

EDDC Code of Code v LGA Model Code – comparite document

This document compares the wording of the LGA Model Code of Conduct against the wording of East Devon District Council’s Code of Conduct. It covers the application of the code, the general obligations and declarations of interests and gifts and hospitality. In the final column it raises matters for further consideration and **includes (in red) agreed outcomes from the Working Group meetings.**

Application

LGA Model Code wording	EDDC Code wording	Comments on differences	Observations / outcomes
<p>Applies to members or co-opted members of the authority.</p> <p><i>Co-opted = a person who is not a member but is entitled to vote on a committee which they attend or represent the authority on (as per S27(4) Localism Act 2011 definition)</i></p>	<p>Applies to members or co-opted member of EDDC (see para 1.1 and 2.3)</p>	<p>EDDC’s code does not have a definition of ‘co-opted’ and therefore the Code applies to all co-optees irrespective of voting rights.</p>	<p>Does the Council want to limit the application to co-optees who can vote or cover all co-optees?</p> <p>It was felt that the Code should continue to apply to all co-opted members (but non-voting co-optees don’t need to complete an RoI).</p>
<p>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.</p> <p>This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:</p> <ul style="list-style-type: none"> • 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; 	<p>3.1 You must comply with this Code whenever you are acting in your official capacity, when:</p> <p>a) you are engaged on the business of the Council; or</p> <p>b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.</p> <p>3.2 It is important to note that online or social media activity when acting in official capacity is subject to the Code.</p>	<p>Model makes clear the start and end points for when the code applies. It also provides detail of the situations when the code applies.</p>	<p>Model code would seem to provide an easier to understand statement as to when the code applies.</p> <p>Model Code wording preferred.</p>

<p>The Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> • 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. 			
<p>No equivalent</p>	<p>Includes a definition of 'meetings' (see para 2.2) which means any meeting of:</p> <ul style="list-style-type: none"> • 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 Members, 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. 		<p>This is for the purpose of being clear when declarations of interest need to be made. The Model code refers to meetings in the context of declarations. So if revisions to interests or declarations of them are to be considered / made then consideration ought to be given to defining what is meant by meetings in that context.</p> <p>It was agreed to keep this wording for clarity.</p>

General Obligations

LGA Model Code	EDDC Code	Comments on differences	Observations / outcomes
<p>1. Respect As a councillor: 1.1 I treat other councillors and members of the public with respect.</p>	<p>4.1 You must a) treat others with courtesy and respect;</p>	<p>Reference to courtesy not included in Model Code.</p>	<p>Model code wording preferred but with 'courtesy' included.</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>		<p>Specific distinction to highlight employees & volunteers of the local authority and employees and representatives of partner organisations and the role they play.</p>	
<p>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.</p>	<p>5.1 You must not b) 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);</p> <p>c) bully or harass any person;</p>	<p>EDDC’s code focuses on behaviour that would cause ‘the Council’ to breach the equality enactments – so wider than just the Equality Act – but also any other statutory duty. The Model Code makes this personal to the individual Councillor and focusses solely on the Equality Act 2010.</p> <p>The difference in terms of bullying / harassment is the definitions that underpin the obligation; <u>EDDC ‘s</u> <i>Bullying may be characterised as;</i> <i>(i) offensive, intimidating, malicious or insulting behaviour;</i> <i>(ii) an abuse or misuse of power or authority, or</i> <i>(iii) other actions, which undermine or coerce or have the effect of undermining or coercing by gradually eroding confidence or ability or which otherwise humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious.</i></p> <p><i>The Equality Act 2010 defines harassment as ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s</i></p>	<p>Does the Council wish to adopt a Code that enables a finding that an individual has discriminated unlawfully as opposed to it causing the Council to breach.</p> <p>Is there any real difference in the definitions? Is one preferable to the other?</p> <p>Bullying / harassment can result in both civil and criminal liability. The Council can be liable (in civil law) for acts carried out by a member when acting in official capacity. This would be the case irrespective of whether a member may also be found to have breached the Code of Conduct.</p> <p><u>Sexism</u> Council (21 October 2020) resolved to refer the Fawcett Society Recommendations (Local Government Commission The Fawcett Society) in relation to sexism to the Standards Committee. The specific recommendation from the 2017 report was; ‘Codes of conduct to address sexism and discrimination, with formal standards committees to be established</p>

		<p><i>dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual or noticed by others. It can relate to an individual or group of individuals.</i></p> <p><u>Model</u> <i>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.</i></p> <p><i>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.</i></p>	<p><i>with a process to make complaints, and able to suspend and then deselect councillors who sexually harass'</i></p> <p>Following the 2019 elections a press statement was issued with revised figures which said; <i>'Codes of conduct against sexism to be introduced, and an effective Standards Committee to enforce it. Fawcett research found a third of female councillors had experienced sexist comments from their colleagues.'</i></p> <p>Members should consider whether there should be specific wording about sexism in the Code of Conduct or whether wording around promoting equality and not unlawfully discriminating, coupled with treating people with respect (and courtesy) is sufficient.</p> <p>Model Code wording to be used with the addition of EDDC wording in relation to not causing the Council to breach statutory or equality duties. Sexism was felt to be appropriately covered as 'protected characteristics' listed.</p>
<p>3. Impartiality of officers of the council As a councillor: 3.1 I do not compromise, or attempt to compromise, the impartiality of</p>	<p>5.1 You must not e) do anything which compromises or is likely to compromise the impartiality of</p>	<p>No difference.</p>	<p>Model Code wording agreed.</p>

<p>anyone who works for, or on behalf of, the local authority.</p>	<p>those who work for, or on behalf of, the Council;</p>		
<p>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.</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>5.1 You must not 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;</p> <p>(g) prevent another person from gaining access to information to which that person is entitled by law;</p>	<p>Confidentiality and access (4.1 & 4.3 and 5.1(f) & (g)) are essentially the same. The only difference is that the Model Code requires the Monitoring Officer to be consulted prior to disclosure (4.1 (b)(iv)(3)).</p> <p>Restriction on use of information for advancement (4.2) is not directly covered in EDDC's code. However note paragraph 5.1(a) which relates to using your position to improperly confer or secure an advantage.</p>	<p>As the release needs to be in compliance with the Council's reasonable requirements—it makes sense that what those reasonable requirements are actually established.</p> <p>Whether it is considered necessary for this to be included given paragraph 6 of the Model Code and 5.1(a) of EDDC's code (see below).</p> <p>Model Code wording agreed.</p>

<p>4.3 I do not prevent anyone from getting information that they are entitled to by law.</p>			
<p>5. Disrepute As a councillor: 5.1 I do not bring my role or local authority into disrepute.</p>	<p>5.1 You must not (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>'my role' v 'your office' 'local authority' v 'Council'</p> <p>No real difference.</p>	<p>Model Code wording agreed.</p>
<p>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.</p>	<p>5.1 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;</p>	<p>No real difference</p>	<p>Model Code wording agreed.</p>
<p>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.</p>	<p>No specific equivalent</p>		<p>It would seem prudent to have this or something similar. The Council have previously relied on paragraph 1.3(g) and (h) in general terms in conjunction with (now) paragraph 5.1(a).</p> <p>Model Code wording agreed.</p>

<p>8. Complying with the Code of Conduct 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>8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.</p>	<p>Paragraph 1.9 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 and equalities training and a failure to do so will preclude Members from sitting on any committee of the Council.</p> <p>5.1 You must not 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>Paragraphs 8.1 is not as wide as EDDC's code although it is not directly a breach of the code not to do so – it simply means you may not be able to sit on committees.</p> <p>Paragraph 8.3 does not include reference to complainants and /or witnesses in a complaint.</p> <p>Paragraphs 8.2 & 8.4 not covered.</p>	<p>It is considered prudent to include a commitment to undertake training. It will need to be considered whether, in addition to becoming a breach a preclusion on sitting on committees should be included.</p> <p>It is considered that it should be expressly state that witnesses / complainants should not be intimidated.</p> <p>The issue of who should pay for training costs when imposed as a sanction needs to be considered. The Standards Committee have considered this (19th January and the inquorate meeting of 23rd April) and will be considering this further at its next meeting.</p> <p>Model Code wording agreed although EDDC's wording on intimidating complainants and witnesses to be included. Also EDDC's specific preclusion on sitting on committees if training not undertaken to be included.</p>
<p>9. Interests As a councillor:</p> <p>9.1 I register and disclose my interests.</p>	<p>6.1 You must, within 28 days of: a) this Code being adopted by, or applied to, the Council; or b) your taking office as a Member or Co-opted Member of the Council, whichever is the later, provide written notification to the Council's Monitoring Officer of:</p>		<p>It is considered that paragraph 9.1 is sufficient in terms of requiring registration and declaration of interests. A comparison on the approach to interests is in the table further below.</p> <p>Model Code wording agreed.</p>

	<p>(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 or as if you were civil partners); and</p> <p>(ii) any other personal; interest laid down by the Council, as set out at paragraph 7 below which will be recorded in the Council's Register of Members' Interests and made available for public inspection on the Council's website. You will be asked annually to confirm that there have been no changes in your interests.</p> <p>6.2 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 a new register of interest to the Council's Monitoring Officer.</p> <p>6.3 Whether or not an interest within paragraphs 7.1 to 7.5 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are</p>		
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	present in any matter being considered in line with paragraph 8 below, where the matter is not a 'sensitive interest'.		
<p>10. Gifts and hospitality</p> <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 refused to accept.</p>	<p>9.1 You must declare to Democratic Services any gifts or hospitality worth more than an estimated value of £25 which you have received by virtue of your office for inclusion in the Member's Gifts and Hospitality Register.</p>	<p>10.1 is not covered in EDDC's code directly but arguably it is covered by paragraphs 5.1(a) and 4.1(b). It is not clear what is meant by 'real or substantive personal gain' unless this is equivalent to bribery.</p> <p>EDDC has a lower threshold and doesn't have a time limit to register the gift or hospitality.</p> <p>EDDC does not require gifts / hospitality which have been declined to be included on the register but it is an option to do so if required. What does 'significant' mean in this context.</p>	<p>Should there be a threshold / cumulative sum for gifts from an individual source?</p> <p>Model Code wording agreed. Threshold of £50 agreed but also wording to cover gifts / hospitality below the threshold but which cumulatively may be cause for concern.</p>

Interests (Appendix B and Table 1 & 2 in the Model Code)

<p><i>Disclosable Pecuniary Interests</i></p> <p>Appendix B Introduction and paragraphs 1 – 5 and Table 1</p>	<p><i>Disclosable Pecuniary Interests</i></p> <p>Paragraphs 6.1 – 6.5, 7.1, 7.6, 7.7, 8.1 - 8.2</p>	<p>These provisions both replicate the legal position and there is no real difference between them.</p>	<p>Clarity over extent of information in relation to property interests entered in the register – should maps, HMLR title register numbers or field numbers be mandated?</p> <p>Model wording agreed – although this simply reflects the legal position.</p>
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			Discussion over requiring land to be identified.
<p><i>Other registrable interests</i> 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 <u>and</u> to which you 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>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><i>Register of Personal Interests</i> 7.2 – 7.3, 8.2</p> <ul style="list-style-type: none"> - Council appointed / nominated representative to any body / organisation - Membership of any other body exercising functions of a public nature - Membership of any body directed to charitable purposes - Membership of any body whose principal purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out your duties as a Councillor - Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income. <p>Must disclose but can remain and vote.</p>	<p>Model doesn't cover the land interests and doesn't cover the general 'membership of a body that might create conflict' such as the Freemasons for example.</p> <p>Model code is more draconian on action that should be taken if there is an 'other registrable interest' in that can only speak (if members of the public can) but can be involved in discussion or vote and must leave. EDDC's would permit complete involvement.</p> <p>Not clear on what basis of dispensation would be – do these align to the dispensations in relation to disclosable pecuniary interests as specified in the Localism Act 2011.</p>	<p>Basis for dispensation</p> <p>Model Code wording agreed.</p>
<p><i>Disclosure of non-registerable interests</i> Appendix B paragraphs 7 – 10</p>	<p><i>Register of Personal Interests</i> <i>Para 7.4 presents the catch all</i></p>	<p>The Model draws a distinction between 'directly related' to and 'affecting'. The wording in relation to 'affect' is most</p>	<p>Model Code wording agreed.</p>

<p>Two limbs;</p> <p><u>(i) Which 'directly relate'</u> Covers matters directly relating to your financial interests or well-being (but is not a DPI) or those of a relative or close-associate.</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><u>(ii) Which 'affect'</u> Covers matters affecting your financial interests or well-being or those of a relative or close-associate or a body that is included under Other Registerable Interests.</p> <p><i>'affect'</i> means; To a greater extent than it affects the financial interests of the majority of the inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe it would affect your view of the wider public interest.</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>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.</p> <p>Must disclose but can remain and vote.</p>	<p>closely aligned to the wording of the EDDC Code but the scenarios the wording in relation to 'directly relate' cover should still be caught effectively.</p> <p>Not clear on what basis of dispensation would be – do these align to the dispensations in relation to disclosable pecuniary interests as specified in the Localism Act 2011.</p>	
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Notable omissions in comparison to EDDC Code

1.3	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 Council;	Having regard to the Code of Publicity and the Council's Communications Protocol / Code could be incorporated into paragraph 7 of the Model Code. To be included
1.3	i) you must have regard to the Codes and protocols forming part of the Council's Constitution;	It is worth tying in compliance with the other Codes / Protocols so that a failure to comply with them would be a breach of the Code of Conduct. To be included
Paragraph 1.9	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 and equalities training and a failure to do so will preclude Members from sitting on any committee of the Council.	Although note paragraph 8.1 of Model Code To be included but with 'safeguarding' also included as mandatory.
Paragraph 4.1(b)	You MUST 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 Council;	Not included.
Paragraph 4.1(c)	You MUST c) Before making any written allegation to the Monitoring Officer about the conduct of another Member of this authority or a Member of one of the Parish Councils within East Devon you shall first consult with the Council's Monitoring Officer.	Not included.
Paragraph 5.1(i)	You MUST NOT (i) act as agent for people pursuing planning matters within the Council's area.	To be included
Paragraph 9.2	Whether or not the receipt of gifts or hospitality has been entered into the register in accordance with paragraph 9.1 above, you should disclose the existence of any gift or hospitality where you are present at a meeting and where the gift or hospitality received is relevant to the matter of business being discussed.	To be included
Guidance on bias and predetermination	Guidance on Bias and Predetermination – This is not part of the Code of Conduct 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	To be included

	<p>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.</p> <p>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.</p> <p>It should be noted that there 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'.</p>	
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