

Taunton Deane Borough Council

Standards Committee – 22 May 2012

The Localism Act 2011 – The Amended Standards Regime

Report of the Monitoring Officer)

(This matter is the responsibility of Executive Councillor John Williams, Leader of the Council)

1. Executive Summary

This report is to discuss a proposed Code of Conduct.

2. The Localism Act 2011

- 2.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is proposed to be 1 July 2012.

3. Code of Conduct

- 3.1 As part of the proposed changes Councils will be required to sign up to a Code of Conduct but Councils will have the ability to agree their own Code rather than have a Code imposed upon them.
- 3.2 The Monitoring Officers in Somerset believe that it would be helpful to have a consistent Code across Somerset in order to assist Members especially those who may be dual or triple hatted and therefore a proposed Code has been drafted.
- 3.3 It should be noted that regulations are still awaited and therefore definitions and guidance on what amounts to Disclosable Pecuniary Interests and Non-Disclosable Interests will need to be added once those regulations have been released.
- 3.4 However, in the meantime, a proposed draft Code has been prepared and views from Members are sought on this Code so that the Monitoring Officers can feed back to others. It is anticipated that if all authorities are happy with the proposed Code that it can then be agreed quickly once the regulations are released and a new timetable is known. Therefore attached at Annexe 1 is a draft of the proposed Code of Conduct for Members to comment upon.

4. Finance Comments

- 4.1 There are no finance implications in this report.

5. Legal Comments

5.1 The Council will have a statutory duty to promote and maintain high standards of conduct and the Code of Conduct will be an important aspect of demonstrating that it meets that duty.

6. Links to Corporate Aims

6.1 There are no links to the Corporate Aims.

7. Environmental Implications

7.1 There are no environmental implications in this report.

8. Community Safety Implications

8.1 There are no community safety implications.

9. Equalities Impact

9.1 There is no requirement at this stage to undertake an Equalities Impact Assessment.

10. Risk Management

10.1 The Council needs to demonstrate that it can comply with its duty to promote and maintain high standards of conduct and the recommendation in this report will assist the Council in doing that.

11. Partnership Implications

11.1 There is a requirement to work with Parish Councils to ensure consistency in operating these arrangements.

12. Recommendations

12.1 To discuss the report and make any relevant recommendations and comments.

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Draft MEMBER CODE OF CONDUCT

INTRODUCTION AND INTERPRETATION

This Code applies to you as a member of this authority when you act in your role as a member or claim to act or give the impression that you are acting in your role as a member and it is your responsibility to comply with the provisions of this Code.

You are a representative of this authority and the public will view you as such. Therefore your actions impact on how the authority as a whole is viewed. It is important, therefore, that you do nothing as a member which you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

This Code is based upon the seven principles of public life which are set out at Appendix 1. You shall have regard to those principles when fulfilling your role.

Guidance on the interpretation of this Code is included in the “Guide to the authority’s Code of Conduct”.

1. GENERAL OBLIGATIONS

When acting in your role as a member of the authority you must:

- 1.1 treat others with respect;
- 1.2 not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- 1.3 when reaching decisions on any matter, have regard to any relevant advice provided to you by—
 - a) your authority’s chief finance officer; or
 - b) your authority’s monitoring officer,

where that officer is acting pursuant to his or her statutory duties;

1.4 give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority;

1.5 act in accordance with the authority's reasonable requirements including the requirements of the authority's X policies [examples could include IT policies, the Member/Officer Protocol, Planning Code] and such other policies as may be approved by the authority from time to time and which have been provided to you and which you are deemed to have read;

1.6 make sure that the authority's resources are not used improperly (including for party political purposes);

1.7 not do anything which may cause the authority to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);

1.8 not bully any person;

1.9 not intimidate or attempt to intimidate any person who is or is likely to be—

a) a complainant,

b) a witness, or

c) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;

1.10 not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority;

1.11 not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

- a) you have the consent of a person authorised to give it;
- b) you are required by law to do so;
- c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- d) the disclosure is—
 - i. reasonable and in the public interest; and
 - ii. made in good faith and in compliance with the reasonable requirements of the authority; and
- e) you have consulted the monitoring officer prior to its release;

1.12 not prevent another person from gaining access to information to which that person is entitled by law; and

1.13 not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.

2. INTERESTS

2.1 You must declare any interests, both pecuniary and non-pecuniary, that relate to your public duties including registering and declaring interests in a manner conforming with the requirements of this Code.

2.2 You must, within 28 days of this Code being adopted by the authority or your taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any non-pecuniary interest which the authority has

decided should be included in the register. Interests will be recorded in the authority's Register of Members' Interests and made available for public inspection including on the authority's website at :

- 2.3 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the authority's monitoring officer.
- 2.4 If an interest has not been entered onto the authority's register, then you must disclose the interest to any meeting of the Council, the Executive or any Committee or Sub-Committee at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.
- 2.5 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 2.6 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. Additionally you must observe the restrictions the authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by the authority.
- 2.7 Where you have a [pecuniary or non pecuniary] interest in any business of the authority and you attend any meeting of the Council, it's Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered, you must disclose to that meeting the existence and nature of that interest.
- 2.8 You must disclose any [pecuniary or non pecuniary] interest in accordance with the authority's reasonable requirements, and no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you.

2.9 Where you have a disclosable pecuniary interest in any business:

- a) you must not seek to influence improperly a decision about that business;
and
- b) you must withdraw from the room or chamber where a meeting considering the business is being held as soon as it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the authority's monitoring officer.

2.10 The interests you must register are:-

To be completed once Regulations issued.

3. PRE-DETERMINATION OR BIAS

3.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member. However do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

3.2 When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

3.3. In relation to any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where—

- a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-

committee mentioned in paragraph a) and you were present when that decision was made or action was taken;

or

c) that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the authority's constitution or under delegated authority from the Leader);

you may attend a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

APPENDIX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Guide to X Authority's Code of Conduct

In X authority's Code of Conduct the following words shall have the following meanings ascribed to them—

“disclosable pecuniary interest” is as defined by regulations made by the Secretary of State

“meeting” means any meeting of—

(a) the authority;

(b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

“member” includes a co-opted member and an appointed member.

“sensitive information” means information relating to a members interests that the monitoring officer has determined need not be included in the member's registration of an interest or any change to that interest, by virtue of the fact that its availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation

“bullying” means offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or authority which attempts to undermine

“disrepute” means a lack of good reputation or respectability which can be reasonably regarded as reducing the public's confidence in that member being able to fulfill their role or adversely affecting the reputation of members generally in being able to fulfill their role

Further definitions to be added as required