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To: The Chair and Members
of the Standards
Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Date: 27 October 2021

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STANDARDS COMMITTEE

Thursday, 4th November, 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.

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 29 June 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 DISCUSSION

4 Local Government Association Model Code of Conduct (Pages 1 - 40)

Report of the County Solicitor analysing the content of the Local Government Association Model Code of Conduct and a comparison to the Council's current own Code of Conduct, attached.

Also attached is the Local Government Association Model Code of Conduct and a copy of the Council's own Code.

Members are asked to consider the various discussion points with a view to retaining the current Code or any suggested amendments which would be brought back to the next meeting.

Electoral Divisions(s): All Divisions

STANDING ITEMS

5 Ethical Governance Framework: Monitoring (Pages 41 - 42)

Report of the County Solicitor ([CSO/21/17](#)) on co-opted members' attendance at a meeting of the Devon Education Forum, monitoring compliance with the Council's ethical governance framework, attached.

Electoral Divisions(s): All Divisions

MATTERS FOR INFORMATION

6 Local Government & Social Care Ombudsman Annual Review Letter 20/21 (Pages 43 - 58)

Report of the Head of Digital Transformation and Business Support on the Local Government & Social Care Ombudsman Annual Review Letter for 2020-21, attached.

The letter received from the Local Government & Social Care Ombudsman is also attached.

Electoral Divisions(s): All Divisions

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.

Electoral Divisions(s): All Divisions

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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Declarations of Interest for Members of the Council

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Induction Loop available



Devon County Council Code of Conduct – Comparison with Model Local Government Association (LGA) Code and discussion points for the Committee

Issue	LGA Model Code	Devon County Council Code	Discussion Points
Joint Statement	Introductory statement to the role and expectations (P1)	No such introduction	Members to consider adopting a slimmed down supporting statement for DCC Code
Definition of Councillor	Means Member or Voting Co-opted Member or Elected Mayor and defines the word co-opted (P2)	Means Member or Co-opted Member (P1) (does not distinguish between voting and non-voting co-opted Member)	Does the DCC Code require a definition of 'Co-opted'? Assume we would want our Code to include non-voting co-opted members.
Purpose	Explanation of the aim of the Code (P2)	No explanation of the purpose of the Code	Does the DCC code require an explanation of purpose of code
General Principles	Refers to Nolan as well as some additional wording on lawfulness, integrity, fairness, respect etc (P3)	Explains the Nolan principles (para 1.2)	Appears the Nolan principles cover all the general principles of conduct (as in DCC Code)
Application of Code	The Code applies to all forms of communication and interaction, including: <ul style="list-style-type: none"> • face-to-face • online / telephone meetings • written / verbal communication • non-verbal communication and 	Scope covered (Section 3) Must comply with Code whenever acting in official capacity, when: <ul style="list-style-type: none"> (a) engaged on the business of the County Council; or (b) behave so as to give a 	Whether the Committee wishes to widen the DCC scope to include issues such as social media etc.

	electronic & social media communication, posts, statements and comments (p3)	reasonable person the impression you are acting as a representative of the Council.	
1. Standards of Councillor Conduct	<p>1. Respect</p> <p>1.1 I treat other councillors and members of the public with respect.</p> <p>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.</p>	4(a) You must treat others with respect and courtesy	<p>Model code has a definition of respect / also that Councillors have a right to be treated with respect by the public.</p> <p>Also, model code refers to representatives of partner organisations and volunteers</p>
2. Bullying, harassment and discrimination	<p>2. Bullying, harassment and discrimination</p> <p>As a councillor:</p> <p>2.1 I do not bully any person.</p> <p>2.2 I do not harass any person.</p> <p>2.3 I promote equalities and do not discriminate unlawfully against any person.</p>	5(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);	<p>The Model Code gives examples of where bullying can happen (face to face / social media / phone etc) – However, the description (which was added approx. 2 years ago) appears full and descriptive.</p> <p>The guidance refers to the Equality Act however, DCC covers this at 5(b)</p> <p>It also refers to the Protection from Harassment Act (which</p>

			DCC code doesn't)
3. Impartiality of officers of the council	As a councillor: 3.1 do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.	5(e) Must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council;	No difference
4. Confidentiality and access to information	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	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; 1.3(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; 5 (a) must not attempt to use your position as a Member	The LGA Model Code suggest the MO is consulted otherwise DCC Code covers the issues adequately.

	<p>interest; and</p> <p>2. made in good faith and in compliance with the reasonable requirements of the local authority; and</p> <p>3. I have consulted the Monitoring Officer prior to its release.</p> <p>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.</p> <p>4.3 I do not prevent anyone from getting information that they are entitled to by law.</p>	<p>improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;</p> <p>5(f)(g) Must not</p> <p>(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—</p> <p>i) you have the consent of a person authorised to give it;</p> <p>ii) you are required by law to do so;</p> <p>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;</p> <p>or</p> <p>iv) the disclosure is:</p> <p>a. in the public interest; and</p> <p>b. made in good faith and</p> <p>c. in compliance with the reasonable requirements of the Council;</p>	
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		(g) prevent another person from gaining access to information to which that person is entitled by law	
5. Disrepute	<p>As a councillor:</p> <p>5.1 I do not bring my role or local authority into disrepute.</p> <p>(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 your 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.</p> <p>You are able to hold the local</p>	<p>1.3(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;</p> <p>1.3(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;</p> <p>1.3(d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;</p> <p>1.3 (e) you must be as open as possible about your decisions and actions and the decisions</p>	All covered – DCC's Code appears to cover more bases.

	<p>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.)</p>	<p>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,</p> <p>1.5. Do nothing as a Member which you could not justify to the public.</p> <p>1.6. The reputation of the County Council depends on your conduct and what the public believes about your conduct.</p> <p>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.</p> <p>5(h) Must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you</p>	
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		have brought your office or the Council into disrepute.	
6. Use of position	<p>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.</p> <p>(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)</p>	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.	No difference although the LGA Code (again) gives a wider explanatory context.
7. Use of local authority resources and facilities	<p>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</p>	<p>1.3 When acting in your capacity as a Member or Co-opted Member of the County Council –</p> <p>(g) you must, when using or authorising the use by others of the resources of the County Council, ensure that such</p>	Issue appears to be adequately covered.

	<p>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.</p>	<p>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.</p>	
<p>8. Complying with the Code of Conduct</p>	<p>As a Councillor:</p> <p>8.1 I undertake Code of Conduct training provided by my local authority.</p> <p>8.2 I cooperate with any Code of Conduct investigation and/or determination.</p> <p>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.</p>	<p>No reference to training</p> <p>1.8 It is your responsibility to comply with the provisions of this Code and also any formal Standards process / investigation that may occur.</p> <p>5 (d) must not 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,</p>	<p>Whilst training is always offered and regularly repeated there is no compulsion on Members to attend.</p> <p>This is adequately covered.</p> <p>This aspect is adequately covered.</p>

	<p>8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.</p>	<p>in relation to an allegation that any Member has failed to comply with the Council’s Code of Conduct.</p> <p>1.8 It is your responsibility to comply with the provisions of this Code and also any formal Standards process / investigation that may occur.</p> <p>1.3 (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.</p>	<p>This paragraph could be amended to include the word ‘sanction’ although it is implicit in 1.8.</p>
<p>Protecting your reputation and the reputation of the local authority 9. Interests</p>	<p>As a councillor: 9.1 I register and disclose my interests.</p>	<p>1.3(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</p>	<p>The basic premise is covered – see separate table to comparison of the approach to interests in the LGA Code compared to current DCC Code</p>

		conforming with the procedures set out at Part 2 of this Code.	
10. Gifts and hospitality	<p>As a Councillor:</p> <p>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.</p> <p>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.</p> <p>10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have</p>	<p>Standing Orders states Every Member of the Council and every Officer shall disclose details of every offer of gift or hospitality in line with the County Council's Policy Statement on the Proper Conduct of Business and any such notification shall be recorded in a Register kept by the Monitoring Officer for that purpose.</p> <p>Financial Regulations.....</p> <p>Hospitality</p> <p>13.Members and employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of community life or where the</p>	<p>The issue is well covered in financial regulations, Inside Devon and Standing Orders.</p> <p>However, there is no value as such of £50. A baseline guide has been £25.</p> <p>The current system of every gift / hospitality being registered is more thorough.</p> <p>Members' registrations are published on the website.</p> <p>Staff declarations are kept in a file with the County Solicitor.</p>

	<p>refused to accept.</p>	<p>Authority should be represented. It should be properly authorised and recorded.</p> <p>14. When hospitality has to be declined, those making the offer should be courteously but firmly informed of the Authority's procedures and standards.</p> <p>15. Members and employees should not accept significant personal gifts from contractors and outside suppliers, although the Authority will allow employees to keep insignificant tokens such as pens, diaries, etc.</p> <p>16. When receiving authorised hospitality, members and employees should be sensitive to the timing of decisions which the Authority may be taking affecting those providing the hospitality</p> <p>Gifts and hospitality - tasks and guides (devon.gov.uk)</p>	
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Communications	No reference in LGA Code	(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;	The Council's Code is clearly stronger in this regard.
Interests (DPI)	<p>Disclosable Pecuniary Interests - Appendix B Introduction and paragraphs 1 – 5 and Table 1</p> <ul style="list-style-type: none"> a) Employment, Office, Trade, Profession or Vocation b) Sponsorship c) Contracts d) Land and Property e) Licenses f) Corporate tenancies g) Securities 	<p>In DCC Code – para's 1.3(f) and 2 and Part 2 Para's 6, 6.1, 6.2, 6.3, 6.4, 7.1.</p> <ul style="list-style-type: none"> (a) Employment, office, trade, profession or vocation; (b) Sponsorship (c) Securities: Interests in Companies (d) Contracts (d) Landholding and Licenses (e) Corporate Tenancies 	No difference identified.
Interests (sensitive)	2. A 'sensitive interest'could lead to the Councillor, or a person connected with the Councillor, being subject to violence or	7.4. Where the County Council's Monitoring Officer agrees that any information relating to your interests is "sensitive information" namely information	No difference identified, although DCC Code clearer on declaration when the sensitive interest has ceased.

<p>Interests – Other Registerable</p>	<p>intimidation.</p> <p>3. Where you have a ‘sensitive interest’ you notify the Monitoring Officer with the reasons. If the Monitoring Officer agrees they will withhold the interest from the public register.</p> <p>Disclosure of Other Registerable Interests Appendix B paragraph 6 and Table 2</p> <ul style="list-style-type: none"> - Unpaid directorships - Body of which you are a member or in a position of general control and to which you 	<p>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.</p> <p>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.</p> <p>Personal interests</p> <ul style="list-style-type: none"> - 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 	<p>The model code states that you must disclose the interest and 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</p>
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	<p>are appointed by the authority - Any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) whose principal purpose includes the influence of public opinion or policy (including any political party or trade union) (in all cases) of which you are a member or in a position of general control or management</p> <p>Where 'directly relates' to the financial interest or well-being of one of your other registerable interests must disclose.</p> <p>May speak only if members of the public are allowed to speak. Must not take part in any discussion or vote and must not remain in the room unless granted a dispensation.</p>	<p>opinion or policy - membership of any other local Authority and of any political party or trade union.</p> <p>- 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.</p> <p>Can declare and still vote</p>	<p>the room unless you have been granted a dispensation. The DCC Code permits participation and voting</p> <p>Unpaid directorships not explicit on DCC form.</p>
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	<p>Disclosure of Non-Registerable Interests (Appendix B – Para’s 7-10)</p> <p>Two aspects</p> <p><u>Directly Relates</u>covers matters directly relating to your financial interest or well-being (but isn’t a DPI) or those of a relative or close associate</p> <p>Must disclose and may only speak if members of the public are allowed to speak at the meeting. Otherwise no part in any discussion or vote and must leave the room (unless granted a dispensation).</p> <p>affects – covers matters which affect your own financial interest or well-being or those of a relative or close associate; or that of a included under Other Registrable Interests.</p> <p>You must disclose the interest and you can stay in the room if</p>	<p>DCC code appears to have a catch all</p> <p>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; and</p> <p>In addition to those interests listed at 7.1 (DPI) and 7.2 (personal), 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</p> <p>The DCC code also states you must act solely in the public interest and never improperly confer an advantage or disadvantage on any person or</p>	<p>DCC code silent on referring to the interests of family / friends – could be strengthened ?</p> <p>Wording from East Devon</p> <p><i>You also have a personal interest in any business of the Council where a reasonable person with knowledge of the relevant facts would regard your interest (including those of a relative or close friend) as greater than would affect the majority of residents or inhabitants in the affected area such that it is likely to prejudice your judgment of the public interest</i></p>
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	<p>you apply the following test.</p> <p>Where a matter affects the financial interest or well-being to a greater extent than the financial interests of the majority of inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.</p> <p>May only speak if members of the public are allowed to speak at the meeting. Otherwise no part in any discussion or vote on the matter. Must not remain in the room unless you have a dispensation.</p>	<p>act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person.</p> <p>You can remain and vote but must disclose</p>	
<p>Other Issues</p>	<p>The Model Code guidance advises that Members who have an allowance from another Authority / Body have a DPI</p>		<p>Consider amendment to Declaration of Interests form and dispensation ??</p>

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 marriage and 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]

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.

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 Registerable 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.

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. With the current process of limiting numbers in the Committee rooms, the attendance rota for co-opted Members will be revisited in due course.

Meeting	Date	Co-opted Member/Observer
Devon Education Forum	16/6/2021	Mrs Saltmarsh

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

Observations:	<i>1 = Very Poor and 5 = Very Good</i>				
	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>)					

Agenda Item 5

Effective Chairmanship/conduct of meeting				✓	
Adherence to Agenda					✓
Listening and responding to advice (from Officers)					✓

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.
- Meeting was well attended (virtual) and the finance update was very detailed, enabling Members to be kept well informed (also noting the position was critical)
 - The Head of Service gave clear information and detailed explanations to the Forum.
 - There was a challenge regarding the availability / timeliness of paperwork for the meeting, which was quickly countered.
 - numerous queries/challenges raised to which the Officer listened and responded and indicated she was willing to investigate further on some issues.
 - It was a difficult meeting to Chair and feels that meetings held virtually are more difficult than face to face and particularly more challenging to Chair.
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

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

Nil

21 July 2021

By email

Dr Norrey
Chief Executive
Devon County Council

Dear Dr Norrey

Annual Review letter 2021

I write to you with our annual summary of statistics on the decisions made by the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2021. At the end of a challenging year, we maintain that good public administration is more important than ever and I hope this feedback provides you with both the opportunity to reflect on your Council's performance and plan for the future.

You will be aware that, at the end of March 2020 we took the unprecedented step of temporarily stopping our casework, in the wider public interest, to allow authorities to concentrate efforts on vital frontline services during the first wave of the Covid-19 outbreak. We restarted casework in late June 2020, after a three month pause.

We listened to your feedback and decided it was unnecessary to pause our casework again during further waves of the pandemic. Instead, we have encouraged authorities to talk to us on an individual basis about difficulties responding to any stage of an investigation, including implementing our recommendations. We continue this approach and urge you to maintain clear communication with us.

Complaint statistics

This year, we continue to focus on the outcomes of complaints and what can be learned from them. We want to provide you with the most insightful information we can and have focused statistics on three key areas:

Complaints upheld - We uphold complaints when we find some form of fault in an authority's actions, including where the authority accepted fault before we investigated.

Compliance with recommendations - We recommend ways for authorities to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Agenda Item 6

Satisfactory remedy provided by the authority - In these cases, the authority upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and credit authorities that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your authority with similar types of authorities to work out an average level of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data will be uploaded to our interactive map, [Your council's performance](#), along with a copy of this letter on 28 July 2021. This useful tool places all our data and information about councils in one place. You can find the decisions we have made about your Council, public reports we have issued, and the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

I would encourage you to share the resource with colleagues and elected members; the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.

As you would expect, data has been impacted by the pause to casework in the first quarter of the year. This should be considered when making comparisons with previous year's data.

Supporting complaint and service improvement

I am increasingly concerned about the evidence I see of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and my concerns. With much greater frequency, we find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems.

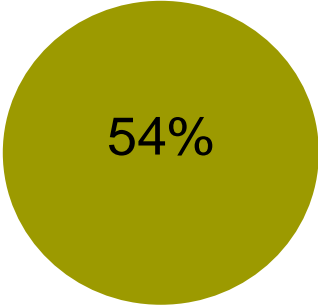
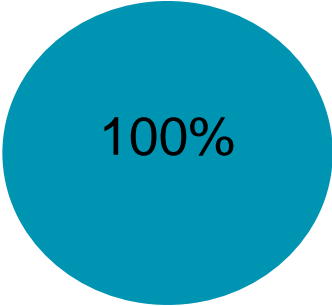
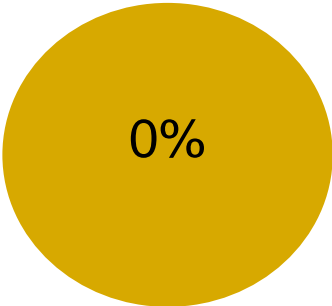
With this context in mind, we are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. We want to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. We are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years.

An already established tool we have for supporting improvements in local complaint handling is our successful training programme. During the year, we successfully adapted our face-to-face courses for online delivery. We provided 79 online workshops during the year, reaching more than 1,100 people. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld		
 <p>54%</p>	<p>54% of complaints we investigated were upheld.</p> <p>This compares to an average of 71% in similar authorities.</p>	<p style="text-align: center;">13 upheld decisions</p> <p>Statistics are based on a total of 24 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>
Compliance with Ombudsman recommendations		
 <p>100%</p>	<p>In 100% of cases we were satisfied the authority had successfully implemented our recommendations.</p> <p>This compares to an average of 100% in similar authorities.</p>	<p>Statistics are based on a total of 10 compliance outcomes for the period between 1 April 2020 to 31 March 2021</p>
<ul style="list-style-type: none"> Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning. 		
Satisfactory remedy provided by the authority		
 <p>0%</p>	<p>In 0% of upheld cases we found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman.</p> <p>This compares to an average of 8% in similar authorities.</p>	<p style="text-align: center;">0 satisfactory remedy decisions</p> <p>Statistics are based on a total of 24 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>

NOTE: To allow authorities to respond to the Covid-19 pandemic, we did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints we received and decided in the 20-21 year. Please consider this when comparing data from previous years.

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN COMPLAINTS ANNUAL REVIEW LETTER and REPORT FOR 2020-21

1. Introduction

- 1.1 During the initial phase of the Pandemic, the Ombudsman took the unprecedented step of temporarily stopping casework, in the wider public interest, to allow authorities to concentrate efforts on vital frontline services during the first wave of the Covid-19 outbreak. They restarted casework in late June 2020, after a three month pause.
- 1.2 The Ombudsman have continued to focus on the outcome of complaints and what can be learned from them. In 2018-2019 they made a series of changes to how they make and monitor recommendations to remedy fault. Their recommendations are specific and time-bound which allows them to follow up on completion and seek evidence that the recommendations have been implemented.
- 1.3 Stemming from this the Ombudsman continues to publish data on the authority compliance with recommendations. The intention is that this will further aid scrutiny of local services, along with sharing the learning from the report which highlights key cases investigated during the year.
- 1.4 Cabinet/Leadership Group is asked to note this report and the accompanying letter from the Ombudsman.

2. Annual Review Letter

2.1 Complaint Statistics

The Ombudsman continue to move focus away from volumes of complaints received and instead focus on the outcomes from complaints and what can be learned from them. Their statistics are focused on the following three areas:

- 2.1.1 **Complaints Upheld:** The Ombudsman upholds complaints when he finds fault in an authority's actions; this is even when the authority accepted fault before the Ombudsman had investigated.
- 2.1.2 **Compliance with Recommendations:** The Ombudsman recommends ways for authorities to put things right where identified fault has resulted in injustice for the complainant, and monitor compliance rates. A compliance rate of less than 100% is deemed to be a cause for concern. We achieved a 100% compliance rate in 2020/21.
- 2.1.3 **Satisfactory remedy provided by the authority:** In these cases, the authority upheld the complaint, and the Ombudsman will have agreed with how the authority offered to put things right. The Ombudsman encourages the early resolution of complaints and credits authorities that find appropriate ways to put things right. The Ombudsman found 0% of the complaints upheld by the Council received a satisfactory remedy before complaints reached the Ombudsman. The average for comparable local authorities was 8%.

3. Ombudsman Report for Devon County Council in 2020/21

3.1 Complaints Received

3.1.1 The number of complaints received by the Ombudsman in the last four years is shown below:

Year	Complaints
2020/2021	97
2019/2020	93
2018/2019	116
2017/2018	102

3.1.2 Devon County Council has seen the number of complaints received from the Ombudsman remain relatively static in comparison 2019-2020. There were 84 complaints decided on by the Ombudsman in 2020-21, with only 13 (15%) of those being upheld. This is a decrease of 5% than the previous year, where of 104 complaints decided on 21 (20%) were upheld.

3.1.3 It should be noted that the statistics in the annual letter comprise data the Ombudsman holds and may not necessarily align with the data the Council holds. For example, Ombudsman numbers include enquiries from people they signpost back to the Council, but who may never contact us.

3.1.4 The 97 complaints received by the Ombudsman about Devon County Council in 2020/21 were split across services as follows (note these are LGSCO designated service categories):

Service	Number of Complaints (% of total)		
	2018/19	2019/20	2020/21
Adult Care Services	46 (40%)	32 (34%)	16 (16%)
Corporate & Other Services	1 (1%)	2 (2%)	1 (1%)
Education & Children's Services	42 (36%)	36 (40%)	39 (41%)
Environmental Services	5 (4%)	4 (4%)	7 (7%)
Highways & Transport	18 (16%)	15 (16%)	30 (31%)
Planning & Development	1 (1%)	2 (2%)	1 (1%)
Benefits & Tax	N/A	N/A	1 (1%)
Other	3 (2%)	2 (2%)	2 (2%)

3.1.5 As Adult Care Services, Education & Children's Services and Highways & Transport are the largest Service areas and the services that the Council receives most complaints about, it is expected that these would be the services that the Ombudsman receives most complaints about.

3.1.6 Adult Care Services experienced a decrease in the number of complaints received. Complaints about Education & Children's Services remained relatively static. Highways & Transport experienced a significant increase.

3.2 Ombudsman Complaint Decisions in 2020/21

3.2.1 A summary of all decisions is below with the comparison from previous years for information.

Ombudsman Decision	Number of Complaints (% of total)		
	2018/19	2019/2020	2020/21
Investigated – Upheld	22 (20%)	21 (20%)	13 (15%)
Investigated – Not Upheld	12 (11%)	14 (14%)	11 (13%)
Closed after initial enquiries	31 (28%)	33 (32%)	38 (46%)
Incomplete / Invalid	11 (10%)	6 (6%)	6 (7%)
Referred back for local resolution	34 (31%)	28 (27%)	14 (17%)
Advice Given	N/A	1 (1%)	2 (2%)

3.2.2 Of the 84 Devon County Council complaints the Ombudsman made decisions on in 2020/21, 24 were progressed to a full investigation and of these 13 were upheld; this represents a 54% uphold rate for complaints that progressed to full investigation, which is a slight decrease on the 60% upheld in 2019/20.

3.2.3 Of the 13 complaints that were investigated and upheld, there were 12 where the Ombudsman felt that the fault identified had caused an injustice, with a remedy therefore being recommended.

3.2.4 The table at **Appendix A** provides details of the 13 upheld decisions and the required actions by the Council.

3.2.5 The decision of “Upheld” is applied when the Ombudsman finds there is some fault in the way the Council acted. This is termed “Maladministration”. This finding will be made even if the Council has agreed to put things right during the Ombudsman investigation or if the Council had already accepted it needed to remedy the situation before the complaint was apparent to the Ombudsman.

3.2.6 The actions required of the Council by the Ombudsman are included within Appendix A. It should be noted that this included financial redress in 6 complaints, totalling £5850.

4. Future Developments for Devon County Council

4.1 Although the Council continues to face challenges as a result of the Pandemic, the expectation of customers does not reduce in line with these challenges. Indeed, customers feel more empowered to hold the Council to account, and therefore it is envisaged that more customers will escalate their dissatisfaction beyond the Council’s own complaint procedures to the Ombudsman. Even where the Council commissions services, it remains entirely accountable for those services, however much day-to-day control it delegates to providers.

4.2 It is acknowledged that complaints to the Ombudsman do not always mean the Council has done anything wrong, as is borne out by the decisions made by the Ombudsman. Often these complaints arise because the customer would have liked something more, or better, or a different outcome from the Council in reply to their complaint. Public expectations of services have not diminished.

4.3 The Ombudsman highlights that he is:

‘...increasingly concerned about the evidence I see of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and my concerns. With much greater frequency, we find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems.

With this context in mind, we are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. We want to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. We are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years.'

- 4.4 Devon County Council welcomes the oversight from the Ombudsman, and we look forward to working with him in the future to help drive improvements with the services we deliver. The Council should take even greater measures to ensure that it is able take a person-centred approach, evidence that it is a Council that learns from complaints and uses this learning to improve and maintain the quality of the services it commissions and provides. As recommended by the Ombudsman, the Council is working with Members and Scrutiny in this area to identify key areas of development.

Helen Wyatt
LGSCO Link Officer
Strategic Customer Relations Manager

Contact for enquiries: Helen Wyatt
Tel No: 01392 383000 Email: Helen.Wyatt@devon.gov.uk

**APPENDIX A - Local Government and Social Care Ombudsman
Complaints with Maladministration and Injustice 2020-21**

LGSCO Ref	LGSCO Category	Complaint Summary and Findings	Recommendations
18019191	Adult Social Care	Mr F complained on behalf of his mother, Mrs X. Mr F complained about the Council's handling of Mrs X's placement at Edenmore Care home which it arranged and commissioned. The Council was not fault for how it arranged Mrs X's placement. There was also no fault in how the care home authorised Mrs X's urgent Deprivation of Liberty Safeguard in April 2019. The care home failed to retain Mrs X's medication records from July 2018 until March 2019. This is fault.	<p>Write to Mr F and apologise for the uncertainty caused to him by the care home failing to retain Mrs X's medication records between June 2018 and April 2019.</p> <p>Remind the care home that it should keep and retain all residents care records for at least three years, or in line with its document retention schedule.</p>
19010399	Adult Social Care	Mrs B complained about a Council funded care home's poor care and communication around the end of her late mother's life, as well as poor complaint handling. The Ombudsman does not uphold the complaint about end of life care and communication with Mrs B before her mother died. The Ombudsman has found faults in the care home's procedure, record keeping and communication with Mrs B after her mother died.	<p>Ensure Mrs B receives a meaningful apology for each of the faults identified in this decision and their impact on her.</p> <p>The Council will ensure the Home has:</p> <p>reviewed its policies and procedures on sudden and unexpected deaths in residential care, including record keeping, to ensure they comply with all relevant legislation and guidance; and</p> <p>made all relevant staff aware of the reviewed policies and procedures.</p>

19013656	Adult Social Care	<p>Ms X complains the Council failed to deal properly with the assessment of her care needs and unreasonably stopped her personal budget, leaving her without any support.</p> <p>It was Ms X's decision to cancel support from the Support Provider in December 2017. Since then, the only way to move forward has been to reassess her needs under the Care Act. The Ombudsman cannot find fault with the Trust for not giving Ms X a direct payment without first reassessing her needs. It needed to satisfy itself that a direct payment would be used to meet eligible care needs.</p> <p>The faults identified by the Ombudsman have added unnecessarily to Ms X's distress. They have also contributed to the failure to complete an assessment of her social care needs</p>	<p>Having first identified more flexible ways of assessing Ms X's needs, write to her offering alternative approaches and apologising for the previous lack of flexibility, and pay her £500.</p> <p>Produce an action plan explaining how the Trust is going to: a) improve its record keeping; and b) ensure officers take a more flexible approach to assessments, as required by the Care and Support Statutory Guidance.</p>
20002941	Adult Social Care	<p>Mr X complains the Council and its care provider, XY, failed to deal properly with his return home on 20 April 2020, resulting in him being asked to pay for the Care Workers' gloves and being told he would have to go back to a care home if he did not agree to pay.</p> <p>The Ombudsman found that the Council did not handle Mr X's concerns properly. On 20 April it told him it would check the position on paying for gloves but did not do so. On 27 April it discouraged Mr X from making a complaint.</p> <p>When the Council responded to Mr X's complaint it told him he did not need to pay for gloves worn by Care Workers when providing care. But it did not address the question of whether that is what had happened. Nor did it consider whether other people may have been wrongly asked to pay for personal protective equipment. That is fault by the Council.</p> <p>It has caused injustice to Mr X by putting him to the time and trouble of pursuing his complaint further.</p>	<p>Write to Mr X apologising for not addressing his concerns properly.</p> <p>Pay him £100 to redress the injustice caused.</p>
19015397	Adult Social Care – Blue badge	<p>Mr X complained about how the Council assessed his application for a blue badge. The Ombudsman found inaccuracies in the assessment and appeal that meant Mr X could not be confident the Council considered his application properly.</p>	<p>The Council will complete a further independent mobility assessment of Mr X.</p>

19020560	Children's Social Work	<p>Miss B complains the Council failed to implement a child protection plan put in place when her son, who is now 15, was a baby. She considers the Council has not provided adequate support to her.</p> <p>She further complains about the way the Council has considered her complaints and the remedy provided.</p> <p>She says it has had an adverse impact on her and her son's mental health and she has suffered financially by not receiving the benefits to which they were entitled. There was fault which caused injustice to Miss B.</p> <p>The fault in the complaint handling was due to the complainant raising ongoing concerns about the support and involvement of children's social care during the investigation of an existing complaint, and this not being identified as a new complaint for investigation.</p> <p>That meant that by the time the review panel was held in March 2019 there was no factual information about what had happened over the last year, and the new complaint had been overlooked.</p> <p>The Ombudsman considered the offer by the Council of £300 a suitable remedy for the failure to capture the new complaint.</p> <p>The other fault was a failure to appropriately remedy issues, beyond an apology, that had been upheld at both Stage 2 and Stage 3; these related to a lack of support from social care, and the detrimental effect of this on the complainant and her son.</p> <p>The Ombudsman considered that it was not possible to draw any firm conclusions on what should have happened but that the complainant had a justifiable sense of grievance following the outcome of the complaint which required a remedy.</p>	<p>Pay Miss B £1000 to remedy the injustice. This is in addition to the £300 which has been offered for the injustice from the faults in the complaint handling.</p>
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20006171	Children's Social Work	<p>Ms X complains that the Council has lost all its records from her time in foster care in the early 1990s. This includes a letter to her from her birth mother, who is now deceased.</p> <p>Ms X also complains about the way the Council handled her request to access her records and resulting complaints. As a result, Ms X will never know what her mother wrote to her and has no record of her early life.</p> <p>The Ombudsman found fault with the time it took for the Council to reply to Ms X's complaint.</p> <p>The Council accepts that it took over three months to respond formally to Ms X's complaint in December 2019. It says it was conducting extensive searches to look for the file.</p> <p>The Ombudsman confirmed that within our response to this enquiry, DCC confirmed this. However, the Ombudsman believed that the Council could have been more proactive in keeping Ms X informed about its actions and when she could expect a response. Its failure to do so caused Ms X unnecessary added anxiety.</p> <p>The Ombudsman also found fault, as the Children Act 1989, which was in force when Ms X left care, said Councils had to keep records for at least 50 years. The Council accepts that it has lost Ms X's children's services file. As a result, Ms X will never know what was in the letter her mother wrote to her. This is a significant injustice to Ms X.</p> <p>The Ombudsman also found within its investigation, that in 1998 the area where Ms X lived became a unitary authority.</p> <p>This means it took over responsibility for delivering children's social care services for that area. Given the confusion, it seems likely that this is the point at which the files were lost or destroyed.</p> <p>There is no evidence the Council did transfer Ms X's file to B. The Court made a care order which said the Council had to look after Ms X. On this basis, the Ombudsman found the Council was responsible for the data when it was lost. As a result, the Council agreed to the Ombudsman's recommendation to pay the complainant £1000 and apologise.</p> <p>The injustice to Ms X is significant and cannot be easily quantified.</p>	<p>Apologise in writing to Ms X.</p> <p>Pay Ms X £1000.</p>
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19021160	Childrens Social Work	Mrs X complains about the way the Council dealt with her son Y's care package and agreed the Direct Payments for his care needs. We found fault by the Council in its failure to consider Mrs X's complaints through the statutory complaint procedure. But this did not cause her a significant injustice because the Council dealt with her concerns through its corporate complaint procedure. However, the Council took too long to undertake its investigation causing Mrs X frustration and time and trouble in chasing the Council for responses.	<p>Apologise to Mrs X for the delay in carrying out its investigation into her complaint at stage 1 and 2 of its complaint procedure.</p> <p>Pay Mrs X £150 to recognise her frustration over the delays in investigating her complaint and her time and trouble in pursuing her concerns further.</p>
19008360	Education	There was fault by the Council in failing to ensure a child received suitable full-time education when she was medically unfit to attend school.	<p>The Council will apologise to Mr X and Y for the faults identified.</p> <p>The Council will pay Y £2800 (£400 per month for seven months) to acknowledge that the education provided to her was not suitable or full-time and that the Council did not take into account Y's views or that of the family about the type of education that would be suitable. This money should be held in an account in Y's name but supervised by parents and used for her educational or social benefit. Within eight weeks of my final decision, the Council will review its procedures for children missing education due to medical needs to ensure:</p> <p>That cases of children absent from school due to medical needs brought to the attention of officers in other teams are always notified to the Named Officer or Inclusion team so they can ensure appropriate provision is in place</p>

			<p>without delay.</p> <p>That when the SEN team receives information from parents that a child cannot access full-time school for medical reasons that it provides parents with the details of the Named Officer and signposts them to the policy for medical needs.</p> <p>That the Council consider whether it should have a process so parents can self-refer to the Inclusion team / Named Officer so cases where schools have not remembered to make the necessary notification do not slip through the net.</p>
19009619	Education	<p>Ms B complains the Council wrongly told her there was a place for her son, X, at his preferred school. When he arrived at the school at the beginning of term there was no place for him. She says this caused considerable distress to X and her. It meant he has missed out on education, and she has had the financial cost of buying a school uniform for the school he could not attend. There was fault by the Council which caused injustice to Ms B and X.</p>	<p>It should pay £400 to X which is to reflect the missed education and the distress caused to him.</p> <p>It should pay Ms B £150 for the distress caused to her and it should refund her directly the cost of the school uniform.</p>

19009167	Highways	<p>Mr B complains the Council has failed to tackle problems with the behaviour of cyclists using a trail near to his home.</p> <p>Mr B uses the trail daily on his mobility scooter and is concerned that the behaviour could lead to an accident to him or other users of the trail.</p> <p>He further complains the Council has not contacted him as promised about involvement in a group of interested parties to formulate a code of conduct for users.</p> <p>There are no particular statutory powers or duties on which the Council can rely to control the behaviour of the users of the footpath. It is for the Council to decide whether more signage is appropriate.</p> <p>In April 2019 it told Mr B it would involve him in its consideration of what further action it could take. It said it would need his input over the summer with a view to implementation in the autumn.</p> <p>That time frame slipped but the Council did not tell Mr B. I am not aware that Mr B chased the Council for an update but, even so, I consider the Council should have told him what was happening given the earlier contact.</p>	Apologise to Mr B for failing to update him.
19013780	Highways	<p>Mr X complained the Council did not properly consider the Armed Forces Covenant when it decided his request for a disabled parking bay. Mr X believes this may have deprived him of a disabled parking bay, causing inconvenience when he holds meetings for other disabled people.</p> <p>Mr X complained over the phone to the Council about its decision in November. From the evidence the Ombudsman saw, during this call, Mr X said the Council had not conformed to a 'military charter'. The Council wrote to Mr X in December to confirm he did not meet the eligibility criteria for the marking of a disabled parking bay and the Council had closed his application. It did not address the 'military charter' which we understand to be the Armed Forces Covenant.</p> <p>The Ombudsman found fault with the Council for its failure to consider the Armed Forces Covenant when deciding Mr X's original application. This fault caused Mr X an injustice as he was denied the opportunity to have his application properly considered.</p> <p>The Council was unaware of the Covenant and the effect it might have on its decision about Mr X's application. I am not saying the Council should approve Mr X's application. However, it should properly consider whether Mr X's circumstances mean he should be offered special treatment. The Council's final decision may be the same. I cannot question this if it has been properly reached</p>	<p>Reconsider Mr X's disabled parking bay application, taking account of his veteran status and considering the Armed Forces Covenant.</p> <p>Ensure that all Council staff are made aware of the Armed Forces Covenant and informed of how they may need to consider it as part of their role at the Council.</p>

