in the County Council's Register of Members' Interests and made available for public inspection including on the Council's website.

- 6.1. Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the County Council's Monitoring Officer.
- 6.2. Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the County Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.
- 6.3. Following any disclosure of an interest not on the County Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 6.4. In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
“director”	includes a member of the committee of management of an industrial and provident society
“land”	excludes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
“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

7. The interests you **must** register are:

7.1. - those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) any payment or provision of any other financial benefit (other than from Devon County Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the County Council:
  - 1) under which goods or services are to be provided or works are to be executed; and
  - 2) which has not been fully discharged

- (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the County Council;
- (e) any licence (alone or jointly with others) to occupy land in the administrative area of the County Council for a month or longer
- (f) any tenancy where (to your knowledge):
  - 1) the landlord is Devon County Council; and
  - 2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
  - 1) that body (to your knowledge) has a place of business or land in the administrative area of the County Council and
  - 2) either:
    - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - b) 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

7.2. - those other personal interests laid down by the County Council, namely your membership of any body to which you have been appointed by the County Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.

7.3. In addition to those interests listed at 7.1 and 7.2 above which you are required to registered, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a County Councillor, such as membership of the Freemasons or any similar body.

7.4. Where the County Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or

intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

- 7.5. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the County Council's Monitoring Officer asking that the information be included in the County Council's Register of Members' Interests.

### **Declaration of Interests**

8. Unless a dispensation has been granted\*, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) and you must also observe any restrictions the County Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Para 7 above.

*[\*See explanatory note appended to this Code, below].*

- 8.1. Where you have any interest in any business of the County Council and you attend any meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the interest but merely the fact that there is a disclosable pecuniary interest in the matter concerned;
  - (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
  - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
  - (d) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the County Council's Monitoring Officer.

## *The Standards Committee - Annual Report 2020/2021*

*.....The Standard Committee believes that high ethical standards are crucial in the work of any public body and that robust application is particularly important. This summary report shows how the Committee has undertaken these tasks during the last 12 months and how it continues to contribute to and offer direction to shape the governance, culture and ethos of the organisation.*

### Membership

The Standards Committee has eleven persons, five being co-opted and the other seven Members being Councillors (not Cabinet Members) from the Membership of the Council.

Members of the Committee work together to promote the importance of high standards of behaviour and systems of governance to create a climate where complaints or problems are rare. The Chair of the Committee is held automatically by the Chair of the Council recognising the impartiality of that role. The Council has long recognised the added value brought by an independent voice on its Standards Committee, reinforced by the co-opted Membership. More information about the Committee and its terms of reference, is in the Council's Constitution and can be seen in the [terms of reference for the Standards Committee](#).

### Purpose

The Committee acts as champion and guardian of the Council's ethical standards and is responsible for promoting / maintaining high standards of conduct. Article 3 of the Constitution makes it clear that any member of the public may complain to the Monitoring Officer about an alleged breach of the Members' Code of Conduct, set out in Part 6 of the Constitution.

The Council has in place appropriate arrangements for dealing with complaints against Members and a mechanism to deal with allegations that Members may have breached the Code of Conduct. The Council has appointed 'Independent Persons' in line with the requirements of the Localism Act 2011. More information about the Code of Conduct and the complaints process can be found in a prominent place on the [Council's website](#).

### Meetings and Ethical Governance Monitoring

The Committee met 4 times in 2020/21 with 3 ordinary meetings and 1 convened to consider a complaint and whether the matter warranted a full investigation. Co-opted Members attended a further 24 of Council, Cabinet or Committees to observe and monitor compliance with the Council's ethical governance framework. 10 of those meetings were held virtually. The Council felt it important to ask the members to continue their role as a check and balance that remote meetings were operating effectively and in line with governance

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frameworks. A number of practical observations were made about remote meetings including members backdrops, misuse of camera's and microphones (being left on rather than inappropriate use), length of time for speeches and whether this could be displayed, that it was good to see public presence and representations in the meeting, people seemed able to log in satisfactorily and Members appeared to be at ease with the technology. There were no specific behaviours observed which might have resulted in a breach of the code or that would warrant further action. However, steps were taken to address any practical matters identified, including briefing with Committee staff.

## Committee on Standards in Public Life

The Committee in the previous year had considered the Report 'Local Government Ethical Standards - A Review by the Committee in Public Life' and had submitted a response to the Consultation. A number of the recommendations (26 in total) involved legislative change which would be a matter for Government to implement.

The Committee discussed the identified 'best practice'. Much of this was already in train, for example: prohibitions on bullying and harassment in codes of conduct; regular meetings with leadership officers and compliance with the best practice suggestions regarding the Independent Persons; consultation mechanisms; publication timescales of decision notices; and accessible guidance on the website. However a number of additional suggestions were made that the Council soon adopted such as amending the code of conduct to require Councillors to comply with any formal standards investigation, agreeing to review the code of conduct annually, publishing the gifts and hospitality register (which was now available on Members profile pages) and the writing of a public interest test for the complaints process which was available on the website.

In November 2019 the Code of Conduct was amended to reflect best practice guidance issued by the Committee on Standards in Public Life. This included the expectation that Members were expected to comply fully with any formal Standards process / investigation that might occur.

## Model Code of Conduct

In March 2020 the Committee considered the current position on the proposed new Model Code of Conduct. As part of the review and consultation, mutual concerns had been expressed about the current codes, inconsistencies in application, a lack of guidance and sanctions.

The aim of the LGA Code was that it benchmarked a standard for all in public office. It would set out the duties and expectations of persons in public office as well as their rights, particularly to be protected from abuse and intimidation. It was the first major rewrite of a model code of conduct for a number of years and of course the Committee submitted their



views to the Consultation. Whilst the Committee supported many of the aims of the Code, it also raised concerns over the lack of sanctions in the new proposals.

The New Code was received in December but because additional guidance was anticipated on the application of the Code, feedback would be obtained from the Committee with a view to proposing a new Code for adoption for the new Council post Elections in May.

## Standards Matter 2

The Committee also considered a further consultation from Standards in Public Life called Standards Matter 2, which was a landscape review of the institutions, processes and structures in place to support high standards of conduct.

It proposed to look at best practice and identify any themes and gaps in the way the [Seven Principles of Public Life](#) were promoted and maintained.

As part of this, the Committee on Standards in Public Life was running a public consultation and a public sector survey as part of this review. As the survey was inviting individual experiences, Members were asked to respond individually if they so wished.

The [terms of reference](#) for the review were available on the website.

## Ethical Governance

In the previous year, the Committee had considered the results of a fourth Ethical Governance Survey which was conducted between 27 August 2019 and 20th September 2019 to demonstrate how the Council was supporting ethical governance in its policies, procedures, culture and values. This was following similar surveys carried out in 2009 and 2013. The overall response rate was 60-65%, with the majority of responses to each question being positive, particularly in relation to engagement with democracy and the local community. Both Councillors and Officers felt that the Council considered ethical conduct and high standards as an important component of its vision for the future. A (fourth) ethical governance audit and self-assessment survey of Councillors and Officers is planned for 2022 to gauge both the understanding of newly elected Members and the effectiveness of Induction Training and Member Development provided following the 2021 quadrennial elections.

## Feedback and Monitoring

In usual times, the Committee monitors the Council's feedback and complaints processes and considers regular reports on compliments, representations and complaints received under the corporate feedback system. Due to the COVID pandemic, the Committee had not received such monitoring information, but will do so again in the not too distant future.

# Agenda Item 5

## Complaints Against Councillors

Between 1 April 2020 and 31 March 2021, there had been eleven complaints concerning alleged breaches of the Members Code of Conduct.

These allegations related to a member of the public feeling unfairly treated, failure to deal with constituent enquiries and preventing the community from accessing information, inappropriate use of social media and the associated failure to promote high standards of conduct, not treating others with courtesy and respect, bringing the Council into disrepute, failure to act in the public interest and inappropriate language on social media, inappropriate use of Facebook and alleged harassment, allegations of attempting to influence, change, undermine and interfere with the conduct of Parish Council business, comments made in the background of a remote Council meeting, allegation of abuse of position as an elected member and bullying, lack of impartiality regarding a planning application, failure to act in the public interest between rural & urban splits in the Parish and chairmanship of a Council committee in respect of a planning application.

After reviewing each of the complaints no further action was taken on eight of the complaints as there had been no breach of the Code or that the Councillor was not acting in the capacity of a County Councillor. In one case, no breach of the code had been established but an apology was given for overlooking an email and in a second the Chief Officer for the service area had been asked to look at the matter further.

There was one case where formal investigation was required, following consultation with the Independent Person, relating to the allegations of inappropriate use of social media, the associated failure to promote high standards of conduct, not treating others with courtesy and respect, bringing the Council into disrepute, failure to act in the public interest and inappropriate language on social media. Following a Report at a Sub-Committee meeting on 7th July, the Sub-Committee asked that two of the issues be investigated further, the first being a reference to sponsorship and the second was a social media post. No action was deemed necessary in relation to a third social media post referenced in the complaint.

The findings were presented to Committee in November 2020, where it was determined the sponsorship issue had been thoroughly investigated and there had been no breach of the Code of Conduct. In relation to the reported retweet, the Committee RESOLVED that there had been a breach of the Code of Conduct under paragraph 1.3(h) (to promote and support high standards of conduct when serving in the public post) and paragraph 4(a) (to treat others with courtesy and respect) and subsequently asked the Monitoring Officer to provide guidance relating to the use of social media and retweeting messages which could cause offence (took place on 3 March 2021).

Finally, when the last annual report was produced, there was a complaint relating to two Members and a meeting of a Highways Committee still being determined. The Committee considered this in March 2020. In the case of one Member, there had not been a breach of the Code of Conduct. In relation to the second, the meeting had been carried out in accordance with the Constitution and relevant operating protocols therefore had been no breach of the Council's Code of Conduct. However, in relation to one of the complainant's assertions, whilst the Subject Member had acted appropriately, a subsequent tweet and quoted remarks in the press were felt to be a lapse of judgement but not a breach of the Code. In light of this, the Council's Social Media Protocol was refreshed and re-issued to all Members.

## Dispensations

No individual dispensations were granted to Members of the Council to allow them to speak and vote on any matter before the Council / Committee. However, the general dispensation is always under review.

## Looking Ahead

Looking ahead, much of the work of the Committee is demand led. However, it will continue to monitor elected Members performance at meetings of the Council, Cabinet and Committees (whether remote or in person) and adherence to the Council's ethical governance framework; to monitor reports on compliments, representations and complaints received under the corporate feedback system and consider any feedback arising from complaints to the Ombudsman. It will also identify and support provision of regular training and refresher events for elected Members of the Council (particularly on the importance of the Code of Conduct and high standards of ethics and probity). The main issue for 2020/21 will be induction processes for the new Council and watching out for the guidance to accompany the new LGA Code of Conduct anticipated in the Spring 2021, in order to prepare a revised Code for presentation to the Committee and Council.

There is also a hope that in light of comments made by Local Authorities, Government will give consideration to more sanctions being available to local authorities (many Local Authority submissions made the point that current sanctions didn't go far enough).

The Agenda and Minutes of the Committee, together with all Reports considered at meetings are published [online](#).

[Previous Annual Reports](#) are also published on the website.

*Prepared by Devon County Council's Monitoring Officer. Copies may be obtained from the Democratic Services & Scrutiny Secretariat, County Hall, Topsham Road, Exeter, EX2 4QD. Or email [committee@devon.gov.uk](mailto:committee@devon.gov.uk).*



## ETHICAL GOVERNANCE FRAMEWORK MONITORING

Report of the County Solicitor

**Recommendation:** that the report be noted.

1. The Standards Committee agreed previously that the independent, co-opted, members of the Committee should attend meetings of the Council, the Cabinet and Committees on an ad-hoc basis to observe and monitor compliance with the Council's ethical governance framework, in line with the agreed protocol.
2. Members have, since the report to the previous meeting, attended the following meetings virtually and their views/feedback are summarised below.

Meeting	Date	Co-opted Member/Observer
Children's Scrutiny	10 November 2020	Mrs Saltmarsh
Cabinet	11 November 2020	Mrs Mayes
Health and Wellbeing Board	21 January 2021	Mrs Mayes
East Devon HATOC	8 February 2021	Mr Hodgins
Heart of the SW LEP Scrutiny	11 February 2021	Mr Hipkin

3. The table overleaf summarises feedback received from Members on a number of general issues common to all meetings. ✓

# Agenda Item 6

Observations:	1 = Very Poor and 5 = Very Good				
	1	2	3	4	5
Punctuality and Attendance of Members					✓✓✓✓✓
Appearance and presentation					✓✓✓✓✓
Speeches: clear, relevant, understandable, audio levels, use of microphones etc.,					✓✓✓✓✓
Use of appropriate language					✓✓✓✓✓
Members' Conduct & Behaviour					✓✓✓✓✓
Clear identification and declaration of interests ( <i>where so declared</i> )					✓✓ as far as known
Effective Chairmanship/conduct of meeting					✓✓✓✓✓
Adherence to Agenda					✓✓✓✓✓
Listening and responding to advice (from Officers)					✓✓✓ n/a

4. While there were a number of other issues raised by co-opted members in their observations, as set out below, there were no reports of any specific actions or behaviors that might be felt to have resulted in a potential breach of the Code or warranted further action.
- attendees should be asked to turn the camera off when they aren't speaking and / or have no intention of so doing.
  - intrigued by the backdrops some Members choose.
  - would be helpful if the length of time that people speak is displayed, it's can be awkward when the fact that they've overrun is mentioned.
  - appeared all Members were able to join the meeting and the meeting started on time. The meeting progressed in a very orderly fashion with Members indicating when they wanted to speak and muting when they had finished.
  - Internet connection issues experienced but managed to rejoin having missed a substantial part of item 7. Whilst the sound was fine, vision was lost. It was hoped that Members didn't experience the same issues with poor broadband.

- In relation item 8 (Post Ofsted improvements to Children's Services), the speeches were clear, relevant and understandable. The paperwork was also helpful. Questions were asked to try and understand why the 'Inadequate' grading had come about and Members expressed concern that questions previously asked to which reassuring answers had been given had masked reality. Questions were asked about how relationships and challenge could be improved as well as communication between staff and senior management.
  - It was pleasing to see that Members were far from complacent about what had happened and they expressed their wish and willingness to scrutinise, challenge and improve services for children.
  - what I saw and heard was very good. The meeting was effectively chaired and it appeared that everybody had the chance to express their opinion.
  - a 5 minute break here and there would have been welcomed.
  - The meeting was well chaired, and all members were afforded the time to make their points.
  - Very well run meeting (Exeter HATOC).
  - Some shared documents were in very small print and impossible to read.
  - problems encountered with Teams, it demanded an update but then wouldn't do it and I had to sign using an alternative email and password.
5. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements relating to the conduct of meetings, to safeguard the Council's position.

JAN SHADBOLT

[Electoral Divisions: All]

**Local Government Act 1972: List of Background Papers**

Contact for Enquiries: K Strahan

Tel No: 01392 382264 Room: G31

<b><u>Background Paper</u></b>	<b><u>Date</u></b>	<b><u>File Reference</u></b>
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Nil

