Constitution of West Lindsey District Council

Part III

Codes and Protocols

Codes and Protocols

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The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of Anti-Semitism, as a clear message that Anti-Semitic behavior will not be tolerated.

Members' and Co-opted Members Code of Conduct

Adopted by Council – 1 November 2021

November 2021

West Lindsey District Council Members' Code of Conduct

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Joint statement

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

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to

represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

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

Introduction

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

West Lindsey District Council resolved on 1 November 2021 to adopt the LGAs model Code in its entirety.

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

The LGA will undertake an annual review of their Model Code to ensure it continues to be fit- for- purpose, incorporating advances in technology, social media and changes in legislation.

West Lindsey District Council will consider any the recommendations from any such reviews and adopt any changes it considers appropriate through its governance processes.

Definitions

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

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

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

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

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set

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

General principles of councillor conduct

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

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

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

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

In undertaking my role:

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

Application of the Code of Conduct

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

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

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with

knowledge of all the facts that you are acting as a councillor;

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

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

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

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

Standards of councillor conduct

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

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

General Conduct

1. Respect

As a councillor:

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

Respect means politeness and courtesy in behaviour, speech, and in the written word.

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

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

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

2. Bullying, harassment and discrimination

As a councillor:

- **I do not bully any person**
- **I do not harass any person**
- **I promote equalities and do not discriminate unlawfully against any person.**

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

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

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

3. Impartiality of officers of the council

As a councillor:

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

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

4. Confidentiality and access to information

As a councillor:

- **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 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.**

- **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.**

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

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

5. Disrepute

As a councillor:

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary

members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

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

6. Use of position

As a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

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

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

Examples include:

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

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in

accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

- **I undertake Code of Conduct training provided by my local authority.**
- **I cooperate with any Code of Conduct investigation and/or determination.**
- **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

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

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

- **I register and disclose my interests**

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

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

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

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

10. Gifts and hospitality

As a councillor:

- **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.**

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

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

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

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

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

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

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

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

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]
6. A Member who has left the meeting should not be visible to the remaining committee members, or attempt to contact those taking part in the meeting via electronic means, in order as to not influence the decision in any way.

Disclosure of Other Registerable Interests

7. 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

8. 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.

9. Where a matter arises at a meeting which affects -

9.1. your own financial interest or well-being;

9.2. a financial interest or well-being of a relative or close associate; or 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

10. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being

10.1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

10.2. 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.

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

Table 1: Disclosable Pecuniary Interests

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

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

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

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

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest

a) any unpaid directorships

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body
   a. exercising functions of a public nature
   b. directed to charitable purposes or
   c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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

Appendix C – the Committee on Standards in Public Life

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

The recommendations cover:

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

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

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

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

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

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

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

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

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

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as

soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

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

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

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

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

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

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

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

Guidance on Members' and Co-opted Members Code of Conduct

Adopted by Council – 1 November 2021

November 2021

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Guidance on Local Government Association Model Councillor Code of Conduct

We are pleased to publish this supporting guidance which is aimed to help understanding and consistency of approach towards the code. The code, together with the guidance, has been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of councillor in local government.

08 Jul 2021

Part 1 - Introduction

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

West Lindsey District Council resolved on 1 November 2021 to adopt the LGAs model Code in its entirety.

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

This guidance embeds the provisions of the code.

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

West Lindsey District Council will consider any the recommendations from any such reviews and adopt any changes it considers appropriate through its governance processes.

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

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

General principles of Councillor conduct

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

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

Application of the Model Councillors' Code of Conduct

When does the Code apply?

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

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

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

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

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

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

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

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

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

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

Acting as a private individual

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

Example

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

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

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

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

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

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

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

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

For example:

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

Examples

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

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

A councillor returning from a party got into an argument with a taxi driver. When he arrived home, he refused to pay the fare and when he spoke to the manager of the taxi company, he said that he was a councillor and would make sure that the taxi driver's licence was withdrawn by the council. While he was entitled to dispute the payment if he was dissatisfied with the service he had received he was found to have breached the code by invoking his office and seeking to misuse his position to intimidate the manager and driver

Social media postings

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

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

Each matter would need to be looked at on a case-by-case basis (see Part 2 below)

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

To help avoid some of these issues, some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy

settings are no guarantee that posts or actions will remain private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting. If your local authority has guidance on the effective use of social media this can help.

The LGA has published guidance on councillors [https://local.gov.uk/councillors-and-social-media] and social media.

Examples

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

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

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

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

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

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

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

What if I sit on more than one local authority?

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

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

What is a co-opted member?

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

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

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

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

Part 2 – General obligations under the Code of Conduct

Respect

As a councillor:

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

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

Respect

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

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

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

Disrespectful behaviour

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

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

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

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

Freedom of expression

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

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

struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

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

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

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

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

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

Can councillors criticise officers?

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

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

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

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

What kinds of conduct are not covered?

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

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

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

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

Examples

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

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

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

Bullying

As a councillor:

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

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

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

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

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

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying can sometimes be overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor leadership style" or a "bad attitude," for example, or to the problem being due to a "personality clash".

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

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

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

Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures

- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

Freedom of expression 'Respect' guidance Part 2

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

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.

Preventing bullying conduct from developing

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

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

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

Bullying and harassment and the law

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

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

- physical assault
- making threats of violence or death threats stalking

- hate crimes
- sexual harassment

Intimidation of councillors

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

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

Harassment

As a councillor:

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

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

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

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

Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance,

lewd comments, and offensive jokes overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures

- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

What does the law say about harassment?

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

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

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

Examples

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

Discrimination

As a councillor:

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

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

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

paragraph of the Code of Conduct. If you are unsure about the particular nature of the duties of your authority you should seek advice from the monitoring officer or parish clerk.

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

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

There are four main forms of discrimination:

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

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

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

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

Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers

- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

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

Questions

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

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

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

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

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

Examples

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

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

Impartiality of officers

As a councillor:

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

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

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

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

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

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

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

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

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

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

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

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

The fundamentally held principle is that "the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer… that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole (Ahmed v United Kingdom (2000) 29 EHRR 1)

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Examples

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

A councillor who, over a period of six months, persistently sought to influence the decisions of officers dealing with a complaint by his son and daughter-in-law against their local authority tenant neighbour was found, through his actions, to have compromised the impartiality of the officers and to have used his position improperly to promote the interest of his family and to have brought the role of councillor into disrepute in breach of the Code of

What does working on behalf of the authority mean?

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

What if I disagree with the views of an officer?

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

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

Where you have a declarable interest in a matter you are discussing with an officer you should make that clear to the officer – see guidance on declarations of interest in Part 3 below. Where

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

Having regard to Officer advice

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

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

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

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

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

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

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

Confidentiality and access to information

As a councillor:

- **I do not disclose information:**

a. given to me in confidence by anyone

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

unless

- I have received the consent of a person authorised to give it;
- I am required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- the disclosure is:
    - reasonable and in the public interest; and
    - made in good faith and in compliance with the reasonable requirements of the local authority; and
    - I have consulted the monitoring officer prior to its release.

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

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

Confidential information

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

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

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

Disclosure in the public interest

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

- the disclosure must be reasonable

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

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

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

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
   - a criminal offence is committed.
   - your local authority or some other person fails to comply with any legal obligation to which they are subject. a miscarriage of justice occurs.
   - the health or safety of any individual is in danger.
   - the environment is likely to be damaged.
   - that information tending to show any matter falling within the above is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act

with an ulterior motive, for example, to achieve a party-political advantage or to settle a score with a political opponent.

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

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

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

Circumstances in which a local authority can treat information as confidential

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

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

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

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

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

or prosecution of crime.

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

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

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

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

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

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

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

You should use your judgment when you are given information. An individual does not have to explicitly say that information is confidential if they tell you something which a

Examples

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

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

reasonable person would regard as sensitive. You may, however, wish to clarify if somebody tells you something whether they want you to treat it as confidential.

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

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

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

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

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

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

How does this relate to the Data Protection Act?

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

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

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

Access to information

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

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

The 'need to know'

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

In addition to rights set out in law or conferred by your local authority constitution, you have a right to inspect documents if you can demonstrate a "need to know". This isn't a right to a roving commission but must be linked to your performance of your duties and functions as a councillor. For example, the need could more easily be demonstrated by membership of a relevant committee, such as a staffing committee than simply because you are interested in seeing the information. Local authorities have more justification for denying free access to particularly sensitive papers such as childcare or staffing records. You should not seek to get information if you have a declarable interest in it.

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

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

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

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

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

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

Please see the ICO website [https://ico.org.uk] for helpful guidance on data protection and freedom of information.

Disrepute

As a councillor:

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

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions.

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

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

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

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

Questions

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

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

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

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

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

Examples

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

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

The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he

Misuse of position

As a councillor:

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

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

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

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

Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned. This applies equally to parish councillors when your local authority is consulted on planning matters. Similarly, while it is reasonable to expect councillors to help constituents apply to the local authority, for example,

for housing, it is quite improper to seek to influence the decision to be taken by the officers and would also be in breach of paragraph 3 of the code.

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

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

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

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

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

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

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

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

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

Examples

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

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

A local authority leader failed to declare a conflict of interest relating to land he owned. The court found that he used his position as a councillor and instructed a planning officer to alter the road route to benefit his own land's value to a considerable extent. He was found guilty of misconduct in public life for trying to influence the route of a new by-pass to enclose his land in a new development belt, which would have significantly increased its value. He received an 18-month custodial sentence.

A parish councillor was found to have improperly used his position and secured an advantage for a member of the public by asking the parish clerk to make a payment which had not been

approved by the Parish Council in breach of the Code of Conduct. The payment was for repairs to a private road used by the councillor to get to his allotment.

Misuse of resources and facilities

As a councillor:

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

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

Examples include:

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

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

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

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

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

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

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

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

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

What are the "resources of the local authority"?

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

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

What constitutes using resources "improperly for political purposes"?

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

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

However, councillors and monitoring officers will need to exercise considerable care to ensure that this provision is not abused. You must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources will be a breach of the Code of Conduct.

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

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

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

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

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

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

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

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

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

Examples

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

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

Complying with the Code of Conduct

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

As a councillor:

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

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

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

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

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

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

It is equally important if you have made a complaint which the local authority has decided merits investigation that you continue to cooperate. Complaints made simply to damage the reputation of an individual through inferences but which you are not willing to support through your cooperation will damage relationships and will also damage the reputation of you and your local authority.

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

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

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

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

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

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

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

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

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

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

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

1. Gifts and hospitality, you receive in your role as a councillor; and
2. Certain types of interests

Registration of gifts, hospitality and interests Gifts and hospitality

As a councillor:

- 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.

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

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

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

However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that

it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your monitoring officer for guidance.

What does "hospitality" mean?

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

How much detail should I include on the register?

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

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

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

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

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

What about gifts or hospitality I do not accept?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Government's guide to the Bribery Act for employers says that 'the Government does not intend that genuine hospitality or similar business expenditure that is reasonable and

proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act.'

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

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

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

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

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

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

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

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

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

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

Gifts that are clearly made to the local authority, for example a commemorative goblet which is kept on display in the local authority's offices, do not need to be registered in the councillor's

register of gifts and hospitality. However, such gifts ought to be recorded by the local authority for audit purposes.

Register of interests

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

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

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

You must register two different categories of interests:

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

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

Disclosable Pecuniary Interests

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

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

Offences

It is a criminal offence under the Localism Act 2011 to

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

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

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

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

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

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

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

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

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

What is a contract with the local authority?

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

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

How much detail is required of landholdings?

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

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

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

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

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

What about my home and tenancies?

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

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

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

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

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

1. It can be helpful for councillors to state on their form that they have funds invested in specific funds.
2. It can be helpful for councillors to make fund managers aware of their requirement to declare where they hold significant investments within a company that operates in the

local authority's area so that they can be notified if this is the case.

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

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

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

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

Other registerable interests

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

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

With Other Registerable Interests, you are only obliged to register your own interests and do not need to include interests of spouses or partners. Therefore, a spousal interest in a local group is not registerable as an 'other registerable interest'. Failure to register these interests is not covered by the criminal offence but would be a breach of the code.

What is a "body exercising functions of a public nature"?

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

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

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

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

Do local campaigning or Facebook groups need to be registered?

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

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

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

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

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

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

What about membership of a political party or trade union?

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

Sensitive interests

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

What is sensitive information?

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

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

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

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

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

What happens if the information stops being sensitive?

You must notify the monitoring officer of any change in circumstances which would mean that the sensitive information is no longer sensitive within 28 days of the change, for example a change in employment. The information would then be included in the authority's register of interests.

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

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

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

Who should you notify when registering your interests?

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

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

relevant monitoring officer by collecting their interests together, passing them on and regularly asking councillors to review if there have been any changes.

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

Declarations of interest

As a councillor:

- **I register and disclose my interests.**

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

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

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

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

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

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

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

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority, yet is seldom due to actual corruption or even consciously favouring a personal

interest over the public interest on the part of the councillor involved and may have no repercussions for them personally.

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

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

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

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

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

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

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

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

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

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

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

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

Disclosable Pecuniary Interests (Part A of the Register)

Other Registerable Interests (Part B) and

Non-registerable interests

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

Disclosable Pecuniary Interests

(Annex B, paragraphs 4 and 5)

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

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

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

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

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

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

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

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

When does a Disclosable Pecuniary Interest arise?

The Localism Act uses the phrase 'you have a DPI in any matter…'

This wording has led to some confusion as to what circumstances would lead to the need to declare a DPI. The Explanatory Notes to the Localism Act say that section 31 of the Act "requires a member of a relevant authority to disclose a disclosable pecuniary interest that they are aware of (apart from a sensitive interest), at a meeting or if acting alone, where any matter to be considered relates to their interest. It prohibits a member from participating in discussion or voting on any matter relating to their interest or, if acting alone, from taking any steps in relation to the matter (subject to any dispensations)." [our emphasis].

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

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

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

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

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

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

Other registerable interests

(Paras 6, 8 and 9 of Annex B)

The second category of interests are 'other registerable interests' or ORIs.

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

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

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

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

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

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

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

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

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

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

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

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

Non-registerable interest

(paras 7, 8 and 9 of Annex B)

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

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

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

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

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

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

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

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

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

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

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

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

What does "affecting well-being" mean?

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

What are the definitions of relative or close associate?

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

What if I am unaware of the interest?

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

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

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

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

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

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

1. Does the matter affect the interest more than it affects the majority of people in the area to which the business relates? For example, if a major development affects the settlement where your sister lives and your sister would be no more affected than anybody else – for example, she lives at the other end of the settlement rather than next door to the development, the answer would be no. If the answer is yes, you then ask:

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

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

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

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

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

What does 'withdraw from the meeting' mean?

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

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

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

Executive decisions

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

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

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

Dispensations

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

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

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

What is a 'sensitive interest'?

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

An interest will be a sensitive interest if the two following conditions apply: (a) That you have an interest (whether or not a DPI); and (b) the nature of the interest is such that you and the monitoring officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.

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

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

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

What do I do if I need advice?

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

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

No.	Type	Speak	Vote	Stay	Example	Comments
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	*Directly relates to DPI*-foreseeable-narrow-criminal
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	*Directly relates* to finances-foreseeable-narrow-can "address" meeting if public can do, but not take part in discussion.
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	*Affects finances or wellbeing-test* (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	*Directly relates* to finances of you, partner (not a DPI)-a relative or close associate-Unforeseeable- can "address" meeting if public can do, but not take part in discussion.
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	*Affects finances or well-being-test* 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest
2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	*May not affect finances but Well-being=quality of life – apply 2-stage test*

*speak-take part in discussion, as opposed to addressing a public meeting as a member of the public where others can also address the meeting

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

Bias and Predetermination

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

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

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

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

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise the decision is at risk of being challenged on appeal or in the Courts. To quote a leading judgment in this field "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach." [Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)]

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

The first seeks accuracy in public decision-making.

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

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

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

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then

it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. In these circumstances you should not participate in the discussion or vote on the issue. These are covered by the code's requirement to declare certain interests and withdraw from participation. (see guidance on declaration of interests in Part 3).

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

Predetermination

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

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

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

How can bias or predetermination arise?

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

Connection with someone affected by a decision

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

Examples

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

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

Contrast this with:

Improper involvement of someone with an interest in the outcome

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

Examples

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

Prior involvement

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

Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that

body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

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

Examples

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

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

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

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

What do I do if I need advice?

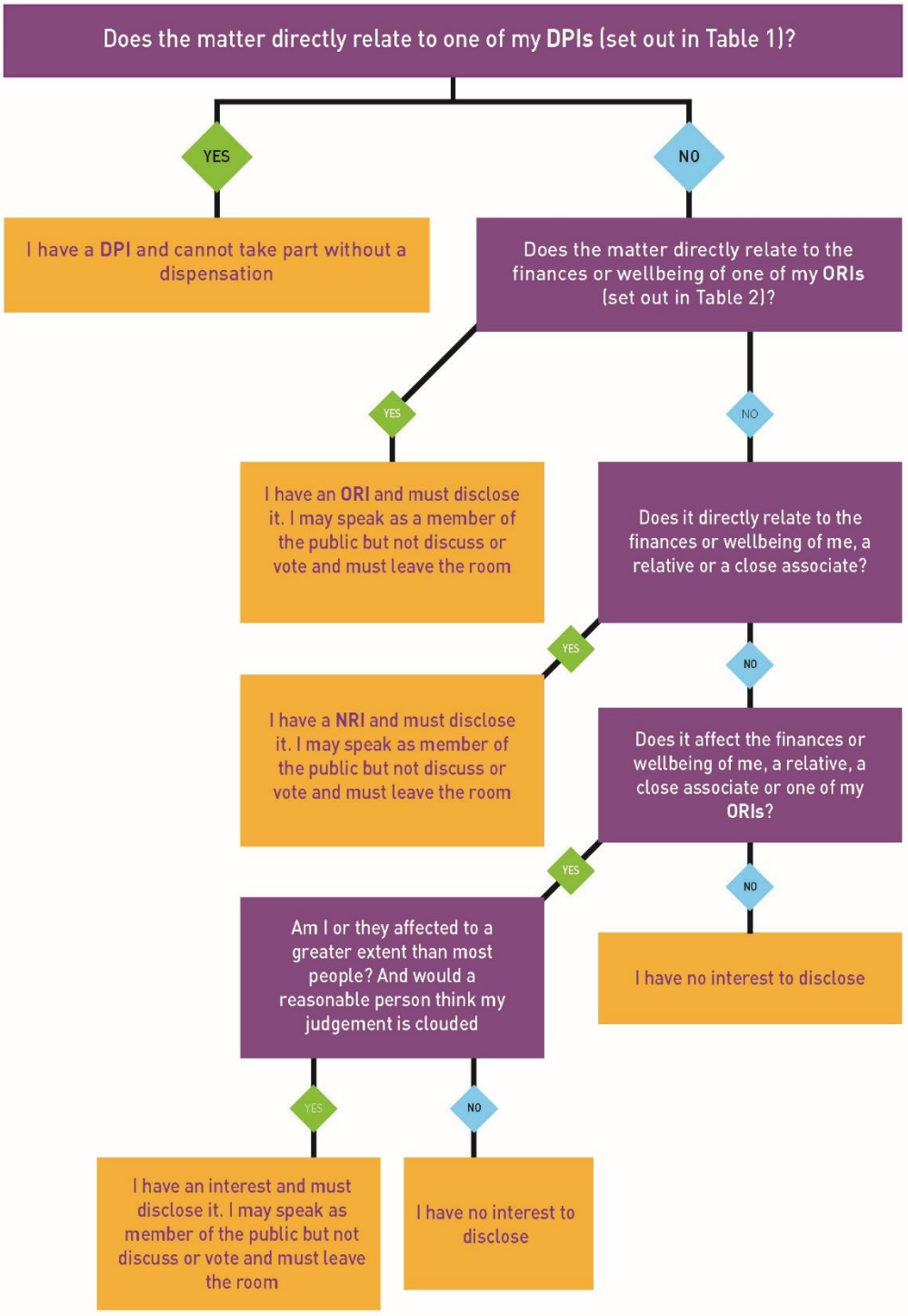
If you are unsure as to whether your views or any action you have previously taken may amount to predetermination you should always seek advice from the monitoring officer (or the clerk if you are a parish councillor).

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

Appendix 1 - Interests Flowchart

Interests Flowchart

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



Appendix 2 - General Principles

General Principles

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

Selflessness Holders of public office should act solely in terms of the public interest.
Integrity Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing
Honesty Holders of public office should be truthful.
Leadership Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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

West Lindsey District Council

Member/Officer Relations Protocol

Member /Officer Relations Protocol

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Member/Officer Relations Protocol

1. Underlying Principles

1.1 Both Members and officers serve the public. They depend on one another, but their responsibilities are distinct. Members are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council; their job is to give advice to Members and to carry out the Council's work.

1.2 Mutual respect between Members and officers is essential to good local government. Close personal familiarity between individual Members and officers can damage this relationship and prove embarrassing to other Members and officers. It is clearly important that there should be a close working relationship between Members, the Chief Executive, Assistant Directors and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an officer's ability to deal impartially with the Member(s) concerned or other Members.

1.3 Members must respect the impartiality and integrity of all the Council's officers. Similarly, all officers must respect the role of Members as elected representatives. It is important that any dealings between Members and officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

1.4 On occasions, Members may have reason to make a formal complaint about the conduct or performance of an officer. All such complaints should be made personally to the appropriate Assistant Director. It is important that complaints are made this way and the details noted.

1.5 If an officer is concerned about a Member's conduct, it should be brought to the attention of the Monitoring Officer, who may inform the Member. If appropriate, matters of concern will be dealt with through the adopted procedures.

2. Roles of Members and Training Requirements

2.1 Members have four main areas of responsibility -

1. determining the policy of the Council and giving it leadership;
2. monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
3. representing the Council externally in an informed and positive manner
4. acting as advocates on behalf of their constituents and the wider community.

2.2 Members should undertake their role without placing undue pressure on Officers, in particular the Council's Statutory Officers have responsibilities in law over and above their obligations to the Council. Members must respect these obligations, must not obstruct these officers in their discharge of responsibilities and must not victimise officers for discharging their responsibilities.

2.3 In undertaking their role, Members are asked to commit to the Training and Development

opportunities that are afforded to elected Members, including a full Induction Programme at the commencement of each term of office.

2.4 There are also mandatory training requirements for a number of the Regulatory Committees to which Members, appointed to serve on these Committees, are required to commit to.

3. Roles of Officers

3.1 Officers give advice and information to Members, implement the policies determined by the Council and manage the day to day business of the Authority.

3.2 In giving such advice to Members and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer might report the views of individual Members on an issue, a Member should not seek to pressure the officer to make a recommendation contrary to the officer's professional view, Neither should the Member seek to have a report withdrawn from the agenda for such reasons. Where a recommendation is contrary to current Council policy, the officer shall draw attention to this in the report.

3.3 Certain officers, e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer, have responsibilities in law over and above their obligations to the Council and to individual Members. Members must respect these obligations, must not obstruct these officers in the discharge of their responsibilities and must not victimise officers for discharging these responsibilities.

3.4 Officers below Assistant Director level are accountable to their Assistant Director. Whilst they should always seek to assist Members, they must not, in so doing, go beyond the bounds of whatever authority they have been given.

3.5 The Authority which has been delegated to Officers, is that which is set out in the Officer Scheme of Delegation (Part IV of the Constitution) and subsequent internal sub-delegations which are in writing and held by each service area.

4. Relationship between Chairman of the Council and Leader of Council and Officers

4.1 The Chairman of the Council and Leader of the Council shall be bound by the same provisions set out in section 2 above when acting as Chairman or Leader as he/she would be when acting as an ordinary Council Member.

5. Relationship between Group Leaders and the Chief Executive and Assistant Director

5.1 Group Leaders shall meet collectively and informally with the Chief Executive from time to time to discuss matters of common interest or concern either raised directly by a Group Leader or by the Chief Executive or other Statutory Officer.

5.2 Such meetings will have no formal standing or powers. There is an expectation, that proceedings in the main are something that Group Leaders are expected to share with the Members of the Group. Any items which are not to be shared will be clearly identified at the meeting.

5.3 An individual Group Leader can also request a meeting with the Chief Executive.

5.4 Again Such meetings will have no formal standing or powers and shall, unless otherwise agreed, be confidential other than to that Group Leader.

6. Relationships between Committee Chairmen and Officers

6.1 Officers will regularly brief Chairmen on matters affecting their committee.

6.2 Any Chairman or spokesman may have a briefing from officers, at a mutually agreed time, on matters to be discussed at a forthcoming committee meeting.

6.3 Reports always contain a recommendation unless the issue is clearly one where political judgement is required. They will also always include the contact details of the report author. Members should raise issues with that officer prior to the committee meeting where practicable, in order that Officers can have the relevant information to hand Members are also permitted and encouraged to raise queries and comments in advance of a meeting with the relevant Committee Chairman.

6.4 An Assistant Director will always be fully responsible for the contents of any report submitted in his/her name. Wherever possible, Chairmen will be given the opportunity to view, and discuss the draft agenda and reports for their committee. All agendas should be agreed by the Chairman of a committee before publication. Any issues arising between a Chairman of a committee and an Assistant Director regarding the content of an agenda will be referred to the Monitoring Officer for resolution in consultation with the Leader of the Council.

6.5 The Chairmen and members of the policy committees shall give officers the opportunity to give any advice they wish to give.

6.6 In relation to action between meetings, it is important to remember that the law (LGA '72/'00) only allows for decisions (in relation to the discharge of any of the Council's functions) to be taken by a committee or an officer (where delegated to do so). No Individual Member, in any capacity, has individual decision making powers.

6.7 All Members shall seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or the Monitoring Officer and other appropriate officers where they consider a policy committee decision might be contrary to the policy framework.

6.8 Members and officers should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should be dealt with in private and, by the same token, officers will never be publicly critical of the Council or its policies.

7. Relationships between Chairman and Members of the Overview and Scrutiny Committee and Officers

7.1 The Chairman and members of the Council's Overview and Scrutiny Committee – the Overview and Scrutiny Committee shall be bound by the same provisions set out in section 2 above. In addition, they shall -

- consider the seniority of the officers asked to appear before it to ensure that more junior officers are not put under undue pressure;
- when asking officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions;
- where they consider it appropriate, ask officers to explain and justify advice given to members of the policy committees prior to decisions being taken; and
- not question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.

7.2 Officers are required at all times to guide/advise the whole Council. Given the respective roles of elected members and officers, it is accepted that officers, while remaining politically neutral, will inevitably give advice on a wide range of issues. Members must continue to respect the political neutrality of officers and accept that officers are obliged to respond positively to any requests from the Overview and Scrutiny Committee for appropriate information and advice relevant to the issue being considered by the Committee.

8. Relationships between Chairmen and Members of Other Committees and Officers

8.1 The Chairmen of all Regulatory Committees and Sub-Committees shall be bound by the same provisions as set out in section 2 above.

8.2 The Chairman and Members of the Planning Committee must also act in accordance with the requirements set out in the document entitled the "Local Code of Conduct for Councillors and Officers dealing with Planning Matters".

9. Relationship between Policy Committee Chairmen and Officers

9.1 The Chief Executive and/or Assistant Directors will meet jointly with the Policy Committee Chairman on a regular basis to discuss matters which cross cut both committees. Members will be permitted to share the content of such meetings with wider Members as they deem appropriate unless explicitly advised not to do so.

10. Officer Relationships with Party Groups

10.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body. Meetings between the Chief Executive, Assistant Director, the Leader and Deputy Leader (if there is one), Committee Chairmen and/or group leaders will be held when appropriate albeit that they have no executive powers.

10.2 In order to ensure that Members are properly briefed on complex matters any political group may request via the Head of Paid Service that senior officers be asked to brief the group and offer appropriate professional advice concerning Council business. Any such invitation will be deemed to include an invitation to the Head of Paid Service or relevant Assistant Director.

10.3 Officers have the right to refuse such requests, and will not normally attend a meeting of a party group where some of those attending are not members of the Council.

10.4 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

10.5 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

10.6 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

10.7 In their dealings with party groups, officers must treat each group in a fair and even-handed manner. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.

10.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.

10.9 No Member will refer in public or at meetings of the Council to advice given by officers to a party group meeting.

10.10 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Monitoring Officer and the relevant party group leader.

11. Members in their Ward Role and Officers

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members should be notified at the outset of the exercise.

11.2 Any requirement to consult with Members on delegated decisions are effecting their Ward are set out in the "Responsibility for Functions" in Part IV of this Constitution.

11.3 Further to paragraph 10.2 when a Member refers a planning application for his/her Ward to the Planning Committee for determination, there is an expectation that the Member will attend the Committee meeting to explain their reasons for referral.

11.4 Officers will seek both to inform and to keep Members informed about any initiative(s) which they are developing. However, Members must be aware of the pressures on

officers' time and that officers may exercise judgement as to how much information is provided.

11.5 Matters of a complex nature, or with significant implications, such as financial or reputational, will be the subject of an all Member Briefing/Workshop prior to them being considered by the relevant Committee. Members are encouraged to attend such briefings and workshops when requested to do so.

11.6 It is the duty of the Chief Executive and Assistant Directors to ensure that all relevant staff are aware of the requirement to keep local Members informed and that the timing of such information allows Members to contribute to the decision making process.

12. Inter Member Relations

12.1 Notwithstanding the differences of political opinion which will inevitably arise, it shall be unacceptable for Members to submit notices of motion or questions which name another Member or Group. Motions which identify political positions held within the Council will be deemed acceptable.

13. Member Access to Documents and Information

13.1 The Council believes in open government. Information will generally be freely available to all Members, but any rules on confidentiality must be observed.

13.2 The approach to information being freely available has to be qualified in relation to certain appropriately confidential information. Any provision of information will be compliant with Data Protection. Moreover, devoting a significant amount of staff resources to identify and collate information with marginal benefit cannot be justified.

13.3 Where, in an officer's view, a request for information will require a significant amount of staff resources to provide the information, which he/she feels unable to commit, he/she should seek guidance from his/her Assistant Director so that a satisfactory solution, in consultation with Members, can be found. In the event of a dispute, a decision will be made by the Head of Paid Service in consultation with the leader of the group whose Member is requesting the information or the Leader of the Council.

13.4 Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Member is a member of the committee or sub- committee concerned and extends not only to reports which are submitted to the meeting, but also to any relevant background papers.

13.5 In addition to the inspection of reports to Council, committees and sub- committees, and papers on which the production of those reports relied, which are available to the public under the access to information legislation, the common-law right of Members is much broader. It is based on the principle that any Member has a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a member of the Council. There is, however, no right for a Member to conduct a roving commission.

13.6 The proper exercise of this common-law right is on a need to know basis and depends on whether it is reasonably necessary for the Member to have the information in order properly to perform his/her duties. The propriety of a request for information must initially be determined by the particular Assistant Director who holds the source in question. In the event of a dispute, a decision on the point will be made by the Monitoring Officer, in consultation with the Chairman of the Standards Sub-Committee.

13.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a member of the Council. A Member should never disclose or use non-public information for the personal advantage of him/herself or of anyone known to him/her, or to the disadvantage or discredit of the Council or anyone else.

14. Independent / Lay Persons

14.1 This protocol applies equally to all those people who are not elected members of the Council but who are members of any of the Council's committees or any other bodies.

14.2 This Protocol applies equally to such non Council members on Council bodies as it does to Council members.

15. Press Releases

15.1 Relations with the media need to be handled with care to ensure the Council's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Communications Team, together with the appropriate Committee Chairman, Leader and relevant officers, and where appropriate, the relevant Ward Member.

15.2 On occasions, Members may be approached directly by the media and asked to make a comment or to appear for interview. Members are asked, where practicable, to ensure the Head of Paid Service and/or the Communications Team is made aware of the approach. Unless Members have been authorised to speak on behalf of the Council, they should make it clear that any views they express are not necessarily those of the Council. In all cases, Members and Officers should uphold the good name and integrity of the Council.

15.3 Council press releases are drafted by officers and will often contain quotations (within the limits of the Local Government Act 1986) from Members. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation or to attribute the policies or initiatives to a particular group.

15.4 Council press releases will be sent to all Members in advance of them being released to the Media. This is for information only.

15.5 The timing and content of the Councils Electronic News is controlled by an editorial team advised by the cross party editorial board who must ensure that the content reflects a corporate point of view.

16. Correspondence (including e-mails)

16.1 Correspondence between an individual Member and an officer should not be copied by the officer or Member to any other Member or Officer without the consent of both parties unless it constitutes a 'background paper' to a committee report. Where correspondence relates to Council policy, or the interpretation of Council policy, a copy may be sent to the chairman of the relevant committee, the Head of Paid Service and/or the relevant Assistant Director and this will be made clear to the original Member. Under no circumstances should 'silent/blind (BCC) copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.

16.2 Similarly, Members should not copy for third parties, correspondence from officers without the author's consent unless it is apparent that the content is to be shared.

16.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the rule. Moreover, it is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out in the name of a Member as this would constitute an act which cannot be delegated to an individual Member.

17. Behaviour at Meetings

17.1 Members involved in taking a decision must be fully aware of all of the facts and it is suggested, therefore, that if a Member leaves the room during a debate he/she should consider not taking part in the ensuing decision making.

17.2 In respect of licensing and planning application decisions, a Member who has left the meeting during consideration of the item or who arrived late, will not be permitted to take part in that decision. The Lead Officer in attendance will be responsible for reminding Members of this fact and enforcing the requirement.

17.3 The use of communication devices is permitted within meetings in accordance with the Provisions of the Openness of Local Government Regulations 2014 provisions.

17.4 However as a matter of courtesy mobile 'phones/ devices should not affect the business of the meeting and should remain on silent for the meetings duration.

17.5 The tweeting, blogging or recording of proceedings heard in closed session is strictly prohibited.

Note:

- Members need to be aware that the Freedom of Information Act 2000 gives a general right of access to information recorded in any form, which is 'held' by the Authority at the time a request is received. This includes information which is held by another body, for example, a contractor, on behalf of the Authority

Officer Code of Conduct

Officers of the Council are bound by a Code of Conduct. The Officer Code of Conduct can be viewed at https://www.west-lindsey.gov.uk/council-democracy/how-council-works/key-plans-policies-strategies/officer-code-conduct/officer-code-conduct

Complaints regarding an Officer's behaviour should be made to the relevant service Director in the first instance or to the Chief Executive if the complaint relates to the behaviour of a Director.