

**Agenda for consultative meeting of the  
Standards Committee  
Tuesday, 12th April, 2022, 10.00 am**



**Members of Standards Committee**

Councillors	I Thomas (Chair), D Barrow, C Gardner, V Johns, J Loudoun, E Rylance, P Twiss
Parish Reps.	B Nelson and P Stott
Ind. Persons	D Kuh and P Coulter
Ind.Rep.	R Wood and M Goscomb

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**Venue:** online via zoom

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(or group number 01395 517546)

Friday 1 April 2022

**Important - this meeting will be conducted online and recorded by Zoom only.  
Please do not attend Blackdown House.  
Members are asked to follow the [Protocol for Remote Meetings](#)**

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at <https://www.youtube.com/channel/UCmNHQruge3LV4hcgRnbwBw>

Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-public-meetings/#article-content>

Between 8<sup>th</sup> December 2021 to 11<sup>th</sup> May 2022, the Council has delegated much of the decision making to officers. Any officer decisions arising from recommendations from this consultative meeting will be published on the webpage for this meeting in due course. All meetings held can be found via the [Browse Meetings](#) webpage.

- 1 Public speaking  
Information on [public speaking](#) is available online
- 2 Minutes of the previous meeting held on 10 November 2021 (Pages 3 - 5)  
To confirm the minutes of the previous meeting held on 10 November 2021.
- 3 Apologies  
Apologies received from Cllr Vicky Johns.

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.

7 **Code of Conduct and related standards matters** (Pages 6 - 25)

8 **Code of conduct complaint updates** (Pages 26 - 38)

9 **Cllr Millar dispensation request** (Pages 39 - 41)

[Decision making and equalities](#)

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**EAST DEVON DISTRICT COUNCIL****Minutes of the meeting of Standards Committee held online via zoom on 10 November 2021****Attendance list at end of document**

The meeting started at 2.00 pm and ended at 3.35 pm

**7 Public speaking**

There were no members of the public registered to speak.

**8 Minutes of the previous meeting held on 14 September 2021**

The minutes of the previous meeting held on 14 September 2021 were agreed.

In response to a question on the work programme of the Standards Working Group, the Monitoring Officer confirmed that the Group had been undertaking work on the protocol for Members and Officers, and would progress to the remaining workload in due course

**9 Declarations of interest**

None.

**10 Matters of urgency**

None.

**11 Confidential/exempt item(s)**

None.

**12 Members' Code of Conduct**

The committee considered the report of the Monitoring Officer on the revised Members' Code of Conduct, following work by the Standards Working Group.

Questions and discussion on the revised code included:

- Request for public consultation on the revised code, prior to recommendation to Council, in order to obtain public feedback on some elements of the code. This was requested in light of recent parliamentary events in the media; and as other authorities had undertaken public consultation; and to capture the views of the "reasonable member of the public";
- The entire code was not suggested for public consultation, but elements such as the threshold for gifts and hospitality could be;
- Undertaking any public consultation would require careful phrasing to obtain the feedback required, and not attract responses that could not reasonably be taken into account; as well as delay the adoption of the revised code;
- Public engagement through means of consultation or for informing needed to be considered;

- Best practice listed by the LGA with their model code was detailed as both an annual review of the Code, and regularly seek the views of both the public, communities and neighbouring authorities;
- Care in deciding on how regularly seeking views of the public was undertaken, balancing consultation fatigue and administration resource; the threshold for the number of responses was also key, as a low response may have to be weighted before taking into account in any review;
- Refer back to the Standards Working Group the question of what the public should be consulted on, also including the independent persons, representatives and parish representatives in the discussion;
- Amend wording in reference to the register of interests and identifying land as set out in Appendix B (General) paragraph 2 of the revised Code "...councillors should provide sufficient information to properly describe the land and also provide HMLR title numbers or field numbers to enable land to be identified" – replacing "should" with "shall";
- Suggestion of using "WhatThreeWords" app to identify land was acknowledged, but was only able to identify one single point; whereas HMLR title or field number would provide the boundary of parcels of land;
- The LGA model code does not include membership of masonic lodge in the list of other registerable interests – Members have the option to retain that in the revised code;
- It was in the purview of the Council to decide what should be included in the list of "other" registerable interests
- Should criminal convictions unspent or recently received be included in the reviewed Code – in response, the Group were reminded that under the Local Government Act 1972, certain levels of conviction meant an automatic disqualification as councillor. Standing for election also contained this level of protection;
- Sanctions for a councillor under criminal investigation was not relevant to the review of the code;
- The limits set on gifts and hospitality had been extensively debated and were felt reasonable.

In light of the further work requested, the Committee were advised that the draft Code was now likely to be presented for Annual Council consideration.

The Chair thanked the Working Group for their extensive work to date.

Before reaching a conclusion on the next steps for the review of the Code, the Independent Representatives, Independent Person, and Parish Representative were asked for their view on the proposed step of referring the detail on public consultation to the Working Group to develop and action with the Monitoring Officer, in conjunction with the Chair of the Standards Committee and the Portfolio Holder for Council and Corporate Co-ordination. They concurred with the steps proposed.

The Monitoring Officer was asked to progress to the Working Group the task of developing the public consultation, including in the Working Group the Independent Representatives, Independent Persons and Parish Representatives; as well as the Chair of Standards and the Portfolio Holder Council and Corporate Co-ordination; with a view to then actioning that public consultation and providing the results back to the Committee in due course. The Monitoring Officer agreed to do so.

The Monitoring Officer agreed to update the revised draft Code to amend the word “shall” to “should” in the wording for declaring an interest in land; and to include in the “other” registerable interests memberships that might cause conflict with the role of being a councillor, such as membership of a masonic lodge

## 13 **Complaints update**

The Committee were presented with updates on the complaints registered for the period 1 January 2020 to 31 December 2020; and for the period 1 January 2021 to 31 October 2021.

The Monitoring Officer was pleased to report that progress had been made in resolving the backlog in early 2021. As at the time of the meeting, five complaints remained open for the 2020 period but all were in progress.

Discussion on complaints included:

- Naming of councillors within notices on breaches came into force from 1 January 2021;
- It was not possible to enforce councillors who had breached their code to undertake training; however with the publication of notices of breach, the public could decide at the ballot box if re-election was appropriate;
- A report by the Standards for Public Like of January 2019 had still not received a response from Government on reviewing the lack of sanctions;
- Thanks to the Monitoring Officer for continued efforts to process complaints.

The Committee noted the update on complaints.

### **Attendance List**

#### **Councillors present:**

I Thomas (Chair)  
D Barrow  
C Gardner  
J Loudoun  
E Rylance

#### **Councillors also present (for some or all the meeting)**

P Arnott  
P Faithfull  
S Hawkins  
P Millar  
P Skinner

#### **Officers in attendance:**

Amanda Coombes, Democratic Services Officer  
Henry Gordon Lennox, Strategic Lead Governance and Licensing (and Monitoring Officer)  
Debbie Meakin, Democratic Services Officer  
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

#### **Councillor apologies:**

P Twiss



Report to: Standards Committee

Date of Meeting 12<sup>th</sup> April 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## Code of Conduct and related standards matters

### Report summary:

To update the Committee on the Government's response to the report from the Committee for Standards in Public Life. To ask the Committee to consider two of the recommendations of the East of England Local Government Learning Review following consideration of the report at a recent meeting of the Personnel Committee and decide any further action required. To ask members to consider the consultation responses on the Code of Conduct and determine an appropriate Code of Conduct to recommend to Council. To consider some adjustments to the Code of Conduct complaint process and recommend these to Council for approval. Following the recent recruitment process to recommend two new co-opted Independent and Town/Parish Representatives to the Council for agreement.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That the Committee;

1. Agree that the Monitoring Officer should consider whether the Member / Officer Protocol could include detail around what consultation means and informal channels to resolve difficulties and / or ensure that the matter is covered by appropriate training.
2. Refer the issue of training on the Code of Conduct to the Member Development Working Group to consider and also consider whether there is a wish to explore further the suggestion of a voluntary code between members renewed annually and if so how that might be taken forward.
3. Consider the public consultation responses and agree a final version of the Code of Conduct to recommend to Council for approval.
4. Consider the changes to the adopted Code of Conduct procedure and recommend the proposed changes to Council.
5. Recommend to Council that it appoints Cllr Serena Sexton (Honiton Town Council) as a co-opted Town / Parish Representative and Michael Bryant as a co-opted Independent Representative of the Standards Committee.

### Reason for recommendation:

To ensure that the Council's standards arrangements continue to be up to date and effective.

Officer: Henry Gordon Lennox, Monitoring Officer

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

[Local Government Ethical Standards – Committee on Standards in Public Life, Jan 2019](#)

[Letter from Government to Committee on Standards in Public Life](#)

[Personnel Committee – 22<sup>nd</sup> March 2022](#)

[Cabinet – 14<sup>th</sup> July 2021](#)

[Standards Committee – 10<sup>th</sup> November 2021](#)

[Results of Councillor Code of Conduct consultation](#)

[Current Code of Conduct complaint procedure](#)

[Revised Complaint Procedure](#)

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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**Report in full**

[Government Response to the Committee for Standards in Public Life report \(January 2019\)](#)

1. In January 2019 the Committee for Standards in Public Life issued its report on Local Government Ethical Standards (see background links). This has been reported to or considered by the Committee at various meetings including September 2021, April 2021, January 2021 and October 2020.
2. On 18<sup>th</sup> March 2022 the Government published its response to the report. A link to the Government's response can be found in the background links.
3. The Government's position is probably best summarised in the covering letter from the Minister of State for Equalities and Levelling Up Communities, which says;

*‘...The Government agrees with the Committee’s conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.*

*The number of requests for legislation in the Committee’s recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011...’*

4. Members may wish to discuss / consider any of the individual responses.

#### Personnel Committee recommendations

5. On 22<sup>nd</sup> March 2022, the Personnel Committee received a report relating to the East of England Local Government Association – Learning Review (‘EELGA’) report in confidential session. The minutes of the meeting are a matter of public record and a link to them can be found in the background links.

6. One of the Recommendations from the Personnel Committee meeting was;

*‘That Recommendations 7.1.2 (having clarity on the definition of consultation and member roles when being consulted and informal channels to resolve any disagreement) & 7.1.6 (considering whether to amend / supplement the Code of Conduct to support a more robust standard of conduct where genuine action is taken and regular training on member / officer roles) are referred to the Standards Committee for consideration.’*

7. Recommendation 7.1.2 of the EELGA report related to consultation and said;

*‘The Constitution provides for consultation with specific members in the case of senior redundancies, the definition of “consultation” is not clear. The role of members in respect of their role in terms of “consultation” would be helpful.*

*Where agreement cannot be reached there should be an absolute understanding of the delegations and powers of officers and Members so that each can act in line with the law and the Council’s constitution.*

*It may be helpful to have a less formal channel to resolve such disagreements, perhaps an informal role the Chair of the Council to seek to resolve any impasse.’*

8. There are many references throughout the Constitution to ‘consultation’ but the report focusses on one discrete area in relation to redundancies. Consultation as a legal concept has its principles established through case law. There are four elements to it, namely;
  - Consultation must be at a time when proposals are still at a formative stage;
  - The proposer must give sufficient reasons for any proposal to permit intelligent consideration and response;
  - Adequate time must be given for consideration and response; and
  - The product of consultation must be conscientiously taken into account in the matter.
9. What is essential in carrying out consultation is that the established principles are satisfied although how this is achieved in any given circumstances will vary in nature and extent and of course will depend on what is being consulted on and the decision being taken. Given this, it is not considered appropriate that a definition is incorporated in the Constitution for the discrete area identified as it is unnecessary as it is an established legal principle and in any event doesn’t really address the issue identified. What is considered more appropriate to deal with the concern identified – namely ensuring the role of a consultee (essentially a member as

consultee) and powers to act are understood – is that the Member / Officer protocol should cover this and / or it should be covered in training. The suggestion of less formal channels of resolving disagreement does not reflect the legal position of the respective roles and responsibilities of the decision maker and consultee and would be of real concern if this was to be enshrined as a requirement. However, the possibility of using informal channels to seek to discuss potentially problematic situations when / where deemed appropriate might be capable of being reflected in the Member / Officer Protocol without causing difficulties.

10. The recommendation therefore is that the Monitoring Officer is asked to consider this recommendation as part of the ongoing work in relation to the Member / Officer Protocol and also as part of the training provided to members particularly as part of an induction for a new Council.
11. Recommendation 7.1.6 relates to standards matters and said;
- ‘For Members, there was much debate about whether the Standards framework is effective at protecting Members from the behaviour of other Members and officers from Members.*
- ...the current Code of Conduct for Members provides little in the way of consequences for occasions where conduct falls below the expected standard.*
- It is recommended that the council consider whether it might amend or supplement its Code of Conduct to support a more robust standard of conduct with genuine action taken, whether through the standards regime or by other means including Group Leaders, where conduct falls short of that expected. The “Nolan principles” and the LGA model Code of Conduct 2020 may be helpful in this regard.*
- ....It may be helpful to ask all Councillors to sign up to a voluntary code and to renew that commitment each Municipal year.*
- In any event regular training on Member/officer roles and relationships should be provided and consideration should be made on whether this should be mandatory for new Members on appointment, where roles change and on an annual basis.’*
12. It is a legal requirement that the Code of Conduct, when taken as a whole, is compliant with the Nolan Principles. One would assume that the LGA were mindful of this when drafting their model Code of Conduct. The Committee is already well progressed in terms of reviewing our Code of Conduct against the LGA Model Code of Conduct and in that sense it is not considered that there is much that this recommendation adds to the process already being undertaken. The Committee could consider this further when discussing the draft Code of Conduct in the section below.
13. The main issue is the around the comment of ‘genuine action [being] taken’. In terms of the Standards regime, and as has been discussed at this Committee on numerous occasions, the legally permissible sanctions available are very limited. It is already permissible for informal resolution and decisions (whether first stage or by the Hearing Sub-Committee) to refer matters to Group Leaders with a request for action to be taken by a political group. In terms of formal outcomes this is framed in the procedure as removal from committees or portfolio roles but it could equally make other recommendations such as expulsion from a group. The issue would be how would it be enforced, the reality is that it couldn’t. Of course it doesn’t address the situation where the breach is found against independent / non-affiliated members. It should be noted that the Government has indicated that it will review whether sanctions could be strengthened as part of its reply to the Committee for Public in Standards Life, but for now the regime is what it is. Whether or not a group is prepared to have a member represent them or stand for them in election if there are reputational issues, it is ultimately the electorate who will decide whether they consider the person suitable for office.
14. The suggestion of a voluntary code and renewing that commitment annually is interesting and chimes with the intent of bringing all the groups together to seek to ‘*discuss and seek agreement on how all members can engage in more respectful conduct at Council and Council*

*Committee meetings'* (cf to the Cabinet meeting of 14<sup>th</sup> July 2021 – see background links). It wouldn't affect the primacy of the Member Code of Conduct and its operation but might provide more of a binding social contract between Members. This can be explored further if the Committee consider it appropriate and should initially at least involve Group Leaders as a minimum.

15. In terms of the training aspects that are identified. These are logical, although it is considered that yearly training might be viewed as excessive and that on appointment and bi-annually might be more appropriate. It is suggested that the Member Development Working Group pick this up as part of its current work programme of preparation of an induction programme for May 2023 and more widely councillor training needs.

### Code of Conduct

16. Members will recall that at the last meeting in November (see background links), a revised Code of Conduct was presented for consideration. The draft Code was prepared through the work of the Standards Working Group and was based on the LGA Model Code of Conduct (prepared following the recommendations from the Committee for Standards in Public Life report of January 2019) with some additional wording to reflect local circumstances. The Committee broadly endorsed the draft but required two corrections to be made. In addition the Committee agreed that there should be public / stakeholder engagement on the Code and asked the Standards Working Group to determine what should be consulted on.
17. The Standards Working Group met on 6<sup>th</sup> January 2022 and considered that consultation should be carried out in relation to;
- a. Whether gifts should be permitted to be accepted,
  - b. Assuming gifts can be accepted what should the threshold be before having to record this (£25 (current level), £50 (Model Code level) or another amount),
  - c. Whether the list of 'Other Registerable Interests' was acceptable or should be added to or elements removed from it,
  - d. Whether the specific training stated as being mandatory was sufficient or whether it should be added to or elements removed from it,
  - e. Whether inclusion of the requirement to provide HMLR details and / or field numbers to describe land in a Councillors Register of Interests was sufficient,
  - f. Opportunity for general comment, but noting the limitation on how such comments may be taken into account.
18. The consultation ran from 31<sup>st</sup> January until 14<sup>th</sup> March and all Parish and Town Councils were notified of the consultation and it was publicised in the press, on social media and on the Council's website. The consultation results report can be found in the background links. There was a mix of responses from the public, town / parish councillors, district councillors and two town councils. However there were only 66 online responses with one town council providing a written response. This is a relatively small sample of the stakeholders within the District.
19. There was a strong agreement (95%) with the specific training listed as being mandatory, inclusion of HMLR details / field numbers as being sufficient when declaring land interests and what should be included as 'Other Registerable Interests'. It is recommended therefore that the Code as drafted is acceptable in regard to these issues.
20. The main area of disagreement surrounded gifts and hospitality. In relation to gifts, taking all respondents 74% said councillors shouldn't accept gifts and specifically within the councillor respondent group it remained at 60%. The next question related to thresholds and was asked on the basis that it was to be assumed it was acceptable to accept gifts. Of the total responding, 57% disagreed with a £50 limit, although no-one provided an alternative limit in

answer to this question (although in answer to the next question in relation to the cumulative threshold there was a suggested £25 / £10 limit for individual gifts from about three respondents). Similarly, 64% disagreed with the principle of having a cumulative threshold. Of those who agreed - although this was only 7 respondents - 63% agreed with the £100 limit. The person who didn't feel £50 was a better limit. It should be noted that a good proportion (over 50%) of those disagreeing with the principle was on the basis that they didn't think gifts / hospitality should be accepted, which ignores the premise of the question which was that it should be assumed accepting gifts was permissible. A degree of caution is therefore advised in relation to these responses coupled with the fact that it is a relatively small number of respondents overall. Members will need to consider the consultation responses and determine how they wish to proceed in relation to gifts and hospitality.

21. Members are asked to consider the consultation responses and decide whether they wish to make any changes to the Code of Conduct in light of the results. Attached as Annex 1 is the draft Code of Conduct with the two amendments previously required by the Committee highlighted in yellow.
22. Once an acceptable Code of Conduct is agreed then it is recommended that this is recommended to Council (to consider at the April meeting) to agree to its inclusion as part of the amendment to the Constitution in May. The reason for this slightly convoluted approach is to ensure that the Membership as a whole is accepting of it and, as training for members will need to follow swiftly after adoption, to allow time for necessary training materials to be prepared and training dates put in place as well as allowing time to update the register of interest templates and consider any other Constitutional changes that may be required.

#### Complaint procedure

23. While the current procedure has only recently been adopted, there are a couple of issues that have occurred which it is felt ought to be addressed. A copy of the current procedure can be accessed from the background links.
24. The first of these is just to make clear that 'other action' can cover a range of matters giving examples rather than just what it is. The current and proposed wording is below.

#### Current

'Other action' affords an opportunity for informal resolution between the Complainant and the Subject Member – such as an apology, commitment to undertake training or mediation. It does not represent a finding of whether there has been a breach of the Code of Conduct.

#### Proposed:

'Other action' can include outcomes such as an apology, commitment to undertake training or taking part in mediation or facilitated discussion or referral of the matter to a political group. Where appropriate it affords an opportunity for informal resolution between the Complainant and the Subject Member. It does not represent a finding of whether there has been a breach of the Code of Conduct.

25. The second relates to Stage 4 of the process. This is the independent investigation stage. Where the matter is considered by the Independent Investigator following a referral by the Assessment Sub-Committee (so from Stage 2) there needs to be a decision by the Council which has regard to the views of the Independent Person. Currently that decision purports to be the Independent Investigator's and yet they don't liaise with the Independent Investigator. So the Stage 4 wording has been revised to reflect the different approaches depending whether the investigation follows from Stage 2 or Stage 3.
26. A revised Complaint procedure is attached with the amended wording for Stage 4 and 'other action' included and this can be found in the background links.

27. The Committee is asked to recommend the changes to the procedure as identified above to Council.

Appointment of new Independent Representative and Town and Parish Representatives

28. Following the introduction of the new complaint process and increasing the representation of the Standards Committee by an extra Independent Representative and Town / Parish Council Representative, interviews were held for these posts in March 2022.

29. The panel comprised Cllr Thomas, Cllr Loudoun, Cllr Pauline Stott (Exmouth Town Council), Martin Goscomb (Independent Representative) and the Monitoring Officer. The panel interviewed six candidates for the Town / Parish Representative vacancy and three for the Independent Representative.

30. After careful consideration, the panel is recommending to Council that Cllr Serena Sexton (Honiton Town Council) and Michael Bryant (Independent Representative) be appointed as co-opted members of the Standards Committee.

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**Financial implications:**

The report does not raise any financial implications.

**Legal implications:**

The legal implications are detailed in the report.

# ANNEX 1

## Part 5 Codes and Protocols

### 5.1 Members' Code of Conduct

#### Purpose of the Code of Conduct

- 1.1 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, Council officers and the reputation of local government
- 1.2 It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.
- 1.3 This Code of Conduct is based on the Model Code of Conduct produced by Local Government Association. The Local Government Association has also produced guidance on their Model Code of Conduct and regard should be had to that advice when considering the obligations and expectations of this Code. The guidance can be found [here](#), although it should be noted that the Model Code of Conduct has not been adopted in its entirety and there is some local variation.

## 2. Definitions

- 2.1 For the purposes of this Code of Conduct;
- 2.2 a “**councillor**” means a member or co-opted member of East Devon District Council.
- 2.3 a “**co-opted member**” means a person who is not a member of East Devon District Council but who;
- a) sits on any committee or sub-committee of the Council, or;
  - b) represents the Council on, any joint committee or joint sub-committee of the Council;
- whether or not they are entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- 2.4 a “**disclosable pecuniary interest**” means an interest of yours, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 of Appendix B.
- 2.5 a “**meeting**” means any meeting of:
- the Council;
  - the Cabinet of the Council;
  - any of the Council's or the Cabinet's, Committees, Sub-Committees, joint Committees, or Joint Sub-committees;
  - one or more councillors, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council officer.
- 2.6 a “**partner**” means a spouse or civil partner, or a person with whom you are living as if you are a married couple, or a person with whom you are living as if you are civil partners.

2.7 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. General Principles of councillor conduct**

3.1 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 (See Appendix A). Building on these principles, the following general principles have been developed specifically for the role of councillor.

3.2 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.

3.3 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 Council’s requirements and in the public interest.

### **4. Application of the Code of Conduct**

4.1 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 or co-opted member.

4.2 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, or
- 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;

4.3 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.

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

4.5 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.

## **5. Standards of councillor conduct - specific obligations**

### **5.1 Courtesy and Respect - as a councillor:**

**5.1.1 I treat other councillors and members of the public with courtesy and respect.**

**5.1.2 I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with courtesy and respect and respect for the role they play.**

5.1.2.1 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.

5.1.2.2 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 Council, 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 Council employees, where concerns should be raised in line with the Council's Member / Officer Protocol.

### **5.2 Bullying, harassment and discrimination - as a councillor:**

**5.2.1 I do not bully any person.**

**5.2.2 I do not harass any person.**

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

**5.2.4 I do not do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 33 of the Equality Act 2010)**

5.2.4.1 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.

5.2.4.2 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.

5.2.4.3 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.

5.2.4.4 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 Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **5.3 Impartiality of officers of the Council – as a councillor:**

**5.3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.**

5.3.1.1 Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. 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.

### **5.4 Confidentiality and access to information – as a councillor:**

**5.4.1 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 Council; and**
  - 3. I have consulted the Monitoring Officer prior to its release.**

**5.4.2 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.**

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

5.4.3.1 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 Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

### **5.5 Disrepute – as a councillor:**

**5.5.1 I do not bring my role or Council into disrepute.**

5.5.1.1 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 Council and may lower the public's confidence in you or

your Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your Council into disrepute.

5.5.1.2 You are able to hold the Council 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.

## **5.6 Use of position – as a councillor:**

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

**5.6.2 I will not act as agent for people pursuing planning matters within the Council's administrative area.**

5.6.2.1 Your position as a member of the Council 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.

## **5.7 Use of the Council's resources and facilities – as a councillor:**

**5.7.1 I do not misuse Council resources.**

**5.7.2 I will 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 Council;**

**5.7.3 I will, when using the resources of the Council or authorising their use by others:**

- a. **act in accordance with the Council'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 Council or of the office to which I have been elected or appointed.**

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of Council 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 Council's own policies regarding their use.

## **5.8 Complying with the Code of Conduct and the Council's codes and protocols– as a councillor:**

**5.8.1 I undertake Code of Conduct training provided by my Council.**

**5.8.2 I cooperate with any Code of Conduct investigation and/or decision.**

**5.8.3 I do not intimidate or attempt to intimidate any person who is likely to be a complainant, a witness or involved with the administration of any investigation or proceedings that any councillor has failed to comply with the Council's Code of Conduct.**

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

**5.8.5 I will comply with the Codes and Protocols forming part of the Council's Constitution**

5.8.5.1 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 Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with your Monitoring Officer.

5.8.5.2 *The Council resolved at its 20<sup>th</sup> October 2021 meeting that the Council should pay for training imposed by way of sanction in relation to district councillors.*

5.8.5.3 *Following the regular election of Members (See Article 2.2) or upon election following a by-election each Member must attend mandatory Code of Conduct, equalities and safeguarding training and Council has resolved, by adopting this Code of Conduct, that a failure to do so will preclude Members from sitting on any committee of the Council.*

## **6. Protecting your reputation and the reputation of the Council**

### **6.1 Interests – as a councillor:**

#### **6.1.1 I register and disclose my interests in accordance with Appendix B.**

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

6.1.1.2 You need to register your interests so that the public, Council 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.

6.1.1.3 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.

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

6.1.1.5 *The Council has agreed that a co-opted member who has no voting rights is not expected to complete a register of interest.*

### **6.2 Gifts and hospitality – as a councillor:**

**6.2.1 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 Council or from persons who may apply to the Council for any permission, licence or other significant advantage.**

**6.2.2 I register with the Monitoring Officer any individual gift or hospitality with an estimated value of at least £50 or number of gifts or hospitality from the same donor**

**which individually are below the estimated value threshold but which cumulative result in an estimated value of at least £100 within 28 days of its receipt.**

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

**6.2.4 I disclose the existence of any gift or hospitality where I am present at a meeting where the gift or hospitality received is relevant to the matter of business being discussed irrespective of whether it has been entered into the register in accordance with paragraph 6.2.2 above.**

6.2.4.1 In order to protect your position and the reputation of the Council, 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.

## **Appendix A - The Seven Principles of Public Life ('the Nolan Principles')**

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 and disclosing interests

### General

1. Within 28 days of becoming a councillor 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)**. A co-opted member who has no voting rights is not expected to complete a register of interest.
2. When completing the register of interests, councillors **shall** provide sufficient information to properly describe the land **and** also provide HMLR title numbers or field numbers to enable land to be identified.
3. 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.
4. 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 you can withhold the interest from the public register.

### Non participation in case of Disclosable Pecuniary Interest

5. 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. A 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.

### 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 'directly relating' to financial interest or well-being

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.

### Disclosure of Non-Registerable Interests 'affecting' financial interests or well-being

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 Registrable 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.

### **Cabinet members**

10. Where you have a Disclosable Pecuniary Interest (paragraph 5), Other Registerable Interest (paragraph 6) or any Non-Registerable Interest (paragraphs 7 - 9) on a matter to be considered or which 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](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain by the councillor or his / her <b>partner</b> .
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the Council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his / her <b>partner</b> (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of#) and the Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her <b>partner</b> (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the Council; and (b) the tenant is a body that the councillor or his/her <b>partner</b> is a partner of or a director* of or has a beneficial interest in the securities# of.
<b>Securities</b>	Any beneficial interest in securities# of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the Council; and (b) either— (i) the total nominal value of the securities# exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor or his/ her <b>partner</b> have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

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

**Table 2: Other Registerable 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 the Council.

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.

d) membership of any body which, in your view, might create a conflict in carrying out your duties as a councillor (such as membership of the Freemasons or any similar body).

## **THIS SECTION DOES NOT FORM PART OF THE CODE OF CONDUCT AND IS FOR GUIDANCE ONLY**

### **LGA guidance on the Model Code of Conduct in relation to interests states:**

**‘Directly relates to’** means it must be directly about the interest rather than simply affecting it – e.g. discussing an application about a property in which there is a financial interest as opposed to a neighbouring property where there is no financial interest or considering an application for funding from an organisation of which you are a member as opposed to discussing an annual report from the organisation where no decision is required.

**‘Affects’** means it is not directly about the interest but nevertheless the matter has clear implications for the interest – e.g. discussing a neighbour’s planning application – and which can be positive (gain) or negative (loss) in impact.

**‘Well-being’** can be described as a condition of contentedness and happiness and isn’t just about finances but can include anything that could affect quality of life either positively or negatively whether temporarily or on a permanent basis.

**‘Relative or close associate’** is likely to be someone who the councillor is in regular or irregular contact over a period of time who is more than an acquaintance – it may be a friend, a colleague, a business associate, someone known through general social contacts or someone who the councillor is known to show animosity to - and who a reasonable member of the public might think the councillor would be prepared to favour or disadvantage when discussing a matter affecting them.

### **Guidance on Bias and Predetermination and predisposition**

Councillors are permitted to have a pre-disposition towards a particular outcome. This means councillors can hold and express a view or inclination towards a future decision but requires a councillor to be open to having their views changed when it comes to the final decision.

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you may participate in a decision on the issue in your political role as a member\*. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken. To take part in a discussion and decision on a matter with a closed mind (whether through bias or pre-determination) will put the Council at risk of a finding of maladministration and / or of legal proceedings. If a Councillor feels that they are biased or predetermined then this should be recorded in the minutes and then they should not be involved in the discussion and vote.

\*It should be noted that there are more stringent rules on this in respect of planning decisions which are contained in the ‘Code of Good Practice for Councillors and Officers dealing with planning matters’.

Standards Committee

Code of Conduct complaints update 1<sup>st</sup> January 2020 to 31<sup>st</sup> December 2020.

**Only cases that are live / have been updated since the last Committee update are included.**

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct it is alleged has been breached and nature of complaint	Monitoring Officer assessment and outcomes following consultation with Independent Person
2020/C10  11.6.2020	Honiton TC  Cllr Taylor	Complaint that the language used by the subject member in an email circulated to other members deliberately meant to criticise the competence of another Cllr.  Breach of Code: 4(a) You must – treat others with courtesy and respect including fellow council members, staff and members of the public	<p>Referred for independent investigation.</p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C11, C19)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying). <a href="#">Decision</a>.</b></p> <p><b>Sanctions imposed;</b></p> <ol style="list-style-type: none"> <li><b>1. Censure</b></li> <li><b>2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members.</b></li> <li><b>3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</b></li> </ol>

			<p><b>Sanctions compliance</b>  <b>Censure issued</b>  <b>The Subject member has confirmed they will not undertake training or give an apology.</b></p> <p><b>Cllr has now resigned.</b></p>
<p>2020/C11                  23.6.2020</p>	<p><b>Honiton                  TC</b>    <b>Cllr Taylor</b></p>	<p>Complaint that the subject member attempted to undermine the position and standing of an employee of the Town Council, in an email widely circulated to other members.</p> <p>Breach of Code:                  1.2 <u>You should</u> have regard to the Principles of Public Life                  4(a) <u>You should</u> treat others with courtesy and respect                  5(c) You <u>must not</u> – Bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a) and 5(c).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C10, C19)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying). <a href="#">Decision</a>.</b></p> <p><b>Sanctions imposed;</b></p> <ol style="list-style-type: none"> <li><b>1. Censure</b></li> <li><b>2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members.</b></li> <li><b>3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</b></li> </ol> <p><b>Sanctions compliance</b>  <b>Censure issued</b></p>

			<p><b>The Subject member has confirmed they will not undertake training or give an apology.</b></p> <p><b>Cllr has now resigned.</b></p>
2020/C13 17.6.2020	<b>TC</b>	Complaint received regarding repeated bullying behaviour towards the complainant	<p><b>Independent investigation underway (combined with C14, 15 &amp; 16).</b></p> <p><b>Cllr resigned so case won't progress and is technically closed.</b></p> <p><b>Investigation report will be brought to Committee for information and to potentially make recommendations to the TC.</b></p>
2020/C14 17.6.2020	<b>TC</b>	Complaint received regarding repeated bullying behaviour towards the complainant	<p><b>Independent investigation underway (combined with C13, 15 &amp; 16).</b></p> <p><b>Cllr resigned so case won't progress and is technically closed.</b></p> <p><b>Investigation report will be brought to Committee for information and to potentially make recommendations to the TC.</b></p>
2020/C15 17.6.2020	<b>TC</b>	Complaint received regarding repeated bullying behaviour towards the complainant	<p><b>Independent investigation underway (combined with C13, 14, &amp; 16).</b></p> <p><b>Cllr resigned so case won't progress and is technically closed.</b></p> <p><b>Investigation report will be brought to Committee for information and to potentially make recommendations to the TC.</b></p>

2020/C16 17.6.2020	TC	Complaint received regarding repeated bullying behaviour towards the complainant	<b>Independent investigation underway (combined with C13, 14, &amp; 15).</b>
2020/C19 19.07.2020	Honiton TC Cllr Taylor	<p>Complaint that subject member has bullied and harassed the complainant in various communications. The complainant believes the subject member has tried to undermine his position as an employee of the Town Council.</p> <p><b>Breach of Code:</b> 4(a) You <u>must</u> treat others with courtesy and respect including fellow council members, staff and members of the public 5(c) You <u>must not</u> – bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a) and 5(c).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C10, C11)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying). <a href="#">Decision</a>.</b></p> <p><b>Sanctions imposed;</b> 1. Censure 2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members. 3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</p> <p><b>Sanctions compliance</b> Censure issued The Subject member has confirmed they will not undertake training or give an apology.</p> <p><b>Cllr has now resigned.</b></p>

<p>2020/C30</p> <p>19.11.2020</p>	<p>TC</p>	<p>Cllr responded to a social media post in which he was disrespectful and bullying towards an individual.</p> <p>4. You <u>must</u> –  (a) treat others with courtesy and respect including fellow council member, staff and members of the public.  (e) All members are required to uphold all policies including the Media Communications Policy and be expected to attend all mandatory training.</p> <p>5. You <u>must not</u>  (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;  (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.</p>	<p><b>With MO for assessment.</b></p> <p><b>Seeking informal resolution.</b></p> <p><b>Breach found (paragraph 4(a))</b></p> <p><b>Not accepted and referred for independent investigation.</b></p> <p><b>Investigation finding of breach of para 4(a).</b></p> <p><b>Not accepted – referral for Standards Hearing.</b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>
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## Standards Committee

Code of Conduct complaints update 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2021.

Only cases that are live / have been updated since the last Committee update are included.

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct it is alleged has been breached and nature of complaint	Monitoring Officer assessment and outcomes following consultation with Independent Person
2021/C01  12.2.2021 (revised)	EDDC	<p>Complaint about treatment of a senior officer and adverse actions in relation to the complainant.</p> <p><b>Breach of the Code:</b> 4(a) You <u>must</u> - Treat others with respect  5.1(c) bully or harass any person;  5.1(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.</p>	<p><b>With MO for assessment.</b></p> <p><b>Referred for Independent Investigation.</b></p> <p><b>No breach in part. Recommendation of 'other action' in part.</b></p> <p><b>Accepted by subject member.</b></p> <p><b>Case closed.</b></p>
2021/C02  12.2.2021 (revised)	EDDC	<p>The Complainant is of the view that the subject member has been disrespectful towards his faith and directly towards him as a Councillor.</p> <p><b>Breach of the Code:</b> 4(a) You <u>must</u> - Treat others with respect</p>	<p><b>With MO for assessment.</b></p> <p><b>Referred for Independent Investigation.</b></p> <p><b>No breach.</b></p> <p><b>Case closed.</b></p>
2021/C09  27.1.20201	EDDC  Cllr Bailey	<p>The allegation is that a Cllr used their position to incite a protest against trees being cut down on private land and took steps to prevent works to the tree.</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation proceeding.</b></p>

		<p><b>Breach of Code:</b></p> <p>5. You MUST NOT-</p> <p>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</p> <p>c) bully any person;</p> <p>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.</p>	<p>Breach of paragraph 5(h) found. <a href="#">Decision.</a></p> <p><b>Not accepted – subject to Independent Investigation</b></p>
2021/C13 4/2/2021	TC	Detail to be provided once Subject Member notified	<p><b>With MO for assessment.</b></p> <p><b>Complaint has been asked to provide greater clarity.</b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>
2021/C14 4/2/2021	TC	Detail to be provided once Subject Member notified	<p><b>With MO for assessment.</b></p> <p><b>Complaint has been asked to provide greater clarity.</b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>
2021/C17 22.4.21	Honiton TC	In a public meeting when discussing bullying by councillors there was a denial of knowledge and reference to other incidences involving staff despite the councillor actually being aware of allegations of	<p><b>With MO for assessment.</b></p> <p><b>Breach of paragraphs 5(f) and 5(h) found. <a href="#">Decision.</a></b></p>

	Cllr Zarczynski	<p>bullying by councillors. It is alleged that this is a deliberate attempt to deflect accusations.</p> <p><b>Breach of the Code:</b></p> <p>4. You <b>must</b> –</p> <p>(a) treat others with courtesy and respect including fellow council members, staff and members of the public;</p> <p>5. You <b>must not</b> –</p> <p>(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;</p> <p>(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;</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;</p> <p>(h) conduct yourself in a manner <u>or</u> 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.</p>	<p><b>Not accepted – referred for independent investigation.</b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>
2021/C20  13.7.21	TC	<p>Cllr referred to Extinction Rebellion as a terrorist organisation and accused another Cllr of bullying.</p> <p><b>Breach of the Code:</b></p> <p>4. You <b>must</b> –</p> <p>(a) treat others with courtesy and respect</p> <p>5. You <b>must not</b> –</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation proceeding.</b></p> <p><b>Informally resolved with public apology.</b></p> <p><b>Case closed.</b></p>

		(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.	
2021/C22 13.10.21	Honiton TC Cllr Taylor	<p>Cllr made inappropriate comments about another Cllr's former employment and a member of the public's husband. The Cllr also demonstrated inappropriate behaviour by laughing and rubbing hands together.</p> <p><b>Breach of the Code:</b></p> <p>4. You <b>must</b> –</p> <p>(a) treat others with courtesy and respect including fellow council members, staff and members of the public</p> <p>5. You <b>must not</b> –</p> <p>(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.</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation proceeding.</b></p> <p><b>Breach of paragraphs 4(a) and 5(h) found. <a href="#">Decision.</a></b></p> <p><b>Not accepted – referred for independent investigation.</b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>
2021/C23 13.10.21	Honiton TC Cllr McNally	<p>Cllr swore / made an inappropriate comment in a public meeting and acted in a very aggressive manner to people in the public gallery area.</p> <p><b>Breach of the Code:</b></p> <p>4. You <b>must</b> –</p> <p>(a) treat others with courtesy and respect including fellow council members, staff and members of the public</p> <p>5. You <b>must not</b> –</p> <p>(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.</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation proceeding.</b></p> <p><b>Breach of paragraphs 4(a) and 5(h) found. <a href="#">Decision.</a></b></p> <p><b>Cllr resigned.</b></p> <p><b>Case closed.</b></p>

2021/C24  13.10.21	<b>Honiton TC</b>  <b>Cllr Zarczynski</b>	Cllr shouted abuse, was completely out of control and did not chairing the meeting competently and accused another Cllr of being a bully more than once.  The above has been given as evidence of breaches of the Code of Conduct under the following paragraphs: 4. You <b>must</b> –  (a) treat others with courtesy and respect including fellow council members, staff and members of the public  5. You <b>must not</b> – (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.	<b>With MO for assessment.</b>  <b>Investigation proceeding.</b>  <b>Breach of paragraphs 4(a) and 5(h) found.</b> <b><u>Decision.</u></b>  <b>Cllr resigned.</b>  <b>Case closed.</b>
2021/C25  22.11.21	<b>TC</b>	In a public place in front of members of the public alleged that another individual had called the complainant a thief.  <b>Breach of the Code:</b> 4. You <b>must</b> – (a) treat others with courtesy and respect including fellow council members, staff and members of the public;  5. You <b>must not</b> – (c) bully any person  (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;	<b>Referred for Independent Investigation.</b>  <b>Cllr resigned.</b>  <b>Case closed.</b>

		(h) conduct yourself in a manner <u>or</u> 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.	
2021/C26  18.06.21 (finally agreed 10.12.21)	PC	<p>Not providing correspondence to other councillors that was critical of the subject member / the Parish Council; moving a motion that resulted in allegations of criminal acts against the complainant / complainant's organisation; agreeing or permitting correspondence which was unacceptable as it was directly personal to the complainant.</p> <p>4. You <b>must</b> – (a) treat others with courtesy and respect,</p> <p>5. You <b>must not</b> – (c) bully any person</p> <p>(h) conduct yourself in a manner <u>or</u> 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.</p>	<p><b>With MO for assessment.</b></p> <p><b>No breach found.</b></p> <p><b>Case closed.</b></p>
2021/C27  21.12.21	PC	<p>Made critical remarks about the complainant to other councillors and provided an inadequate apology.</p> <p>3.1 You <b>must</b> – (a) treat others with courtesy and respect,</p> <p>3.2 You <b>must not</b> – (c) bully any person</p> <p>(h) conduct yourself in a manner <u>or</u> 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.</p>	<p><b>With MO for assessment</b></p> <p><b>Complaint withdrawn.</b></p> <p><b>Case closed.</b></p>

**Standards Committee**

**Code of Conduct complaints update 1<sup>st</sup> January 2022 to 31 March 2022.**

Case # Received	TC/PC or EDDC member	Stage 1 Assessment	Date of Assessment Sub- Committee	Relevant paragraphs in Code of Conduct it is alleged has been breached and nature of complaint	Monitoring Officer assessment and outcomes following consultation with Independent Person
2022/C01  24.2.22	EDDC	28 February 2022	Mid April 2022		
2022/C02  24.2.22	EDDC	28 February 2022	Mid April 2022		
2022/C03  23.2.22	TC	28 March 2022	TBC		
2022/C04  23.2.22	TC	28 March 2022	TBC		
2022/C05  23.2.22	TC	29 March 2022	TBC		
2022/C06  23.2.22	TC	28 March 2022	TBC		

2022/C07 14.3.22	PC	18 March 2022	TBC		
2022/C08 28.3.22	PC	Pending	TBC		

Report to: Standards Committee



Date of Meeting 12<sup>th</sup> April 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## Dispensation request by Cllr Paul Millar

### Report summary:

Cllr Paul Millar has requested a dispensation to permit him to participate in and vote on matters in which he has a pecuniary interest, namely matters involving Exmouth Community College as he is a casual exam invigilator. It is for the committee to decide whether to grant Cllr Millar a dispensation.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

**That the Committee decide whether to grant Cllr Paul Millar a dispensation under S.33 of the Localism Act 2011.**

### Reason for recommendation:

It is a decision for the Standards Committee to decide whether to grant the dispensation having regard to all relevant circumstances.

Officer: Henry Gordon Lennox, Monitoring Officer

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information** None.

## [Link to Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
- 

## Report in full

1. The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 create a framework within which a member must declare their pecuniary interests (being those prescribed in law) and where such an interest arises in any matter to be considered at a meeting then this must be declared and the member must not participate in any discussion or vote at the meeting. This is essentially achieved by the member leaving the room. It is an offence for a member to participate in and / or vote on a matter in which they have a pecuniary interest.
2. Section 33(2) of the Localism Act 2011, permits an authority to grant a dispensation from either or both of the restrictions not to participate and / or vote on a matter in which they have a pecuniary interest.
3. An authority may only grant a dispensation where, having had regard to all relevant circumstances, the authority;
  - (a) *considers that without the dispensation the number of persons prohibited [...] from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,*
  - (b) *considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,*
  - (c) *considers that granting the dispensation is in the interests of persons living in the authority's area,*
  - (d) *if it is an authority [...] operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited [...] from participating in any particular business to be transacted by the authority's executive, or*
  - (e) *considers that it is otherwise appropriate to grant a dispensation.*
4. Any dispensation granted by the authority must specify the period for which it has effect, and the period specified may not exceed four years.
5. Cllr Paul Millar has requested that the Council grant a dispensation for the reasons detailed in the request which is below;

*Recently I took on a new role undertaking casual exam invigilation at my old school, Exmouth Community College. This role comes with a remuneration £[redacted] an hour, and as exams are held only in December, January, May, June and July, the maximum income would be around £[redacted] for a year (I have since taking the role earned £[redacted]).*

*I have undertaken this role because it fits neatly around my representative role where our meetings are unpredictable.*

*The Gipsy Lane site of Exmouth Community College is in my Ward. My role gives me no say or influence over the decision-making process within the school. However, the school is such a significant part of the Ward that*

*there are bound to be occasions where CIL/S106 applications are debated and I wish to contribute to that debate, and it may be that there is a vote at Full Council to ratify a decision to grant the school funds.*

*I feel point c) applies in that granting the dispensation is in the interests of persons living in the authority's area. I would not wish to be inhibited in taking part in the debate when I do not feel my very low level of remuneration conflicts me or creates a bond that would influence a decision where the interests of the school conflicted with that of the wider community.*

6. Noting the request above, it is difficult to see how any of a), b) or d) in paragraph 3 above could be met. However it would be open for the Committee to decide that either / both c) and e) are met. Should the Committee decide to approve the request it will need to determine the nature of the dispensation – so what it covers and whether it permits participation and / or voting and how long it is granted for.

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**Financial implications:**

There are no financial implications arising.

**Legal implications:**

Council have delegated the responsibility for deciding dispensations to the Standards Committee. It is for the Committee to decide, having regard to the comments in paragraph 3, whether to grant Cllr Millar a dispensation or not.