

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 3
9 JULY 2018	PUBLIC REPORT

Report of:	Fiona McMillan Interim Director of Law and Governance & Monitoring Officer	
Cabinet Member responsible:	Cllr David Seaton – Cabinet Member for Resources	
Contact Officer:	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley, Senior Democratic Services Officer	Tel. 452460/2963 34

AMENDMENTS TO THE CODE OF CONDUCT

RECOMMENDATIONS	
FROM: Interim Director of Law and Governance and Monitoring Officer	Deadline date: N/A
<p>It is recommended that Constitution and Ethics Committee recommend that Council approve:</p> <ol style="list-style-type: none"> The updated Code of Conduct with proposed changes set out in Appendix 1 to the report. 	

1. ORIGIN OF REPORT

1.1 This report is submitted to Constitution and Ethics Committee by the Council's Monitoring Officer.

2. PURPOSE AND REASON FOR REPORT

2.1 The Constitution & Ethics Committee has the remit of advising the Council on the adoption or revision of the Code of Conduct.

2.2 The Monitoring Officer has reviewed the Code of Conduct to ensure it is up to date and adequately fulfils the legal requirements placed on the council by the Localism Act 2011 and subsequent regulations.

2.3 The purpose of this report is for the Committee to review the proposed amendments and decide if it wishes to recommend them to full Council.

2.4 This report is for Constitution and Ethics Committee to consider under its Terms of Reference No. 2.72.2

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:

- Promoting and maintaining high standards of conduct by Members and coopted members;
- Assisting the Members and co-opted members to observe the Code of Conduct;
- Advising the Council on the adoption or revision of the Code of Conduct;
- Monitoring the operation of the Code of Conduct;
- Advising, training or arranging to train Members and co-opted members on matters

relating to the Code of Conduct.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. **BACKGROUND AND KEY ISSUES**

4.1 There are three types of change proposed to the Code of Conduct:

- a) Typographical errors and updating to reflect the role of the Constitution and Ethics Committee
- b) Changes to the description of “disclosable pecuniary interests (“DPI”)” at Part 2 of the Code to fully reflect the wording in the legislation. At the moment the definitions are omitted and they are key to understanding if a member has a DPI. Failure to take the correct action in relation to a DPI is a criminal offence so it is important for the full detail to be included. A change to what action a member should take if they have a DPI is also proposed so that a member should leave the room when the relevant issue is discussed unless they have a dispensation from the Monitoring Officer. This is the safest action in order to protect both the member from accusations of influencing the decision and the council’s decision itself and follows the case law on this area.
- c) The introduction of a section on “Other Disclosable Interests”. The General Provisions at Part 1 of the Code state that members: *“must observe the restrictions your authority places on your involvement in matters where you have a [non-statutory] pecuniary or non-pecuniary interest as defined by your authority”* but does not currently set out what these restrictions are. The definition of a DPI is quite narrow and is restricted to interests relating to the member and their spouse or common law partner. There are many other conflicts of interests that a member may have, including those involving wider members of their family which to a member of the public observing would believe was an unacceptable conflict. For example if a councillor’s son applies for planning permission and they sit on the Planning Committee – this is not a DPI but nevertheless it would not be considered appropriate for that councillor to take part in the decision-making. Equally if a councillor sits on another body such as a parish council or a village hall management association and that body has applied for a grant or financial assistance from the council, it would not be considered appropriate for that councillor to take part in any decision on this. These changes aim to set out rules for how councillors should act in these circumstances and represent the common law position on avoiding pre-determination and bias, which also apply to members alongside the code.

5. **CONSULTATION**

5.1 Consultation is not applicable

6. **ANTICIPATED OUTCOMES OR IMPACT**

6.1 The improvements and updates to the existing code of conduct are aimed at providing additional guidance for councillors and improving public confidence in high ethical standards.

7. **REASON FOR THE RECOMMENDATION**

7.1 To ensure the Council’s code of conduct fully reflects the legislation, sets out for members what they should do regarding interests that are not “disclosable pecuniary interests” and is updated with the new oversight duties of the Constitution and Ethics Committee.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Maintain the status quo of a code of conduct which does not fully reflect the legislation and refers to members having to “Observe the restrictions your authority places on your involvement in matters where you have a [non-statutory] pecuniary or non-pecuniary interest as defined by your authority” but does not currently set out what these restrictions are.

9. IMPLICATIONS

Financial Implications

- 9.1 There are none.

Legal Implications

- 9.2 Under the Localism Act 2011 the council may agree its own Code of Conduct, subject to any such code being based on the Nolan Principles and the requirements of the Localism Act 2011 in relation to disclosable pecuniary interests.

Equalities Implications

- 9.3 None

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 The Localism Act 2011

11. APPENDICES

- 11.1 Appendix 1 – Updated Code of Conduct (Clean Version)
Appendix 2 – Code of Conduct showing track changes

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