



## STANDARDS COMMITTEE

**DATE:** Thursday, 16 July 2020  
**TIME:** 10.00 am  
**VENUE:** Meeting will be held in accordance with the provisions of SI 2020/392. Link to the live stream is found here:  
<https://www.tendringdc.gov.uk/livemeetings>

### MEMBERSHIP:

Councillor Land (Chairman)  
Councillor Steady (Vice-Chairman)  
Councillor J Henderson  
Councillor S Honeywood

Councillor Overton  
Councillor Turner  
Councillor Wiggins

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Ian Ford on 01255 686584 or email [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk).

DATE OF PUBLICATION: Monday, 6 July 2020

## **AGENDA**

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Minutes of the Last Meeting (Pages 1 - 8)**

To confirm as a correct record, the minutes of the meeting of the Standards Committee, held on 5 February 2020.

### **3 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

### **5 Report of the Monitoring Officer - A.1 - Local Government Association Model Member Code of Conduct Consultation (Pages 9 - 52)**

To agree Tendring District Council's formal response to the Local Government Association's Model Member Code of Conduct consultation.

### **6 Work Programme for 2020/2021 (Pages 53 - 54)**

The Committee is invited to give consideration to its work programme for the 2020/2021 Municipal Year.

### **7 Discussion Topics and/or Updates from the Monitoring Officer**

The Monitoring Officer will, inter alia, give a quarterly update on Complaints.



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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,  
HELD ON WEDNESDAY, 5TH FEBRUARY, 2020 AT 10.00 AM  
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Dan Land (Chairman), Maurice Alexander, Peter Harris, Jo Henderson, Graham Steady and Ann Wiggins
<b>In Attendance:</b>	Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Ian Ford (Committee Services Manager & Deputy Monitoring Officer) and Debbie Bunce (Legal and Governance Administration Officer)
<b>Also in Attendance:</b>	Clarissa Gosling, David Irvine and Jane Watts (three of the Council's four appointed Independent Persons)

**19. ELECTION OF A VICE-CHAIRMAN OF THE COMMITTEE**

The Committee gave its consideration to the office of its Vice-Chairman which was vacant following Councillor Amos' replacement as a member of the Committee by Councillor Alexander.

It was moved by Councillor J Henderson, seconded by Councillor Wiggins and:-

**RESOLVED** that Councillor Steady be elected Vice-Chairman of the Committee for the remainder of the 2019/2020 Municipal Year.

**20. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillor Overton (with no substitute) and Sue Gallone (one of the Council's appointed Independent Persons).

**21. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on 2 October 2019 were approved as a correct record and signed by the Chairman.

Further to Minute 15 of the aforementioned Minutes and in regards to the possible provision of a general indemnity cover for Members, Officers and, in particular, the Independent Persons, the Monitoring Officer informed the Committee that the Head of Finance, Revenues and Benefits Services had requested a formal report from the Council's Insurers on the present level of cover and the potential future cover and that an Officer report on this issue would be submitted to the next meeting of the Committee.

**22. DECLARATIONS OF INTEREST**

There were no declarations of interest made at this time.

**23. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

**24. REPORT OF THE MONITORING OFFICER - A.1 - DISCLOSURE AND BARRING CHECKS FOR ELECTED MEMBERS**

The Committee gave consideration to a detailed report of the Monitoring Officer (A.1) which reported the outcome of an investigation into the feasibility of introducing Disclosure and Barring Services (DBS) checks as mandatory for all elected Members (having had regard to the statutory criteria).

The Committee recalled that, at its meeting held on 2 October 2019, it had received a further report of the Monitoring Officer concerning the recommendations within "the Local Government Ethical Standards Report dated January 2019 following a review by the Committee on Standards in Public Life". The Report had set out those recommendations which required legislative changes and those which the Council could adopt through best practice. Following consideration of the report the Committee had resolved that the Monitoring Officer investigate the feasibility of introducing DBS checks as mandatory for all elected Members (having had regard to the statutory criteria) and to report the outcome of such investigation to a future meeting of the Committee.

Members were made aware that, at its meeting held on 23 October 2019, the Human Resources and Council Tax Committee had also requested that the Council gives due consideration as to whether it should conduct DBS Checks on Elected Members.

The Human Resources and Council Tax Committee had determined that it was appropriate for them to consider this matter in the light of its legal duties in respect of safeguarding children and adults with needs for 'care and support', as defined in legislation including the Children Act 2004 and the Care Act 2014. The Human Resources and Council Tax Committee had resolved the following:

*"That the Deputy Chief Executive be requested to investigate the appropriateness and practicalities of introducing DBS checks for all Elected Members of Tendring District Council (such as the budgetary and legal ramifications) and that the outcome of such investigations be reported to a future meeting of the Council (having first been submitted to the Standards Committee for its recommendations) for its consideration and determination."*

That investigation process had involved:

- a review of the approach taken by other local authorities regarding the introduction of DBS check's for Elected Members;
- engagement with Legal, Financial and Democratic Services regarding the practical implications of introducing such a policy.

It was reported that, prior to 2012, Local Authorities had routinely carried out Criminal Record Bureau (CRB) checks on Elected Members. However, the [Protection of Freedoms Act 2012](#) had created the [Disclosure and Barring Service](#) and a new system of checks. This had included a more restrictive set of criteria to determine when checks could be carried out and on whom. Since 2012, the issue of DBS checking for Councillors had become a policy matter for individual Councils.

The Committee was advised that Standard and Enhanced DBS checks could only be undertaken if the specific role, or the specific activities carried out within the role, were included in the [Rehabilitation of Offenders Act \(ROA\) 1974](#) (Exceptions) Order 1975

(access to standard DBS certificates), and were also covered by the Police Act 1997 or Police Act 1997 (Criminal Records) Regulations (access to enhanced DBS certificates). Those laws only provided eligibility for DBS checks, they did not make them a requirement.

Members were informed that decisions on when and whether to undertake a DBS check were for the relevant employer or regulator to make. If the Council were to consider asking a person to apply for either a standard or enhanced DBS check, as the employer, the Council would be legally responsible for making sure the job role was eligible. There was currently no legal basis on which the Council could currently require or seek either Enhanced or Standard DBS Checks for Elected Members as the role did not constitute a 'named position' eligible for checks, and Ward Councillors did not carry out '[regulated activity](#)' as defined by the Freedom of Information Act 2012.

The Committee was of course aware that some Elected Members may have had DBS checks, albeit in another capacity, for example if they were a School Governor.

It was reported that Elected Members who did not carry out any of the specific educational and/or social service functions but who did attend community events, take surgeries or visit local residents in their own home where they had access to the general public, including children, did not meet the legislative criteria, as outlined above. However, a Basic Check could be requested.

It was further reported that, although the legislative framework allowed discretion on the issue of Basic checks those Basic checks would only show "Unspent Convictions & Cautions" from the Police National Computer (PNC), (i.e. *those that were considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974*). Those checks would not show spent convictions, cautions, warnings, reprimands, other relevant police information, or the children or adults barred list and were therefore often considered to be of limited value. In addition, those Basic DBS checks would also need to be applied for by the individual themselves via the Government Website.

The Committee was aware that its Terms of Reference were to promote and maintain high standards of conduct by Members and Co-opted Members of the authority and to inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints. No concerns had been raised through the determination of Code of Conduct complaints which would give justification to requiring a mandatory scheme of basic DBS checks for elected Members.

Members were informed that, in September 2017, the Department for Communities and Local Government had consulted on proposals to update the disqualification criteria for councillors and Mayors in order to bring it into line with both modern sentencing practice and the values and high standards of behaviours the electorate had a right to expect of the elected Members that represented them.

The Government had considered that there should be consequences when councillors, mayors and London Assembly members fell short of the behaviour expected in an inclusive and tolerant society and where that behaviour had led to a conviction or enforcement action resulting in an individual being subject to one or more of the following:

- the notification requirements set out in the Sexual Offences Act 2003;

- a civil injunction granted under Section 1 of the Anti-social Behaviour, Crime and Policing Act 2014; or
- a Criminal Behaviour Order made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014.

The Committee was reminded that this Council had responded to the consultation supporting those proposals. Any changes to the disqualification criteria would require changes to primary legislation. In October 2018, the Government had published its response to the outcome of the consultation stating that they would seek to legislate in order to ensure that councils across England would have the power to prevent individuals from standing for election or holding office as local authority members or Mayors.

It was reported that Colchester Borough Council, at the request of its Governance and Audit Committee, had considered whether it should implement Disclosure and Barring Service checks for Elected Members. Their investigation into the matter had included obtaining information on the approach of neighbouring, second tier local authorities, towards DBS checks (*both in October 2017 and February 2018*), to which they had reported, all eight responses had confirmed that no checks (*including Basic Level checks*) were carried out by neighbouring authorities.

Members were advised that a similar exercise had been undertaken by Harlow Council in 2019, they had reported that the following Councils: *Dacorum, Maldon, Castle Point, East Herts, Colchester, Brentwood, Basildon, Welling & Hatfield, Chelmsford, Braintree, Stevenage, Uttlesford and Epping Forest*, had each responded to confirm that they did not carry out DBS checks on Councillors. Following their research, Harlow Council was not proposing to start carrying out DBS checks on its Elected Members.

It was the conclusion of the Monitoring Officer there was no legal basis on which the Council could currently require or seek either Enhanced or Standard DBS Checks on Elected Members. Although the legislative framework allowed discretion on the issue of Basic Checks, there was no clear case for the introduction of such a measure: Basic checks revealed "Unspent Convictions" only, and were therefore of limited value, and there was no clear framework for the enforcement of such a policy as it was not required in law.

Having considered and discussed the information provided in the Monitoring Officer's report and whether the Council had a Safeguarding Policy, which gave advice and guidance to elected Members in fulfilling their functions and the legal advice provided by the Monitoring Officer:-

It was moved by Councillor Alexander, seconded by Councillor Harris and:-

**RESOLVED** that the Committee –

- (a) notes the outcome of the investigation into introducing DBS checks as mandatory for all elected Members (having had regard to the statutory criteria);
- (b) endorses that the Council continues with its current approach of not requiring or seeking DBS checks for Elected Members;



- (c) recommends that should a Tendring District Councillor wish to pursue their own Basic DBS Check, then the cost should be reimbursed to that individual councillor; and
- (d) requires that a review of the Council's Safeguarding Policy be carried out and reported back to the next meeting of the Committee and that such a review focus on the role and activities of Members in their Ward work and:-
  - (1) whether examples of best practice and guidance can be issued to Members to assist them in handling or avoiding problematical situations; and to
  - (2) investigate what reasonable and practical steps can be taken to ensure that Members have considered and taken on board the contents of the Safeguarding Policy.

**25. REPORT OF THE MONITORING OFFICER - A.2 - MANDATORY TRAINING FOR MEMBERS - ANNUAL UPDATE**

There was submitted a report (A.2) by the Monitoring Officer which sought to update the Committee, as part of its agreed work programme, on the current position of mandatory training for Members and named substitute Members of the Council's Audit, Licensing & Registration, Planning and Standards Committees.

The report reiterated the Council's decision and constitutional requirement to make relevant training mandatory for Members, and their named substitutes, in respect of their membership on those committees which provided regulatory type functions. The report also detailed training undertaken and attendance to date.

Appendix A to the report provided details of those Members who had attended the new Code of Conduct training in May 2019 (which had previously been reported to the Committee at its meeting held in July 2019). Since then two additional District Councillors had received training which had been delivered at Harwich Town Council in December 2019. The Monitoring Officer confirmed that due to the type of matters considered by the Standards Committee, each topic involved consideration of the relevant factors and in doing so the Committee received a range of information to take into account. When hearings were required to determine the outcome of Members' Code of Conduct complaints a briefing would be held with the Committee beforehand, though no hearings had been undertaken so far in 2019/20.

The Committee was made aware that, in February 2020, the Monitoring Officer would be delivering two training sessions to Parish and Town Councillors. Invites would also be sent to those District Councillors who had yet to receive the required training for this year. The Monitoring Officer informed the Committee that at the first of these training sessions held on 4 February 2020 three additional District Councillors had received Code of Conduct training. This left a total of 11 District Councillors outstanding.

Appendix B to the report provided details of the Planning Committee Mandatory Training for 2019/20. The Committee noted that a range of subjects had been delivered, with concentration on determining applications being included within the post Council elections training for newly elected Members, Appeals and Affordable Housing. Those sessions were essential to understanding the various considerations to be taken into account by the Planning Committee when making decisions on applications. It was reported that a further session was scheduled for 28 January 2020 which would cover

the Planning Inspector's decisions with regard to the planning enforcement appeals at Point Clear, St Osyth. The Monitoring Officer verbally reported at the meeting that all members of the Planning Committee had attended that session.

Appendix C to the report detailed the training record for the Licensing and Registration Committee. As usual only one session had been delivered (in June 2019) but it had covered a range of topics. Two additional 1-2-1 training sessions had been delivered to members of that Committee who had either been unable to attend the first session or had been newly appointed to the Committee.

In respect of the Audit Committee the Committee was informed that the Head of Finance, Revenues and Benefits & Section 151 Officer had undertaken general Audit Committee post-election induction training for all members of the Committee prior to its first meeting in the current municipal year.

The Committee was reminded that in order to ensure that the training was successful and the principles had been understood by Members, each session had tended to have a workshop style question and answer session at the end. This style had been adopted by the Licensing and Registration and Planning Committees' training sessions and had worked well for both Members and officers and had encouraged debate.

Members were made aware that the Audit Committee, at its meeting held on 30 January 2020, had decided that a letter should be sent jointly in the names of the Chairmen of the Standards Committee and of the Audit Committee to strongly urge all Members to attend all Members' Briefings and that such letter also:-

- (1) requests feedback from Members as to the reasons why they were unable/unwilling to attend Members' Briefings;
- (2) requests their suggestions on how the organisation of those Briefings could be improved e.g. arranged on different days and/or at different times of the day; and
- (3) inform Members that the letter has been sent because there is concern about the reputational risk to the Council arising from low Member attendance at the Briefings together with the financial cost to the Council of arranging such Briefings.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Wiggins and:-

**RESOLVED** that the Committee -

- (a) notes the contents of the report and its Appendices;
- (b) continues to encourage Members of the Planning, Licensing and Registration and Audit Committees to attend organised mandatory training events in order to comply with the requirements of the Council's Constitution;
- (c) requests the Review of the Constitution Portfolio Holder Working Party to investigate whether it would be feasible for the Planning Committee to have a pool of trained Members who could be drawn on to be a substitute Member(s) at a Planning Committee meeting in order to maintain its level of membership and protect the probity of that Committee. Such investigation would be required to focus on, but not be limited to, issues such as:-

- (1) the legal basis of such a pool e.g. the rules of political proportionality; and  
 (2) the implications for the Council's Constitution e.g. ensuring that the choice of substitute remained with the relevant Political Group Leader;
- (d) requests Officers to investigate alternative ways of providing Code of Conduct training to Members e.g. via an on-line mechanism, with a view in the longer term to making undergoing training on the Code of Conduct a mandatory requirement for Members; and
- (e) requests that, within the joint letter referred to above, the importance of Members' attendance at Code of Conduct training be included and that the schedule of Member attendance at Code of Conduct training shown in Appendix A be attached to that letter.

## 26. QUARTERLY UPDATE ON COMPLAINTS

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave an update on cases, without providing any names, and went through it with the Committee.

The Monitoring Officer stated that there were no existing cases but that there were a number of new cases and she gave details as follows:-

New Cases since last update:				
Council	Complainant	Current Status	Final Outcome	Comments
Parish	Member of the Public	Closed	No further action	Related to comments on Facebook made by Chairman of a Parish Council on its behalf – considered a right to respond to Complainant's initial comments on social media regarding the Parish Council's actions. The Parish Council Chairman did not name the individual and a reasonable general response had been issued.

Parish	Member of the Public	Independent Person consulted – Decision Notice to be issued	Pending	Likely to recommend informal resolution to improve relationships within the Parish.
District (x2)	Member of the Public	Complaint to be sent to Councillors concerned to comment on	Pending	Relates to accessibility of Ward Councillors to those who do not have access to the Internet.

The Committee was also made aware that the Monitoring Officer had delivered a refresher session on the Code of Conduct to Harwich Town Council in December 2019 together with further training delivered to a number of Town and Parish Councillors on 4 February 2020. Both had been well-received with positive feedback. A further session had been arranged for 18 February 2020.

It was reported that there had been no requests for dispensations from Members since the last update.

The Committee noted the foregoing.

The meeting was declared closed at 11.45 am

**Chairman**

## STANDARDS COMMITTEE

16 JULY 2020

### REPORT OF THE MONITORING OFFICER

#### A.1 LOCAL GOVERNMENT ASSOCIATION MODEL MEMBER CODE OF CONDUCT CONSULTATION

(Report prepared by Lisa Hastings)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

For the Standards Committee to agree Tendring District Council's formal response to the Local Government Association's Model Member Code of Conduct consultation.

##### EXECUTIVE SUMMARY

The Local Government Association (LGA) has launched its consultation on a draft Model Member Code that could be a template for councils to adopt in whole and/or with local amendments. The LGA Consultation document incorporating the draft Model Code of Conduct is attached as **Appendix A** for consideration.

All Councils are required to have a local Member Code of Conduct and Tendring District Council's Members' Code was last reviewed and adopted by Full Council in 2018 and is attached as **Appendix B** for reference.

The LGA draft Model Member Code of Conduct has been developed in consultation with the sector and the LGA has committed to undertake an annual review of the Model Code to ensure it continues to be fit for purpose, particularly with respect to advances in technology, social media and any relevant changes in legislation.

The draft Model Code covers its purpose and application, refers to the seven Principles of Public life, expressly states what model member conduct as a councillor is expected and sets out the minimum requirements through some specific obligations of general conduct. Under each of the specific obligations the LGA has created additional guidance.

In responding to the consultation, the LGA is asking a number of questions via an online form, however they have produced an information document setting out those questions for responders to consider in advance, this information document is attached as **Appendix C**. Any individual whether an elected Member, Independent Person or Officer may respond to the consultation in their own right. The purpose of this report is to establish whether an agreed formal response can be submitted on behalf of Tendring District Council. Members of the Standards Committee are requested to give consideration to the questions set out in Appendix C.

Responding to the consultation does not commit the Council to adopting the Model Member Code of Conduct, in full or in part. The Monitoring Officer envisages that the Standards Committee would wish to consider each aspect, in detail, against a review of its existing Members' Code of Conduct, which could be undertaken later in the year as part of its work programme once the final version of the LGA Model Code is launched.

## **BACKGROUND & LEGAL SECTION**

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Each local authority must publish a code of conduct.

The Standards Committee will recall through its work programme in 2019, that the Committee on Standards in Public Life published its report in January 2019 on local government ethical standards. The report looked at the current framework governing the behaviour of local government councillors and executives in England and made a number of recommendations to promote and maintain the standards expected by the public.

Through their work the Committee on Standards in Public Life considered whether there was a need for a centralised body to govern and adjudicate on standards. They concluded that whilst the consistency and independence of the system could be enhanced, there was no need to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government. The report identified best practice to improve ethical standards in local government.

When researching the local Codes of Conduct, the Committee on Standards in Public Life found there was considerable variation in the length, quality and clarity of codes of conduct. They believed that this created confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct failed to address adequately important areas of behaviour such as social media use and bullying and harassment. Consequently, they recommended that an updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.

The recommendation was that the LGA should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made. Tendring District Council has a formal Complaints Procedure adopted by full Council and in undertaking the review of the adopted Tendring Members' Code of Conduct, the sanctions referred to within the Model Code of Conduct can be considered by the Standards Committee for recommendation onto full Council, as some of those suggested would be in addition to those contained with the Council's procedure.

## **RECOMMENDATION**

**That the Standards Committee:**

- (a) considers the questions set out in Appendix C and its response thereto; and**
- (b) authorises the Monitoring Officer to submit the agreed response to the Local Government Association's Model Member Code of Conduct consultation on behalf of Tendring District Council.**

## APPENDICES

- **Appendix A** – LGA Model Member Code of Conduct consultation
- **Appendix B** – Tendring District Council's Members' Code of Conduct adopted 23 January 2018
- **Appendix C** – LGA Consultation Questions information document

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# Local Government Association Model Member Code of Conduct

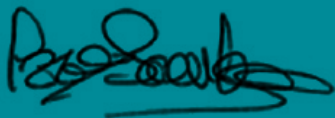
# Introduction

The Local Government Association (LGA) is providing this Model Member Code of Conduct as part of its work on supporting the sector to continue to aspire to high standards of leadership and performance.

The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to and want to participate with. We want to continue to attract individuals from a range of backgrounds and circumstances who understand the responsibility they take on and are motivated to make a positive difference to their local communities.

All councils are required to have a local Member Code of Conduct. This Model Member Code of Conduct has been developed in consultation with the sector and is offered as a template for councils to adopt in whole and/or with local amendments. The LGA will undertake an annual review of the Code to ensure it continues to be fit-for-purpose, particularly with respect to advances in technology, social media and any relevant changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code, whilst the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

As a councillor we all represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent everyone (in our ward/town/parish), taking decisions fairly, openly, transparently and with civility. Councillors should also be treated with civility by members of the public, other councillors and council employees. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations. This Code, therefore, has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.



**Councillor Izzi Seccombe OBE**  
Leader, LGA Conservative Group



**Councillor Nick Forbes CBE**  
Leader, LGA Labour Group



**Councillor Howard Sykes MBE**  
Leader, LGA Liberal Democrats Group



**Councillor Marianne Overton MBE**  
Leader, LGA independent Group

## Purpose

The purpose of this Code of Conduct is to assist councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow councillors, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

## Application of the Code

The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting]<sup>1</sup> in [public or in]<sup>2</sup> your capacity as a member or representative of your council, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.] Model conduct and expectations is for guidance only, whereas the specific obligations set out instances where action will be taken.

## The seven principles of public life

Everyone in public office at all levels – ministers, civil servants, members, council officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life, which are set out in appendix A.

## Model member conduct

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

- act with integrity and honesty
- act lawfully
- treat all persons with civility; and
- lead by example and act in a way that secures public confidence in the office of councillor

In undertaking my role, I will:

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

## Specific obligations of general conduct

This section sets out the minimum requirements of member conduct. Guidance is included to help explain the reasons for the obligations and how they should be followed. These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media.

**As a councillor I commit to:**

## Civility

- 1. Treating other councillors and members of the public with civility.**
- 2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.**

Civility 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 civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police. This also applies to members, where action could then be taken under the Member Code of Conduct.

## Bullying and harassment

- 3. Not bullying or harassing any person.**

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

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

## Impartiality of officers of the council

- 4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.**

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

## Confidentiality and access to information

- 5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.**
- 6. Not preventing anyone 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 circumstances. You should work on this basis but there will be times when it is required by law that discussions, documents and other information relating to or held by the council are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## Disrepute

### **7. Not bringing my role or council into disrepute.**

Behaviour that is considered dishonest and/or deceitful can bring your council into disrepute. As a member you have been entrusted 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 other councillors and/or your council.

## Your position

### **8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the council provides you with certain opportunities, responsibilities and privileges. However, you should not take advantage of these opportunities to further private interests.

## Use of council resources and facilities

### **9. Not misusing council resources.**

You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given

to you to help you carry out your role as a councillor more effectively and not to benefit you personally.

## Interests

### **10. Registering and declaring my interests.**

You need to register your interests so that the public, council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You are responsible for deciding whether or not you should declare 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 declared by you or other members, 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. Discuss the registering and declaration of interests with your Monitoring Officer/Town or Parish Clerk and more detail is set out in appendix B.

## Gifts and hospitality

### **11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.**

### **12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**

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 member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.

Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes.

## Breaches of the Code of Conduct

Most councillors conduct themselves appropriately and in accordance with these standards. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Each local authority must publish a code of conduct, and it must cover the registration of pecuniary interests, the role of an 'independent person' to advise on and investigate alleged breaches, and sanctions to be imposed on any councillors who breach the Code.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made.

Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence. Taking part in a meeting or voting, when prevented from doing so by a conflict caused by disclosable pecuniary interests, is also a criminal offence.

Political parties may have its own internal standards and resolution procedures in addition to the Member Code of Conduct that members should be aware of.

# Example

## LGA guidance and recommendations

### Internal resolution procedure

Councils should have in place an internal resolution procedure to address conduct that is in breach of the Member Code of Conduct. The internal resolution process should make it clear how allegations of breaches of the Code of Conduct are to be handled, including the role of an Independent Person, the appeals process and can also include a local standards committee. The internal resolution procedure should be proportionate, allow for members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the council as a whole.

In the case of a non-criminal breach of the Code, the following escalating approach can be undertaken.

If the breach is confirmed and of a serious nature, action can be automatically escalated.

1. an informal discussion with the monitoring officer or appropriate senior officer
2. an informal opportunity to speak with the affected party/ies
3. a written apology
4. mediation
5. peer support
6. requirement to attend relevant training
7. where of a serious nature, a bar on chairing advisory or special committees for up to two months
8. where of a serious nature, a bar on attending committees for up to two months.

Where serious misconduct affects an employee, a member may be barred from contact with that individual; or if it relates to a specific responsibility of the council, barred from participating in decisions or information relating to that responsibility.

## Endnotes

1. CSPL recommend that “Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority”.
2. CSPL recommend that “councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.”
3. Subject to footnotes 1 and 2 above
4. See CSPL website for further details [www.gov.uk/government/news/the-principles-of-public-life-25-years](http://www.gov.uk/government/news/the-principles-of-public-life-25-years)
5. ACAS’s definition of bullying



# Appendices

## Code Appendix A

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.

## Code Appendix B

### **Registering interests**

1. Within 28 days of this Code of Conduct being adopted by the council or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests).
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Table 1 or 2, or of any change to a registered interest, notify the Monitoring Officer.

### **Declaring interests**

3. Where a matter arises at a meeting which directly relates to an interest in Table 1, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
4. Where a matter arises at a meeting which directly relates to an interest in Table 2, you must declare 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 declare the nature of the interest.

5. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare 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 declare the nature of the interest.
6. Where a matter arises at a meeting which affects –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body covered by table 1 below

you must disclose the interest.

7. Where the matter affects the financial interest or well-being to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you must declare 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 declare the nature of the interest.

**Table 1: Disclosable Pecuniary Interests**

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

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

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

**Table 2: Other Registerable Interests**

<b>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 the council;</b>	
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.	





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**TENDRING DISTRICT COUNCIL**



**MEMBERS' CODE OF CONDUCT**

(Adopted by the Council on 23 January 2018)

(Code as regards the conduct which is expected of all elected Councillors, voting co-opted members and appointed members)

**TENDRING DISTRICT COUNCIL**  
**MEMBERS' CODE OF CONDUCT**

**1. INTRODUCTION TO THE CODE OF CONDUCT**

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct for elected Members (also referred to as "Councillors") to promote and maintain high standards of conduct in public life. It is each Member's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Members, voting co-opted Members and appointed Members.
- 1.3 The Code covers three main areas:
- **Part 1** sets out some general obligations regarding the behaviour of elected and co-opted Members ("**Rules of Conduct**")
  - **Part 2** explains how Members should behave if they have a personal/code interest in an item of Council business ("**Members' Interests**")
  - **Part 3** sets out rules requiring registration of interests for public inspection ("**Register of Members' Interests**")

The Principles of Public Life are set out in the Appendix.

**2. Interpretation of when the Code of Conduct applies?**

- 2.1 In this Code "meeting" means any meeting of
- (a) Tendring District Council ("the Authority");
  - (b) the Cabinet (also known as the Executive) of the Authority
  - (c) any of the Authority's or Cabinet's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties and panels); or
  - (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.
- 2.2 The Code of Conduct applies—
- (a) whenever a Member conducts the business, or are present at a meeting, of the Authority; or
  - (b) whenever a Member acts, claims to act or gives the impression they are acting in the role of Member to which they were elected or appointed; or



- (c) whenever a Member acts, claims to act or give the impression they are acting as a representative of the Authority (including representation on outside bodies); or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
- (e) in respect of any criminal offence for which they have been convicted during their term of office.

2.3 Where a Member is elected, appointed or nominated by the Authority to serve on any other authority or body they must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

2.4 Where a Member is elected, appointed or nominated by the Authority to serve on any other body which does not have a code relating to the conduct of its members, they must, when acting for that other body, comply with this Code of Conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

### **3. Principles of Public Life**

3.1 The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These Principles are set out in the Appendix A to this Code. The Code is consistent with the Nolan Principles but any breach of the principles is not by itself a breach of the Code.

Members of Tendring District Council shall have regard to the Seven Principles of Public Life as it is these principles which underpin the Rules of Conduct set out below.

## **PART 1**

### **RULES OF CONDUCT**

#### **3.2 In fulfilling Duties and Responsibilities**

Members must not:

- (a) breach their duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or
- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

### 3.3 Information

Members must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so; or
- (b) prevent any person from gaining access to information to which that person is entitled by law.

### 3.4 Conduct

Members must:

- (a) not conduct them self in a manner which could reasonably be regarded as bringing their office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Authority; or
- (c) comply with any request of the Authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

### 3.5 Use of the Position

Members must not:

- (a) in their official capacity or otherwise, use or attempt to use their position improperly to confer on or secure for them self, or any other person, an advantage or create or avoid for them self, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
  - (i) imprudently;
  - (ii) in breach of the Authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which they have been elected or appointed;
  - (v) improperly for political purposes; or
  - (vi) improperly for private purposes.

### 3.6 Registration of Interests

In accordance with and subject to Part 2 of the Code, Members are required to register details of their Disclosable Pecuniary Interests and their Personal Interests within 28 days of

becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests.

### 3.7 **Decision Making**

Members must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
  - (i) the Authority's Head of Paid Service;
  - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
  - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

### 3.8 **Compliance with the Law and the Authority's Rules and Policies**

Members must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with their duties as a Member;
- (b) comply with the Local Authority Code of Publicity made under the Local Government Act 1986 and any relevant guidance issued;
- (c) comply with the provisions of the Bribery Act 2010 or similar;
- (d) comply with the Authority's Gifts and Hospitality Policy;
- (e) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

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**PART 2****MEMBERS' INTERESTS**

**Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless the Member is involved in the decision making affecting the ward they were elected to.**

**4. Disclosable Pecuniary Interests**

- 4.1 Disclosable Pecuniary Interests (DPIs) are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are set out in Appendix B to this Code. It is important that Members understand what amounts to a DPI, that they identify carefully all DPIs relevant to them and that they take the necessary action required by law. Breach of the requirements related to DPIs is a criminal offence and are referred to the Police.
- 4.2 A Member will have a Disclosable Pecuniary Interest in any business of their Authority if it is of a description set out in Appendix B and is either:
- (a) their own interest, or that of a Relevant Person being:
  - (b) an interest of their spouse,
  - (c) an interest of their civil partner, or
  - (d) an interest of a person with whom they are living with as a spouse or civil partner,

and in the case of paragraphs 4.2(b) – (d) the Member is aware that the Relevant Person has the interest.

**5. Personal Interests**

- 5.1 A Member will have a Personal Interest in any item of business of the Authority where it relates to or is likely to affect –
- (a) any person or body who employs or has appointed them;
  - (b) any existing contract for goods, services or works, which has not been fully discharged or has expired within the last 2 years, and made between the Authority and
    - (i) the Member,
    - (ii) a Related Person;
    - (iii) a body in which the Member has a Disclosable Pecuniary Interest; or
    - (iv) a person or body of the description specified in paragraphs 5.1 (c)-(d) below;

- 
- (c) any body of which the Councillor is a member or in which they hold a position of general control or management and to which they are appointed or nominated by the Authority;
- (d) any other body of which the Councillor is a member and in which they hold a position of general control or management –
- (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (e) the interests of any person from whom the Member has received a gift or hospitality with an estimated value of at least £50;
- (f) a decision in relation to that business which might reasonably be regarded as affecting the financial position or wellbeing of:
- (i) the Member or
  - (ii) a Related Person (if the Member is aware of its existence)

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, affected by the decision.

5.2 Related Person is defined as:

- a member of the Councillor's family; or
- any person with whom the Councillor has a close business or personal association.

In the case of a Related Person, a Councillor is only required to declare those interests which they are aware or ought reasonably to be aware of the existence.

**6. Declaration of Members' Interests**

6.1 Subject to sub-paragraphs 6.2 to 6.3, where a Member has a Disclosable

Pecuniary or Personal Interest in any business of the Authority and they are present at a meeting of the Authority at which the business is considered, they must declare to that meeting the existence and nature of that interest whether or not such interest is registered on their Register of Interests or for which they have made a pending notification.

6.2 Sub-paragraph 6.1 only applies where a Member is aware or ought reasonably to be aware of the existence of the Relevant Person's (as defined in 4.2 above) Interest or the Related Person's (as defined in 5.2 above) Interest.

- 6.3 Where a Member has an interest in any business of the Authority which would be declarable by virtue of paragraph 6.1 but by virtue of paragraph 11 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary or Personal Interest they do not need to declare the nature of the interest to the meeting.
- 6.4 Where a Member has an interest in any business of the Authority which would be declarable by virtue of paragraph 6.1 and they are acting as a Cabinet Member, making an executive decision in relation to that business they must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **7. Declaration of Personal Interests generally**

- 7.1 Subject to sub-paragraphs 7.2 & 7.3 below, a Member has a duty to declare any Personal Interest, as set out in paragraph 5 above, in considering any business of the Authority, where that interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.
- 7.2 Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless the Member is involved in the decision making affecting the ward they were elected to.
- 7.3 A Member does not have a declarable interest in any business of the Authority where that business relates to the functions of the Authority in respect of:
- i. housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to their tenancy or lease;
  - ii. school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or are entitled to the receipt of, such pay;
  - iv. an allowance, payment or indemnity given to Members;
  - v. any ceremonial honour given to Members; and
  - vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

**8. Effect of Disclosable Pecuniary Interests on participation**

- (a) If a Member is present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and they have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and they are aware of that Interest:
  - (i) the Member must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
  - (ii) the Member must withdraw from the room or chamber where the meeting considering the business is being held unless they have received a dispensation from the Authority's Monitoring Officer.
- (b) If a Member has a Disclosable Pecuniary Interest in any business of the Authority they must not:
  - (i) exercise executive functions in relation to that business; and
  - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and they have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function they may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by them self).

**9. Effect of Personal Interests on participation**

- 9.1 If a Member has a Personal interest (not a Disclosable Pecuniary Interest) in any business of the Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered the Member must:-
- (a) Declare the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
  - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making representations or in any other case when the business is under consideration, unless they have obtained a dispensation from the Authority's Monitoring Officer.

**PART 3****REGISTER OF MEMBERS' INTERESTS****Registration of Members' Interests**

- 10.1 Subject to paragraph 11, Members must, within 28 days of—
- a. this Code being adopted by or applied to the Authority; or
  - b. their election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the Authority,
- register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of Disclosable Pecuniary Interests as referred to in paragraph 4, and defined in Appendix B, that they, their spouse, civil partner or person with whom they live as if they were their spouse or civil partner in so far as they are aware of their interests at that time.
- 10.2 Subject to paragraph 11, Members must, within 28 days of becoming aware of any new or amended Disclosable Pecuniary Interest as referred to in paragraph 4, and defined in Appendix B, that they, their spouse, civil partner or person with whom they live as if they were their spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to the Authority's Monitoring Officer.
- 10.3 Subject to paragraphs 10.5 and 11, Members must, within 28 days of—
- a. this Code being adopted by or applied to the Authority; or
  - b. their election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the Authority,
- register in the Authority's Register of Members' Personal Interests details of Personal Interests as referred to in paragraph 5, that the Member is aware of at that time.
- 10.4 Subject to paragraphs 10.5 and 11, Members must, within 28 days of becoming aware of any new or amended Personal Interest as referred to in paragraph 5 or change to any interest registered under paragraph 5 above by providing written notification to the Authority's Monitoring Officer.
- 10.5 The provisions of paragraphs 10.3 and 10.4 above, do not apply to any Personal Interest which concerns a Related Person, as these interests are not required to be registered in advance and only declared at a meeting of the Authority at which the business is considered and the Member is present.
-



**11. Sensitive Information**

- 11.1 Where a Member has an interest referred to in paragraphs 4 or 5, and the nature of the interest is such that the Member and the Authority's Monitoring Officer consider that disclosure of details of the interest could lead to the Member or a person connected with them being subject to violence or intimidation if the interest is entered in the Authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that the Member has an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 11.2 Members must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's Monitoring Officer.
- 11.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with them may be subject to violence or intimidation.

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## **APPENDIX A**

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **The Nolan Principles**

<b><i>Selflessness</i></b>	Holders of public office should act solely in terms of the public interest.
<b><i>Integrity</i></b>	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.
<b><i>Objectivity</i></b>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<b><i>Accountability</i></b>	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.
<b><i>Openness</i></b>	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.
<b><i>Honesty</i></b>	Holders of public office should be truthful.
<b><i>Leadership</i></b>	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**

“Disclosable Pecuniary Interests” are defined by *The Relevant Authorities*

*(Disclosable Pecuniary Interests) Regulations 2012* and are:-

**Employment, office, trade, profession or vacation**

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 relevant Authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a Member, or towards the election expenses of the Member. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Authority—

- (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**

Any beneficial interest in land which is within the area of the relevant Authority.

**Licences**

Any licence (alone or jointly with others) to occupy land in the area of the relevant Authority for a month or longer.

**Corporate tenancies**

Any tenancy where (to the Member’s knowledge)—

- (a) the landlord is the relevant Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities**

Any beneficial interest in securities of a body where—

- (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant Authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**THIS FORM IS FOR INFORMATION ONLY - DO NOT COMPLETE**  
**PLEASE USE THE ONLINE SURVEY FORM TO SUBMIT YOUR RESPONSE**

## **LGA Consultation on Draft Model Member Code of Conduct**

Thank you for taking the time to complete this consultation. This Model Member Code of Conduct [[Model Member Code of Conduct.pdf](#)] aims to be concise, written in plain English and be understandable to members, officers and the public. The Model Member Code is designed to aid members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

The LGA has reviewed the existing Model Member Code of Conduct and updated it here incorporating the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership. Part of the Committee's recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is out of scope of this consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.

This consultation addresses key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. If you would like a wider discussion about the code, please do sign up to one of the forthcoming Webinars the LGA are holding as part of this consultation. Details will be posted on our [LGA events website](#).

### **Instructions and privacy notice**

You can navigate through the questions using the buttons at the bottom of each page. Use the 'previous' button at the bottom of the page if you wish to amend your response to an earlier question.

All responses will be treated confidentially. Information will be aggregated, and no individual or authority will be identified in any publications without your consent. Identifiable information may be used internally within the LGA but will only be held and processed in accordance with our [privacy policy](#). We are undertaking this consultation to aid the legitimate interests of the LGA in supporting and representing authorities.

Please complete your response in one go - if you exit before submitting your response your answers may be lost. If you would like to see an overview of the questions before completing the consultation online, you can access a PDF [here](#).

## About you

Your name \_\_\_\_\_

### Are you...

- A councillor
- An officer
- Answering on behalf of a whole council (Please provide council name below)
- \_\_\_\_\_
- Other (please specify below)
- \_\_\_\_\_

### Please indicate your council type

- Community/Neighbourhood/Parish/Town
- District/Borough
- County
- Metropolitan/Unitary/London Borough
- Other (please specify below)
- \_\_\_\_\_

### Application of the Code

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

**Q1. To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q1a. If you would like to elaborate on your answer please do so here:**

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**Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- Yes
- No
- Don't know

**Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?**

- Personal tense ("I will")
- Passive tense ("Councillors should")
- No preference

### **Specific obligations**

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

**Q4. To what extent to you support the 12 specific obligations?**

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
1. Treating other councillors and members of the public with civility.					
2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.					
3. Not bullying or harassing any person.					
4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.					
5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.					
6. Not preventing anyone getting information that they are entitled to by law.					
7. Not bringing my role or council into disrepute.					
8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.					



9. Not misusing council resources.					
10. Registering and declaring my interests.					
11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.					
12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.					

**Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:**

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**Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?**

- As a list
- Each specific obligation followed by its relevant guidance
- No preference

**Q7. To what extent to you think the concept of 'acting with civility' is sufficiently clear?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

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**Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

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**Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q9a. If there are other definitions you would like to recommend, please provide them here.**

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**Q10. Is there sufficient reference to the use of social media?**

- Yes
- No
- Don't know/prefer not to say

**Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?**

- Separate code
- Integrated into the code
- Don't know/prefer not to say

**Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:**

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## Registration and declarations of interests

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

**Q11. To what extent do you support the code going beyond the current requirement to declare interests of the councillor and their partner?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q11a. If you would like to elaborate on your answer please do so here:**

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**Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?**

- In the main body of the code
- In the appendix
- Other (please specify below)
- Don't know/prefer not to say

**Q12a.** If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:

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It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

**Q13. To what extent do you support the inclusion of these additional categories for registration?**

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council					
Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management					
Any organisation, association, society or party directed to charitable purposes					
Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)					

**Q13a.** If you would like to propose additional or alternative **categories** for registration, please provide them here:

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**Q14. To what extent to you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

Q14a. If you would like to elaborate on your answer please do so here:

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**Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?**

- Yes
- Yes, but the amount should be reviewed annually with the code's review
- No, it should be lower (please specify amount) \_\_\_\_\_
- No, it should be higher (please specify amount) \_\_\_\_\_
- Don't know/prefer not to say

**Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.**

- \_\_\_\_\_ Regularly updated examples of case law
- \_\_\_\_\_ Explanatory guidance on the code
- \_\_\_\_\_ Case studies and examples of good practice
- \_\_\_\_\_ Supplementary guidance that focuses on specific areas, e.g., social media
- \_\_\_\_\_ Improvement support materials, such as training and e-learning packages

**Q16a. If you would like to suggest any other accompanying guidance please do so here:**

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**Q17. If you would like to make any further comments about the code please do so here:**

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Once you press the 'Submit' button below, you will have completed your response.

Many thanks for taking the time to respond to this consultation. You are in control of any personal data that you have provided to us in your response. You can contact us at all times to have your information changed or deleted. You can find our full privacy policy here: [click here to see our privacy policy](#)

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## **DRAFT COMMITTEE WORK PLAN – STANDARDS COMMITTEE**

### **14 October 2020 (provisional date)**

- Update on LGA Model Code of Conduct and commence review of Tendring District Council's Code of Conduct
- Review of Planning Probity Code and Protocol
- Quarterly Complaints update by Monitoring Officer

### **3 February 2021 (provisional date)**

- Review of the Complaints Procedure
- Case review and guidance update for the Committee on decisions and actions taken nationally; and
- Quarterly Complaints update by Monitoring Officer

### **21 April 2021 (provisional date)**

- Update on Mandatory training;
- Annual Report on declarations of interest (meetings, gifts and hospitality);
- Work Programme 2021/2022; and
- Quarterly Complaints update by Monitoring Officer

*Individual matters may be referred to these meetings by the Monitoring Officer in accordance with the Committee's Terms of Reference as necessary, for example an appeal against dispensation decision or a Code of Conduct hearing.*

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