

# Council



<b>Title</b>	<b>Agenda</b>
<b>Date</b>	<b>Tuesday 22 March 2022</b>
<b>Time</b>	<b>6.30 pm</b>
<b>Venue</b>	<p><b>Conference Chamber</b>  <b>West Suffolk House</b>          Western Way          Bury St Edmunds</p> <p><b>**For the health and safety for all persons present and in order to reduce the risk of the spread of coronavirus, appropriate mitigation measures will be applied**</b></p>
<b>Membership</b>	<p><b>All Councillors</b></p> <p>You are hereby summoned to attend a meeting of the Council to transact the business on the agenda set out below.</p>  <p><b>Ian Gallin</b>  <b>Chief Executive</b>  <b>14 March 2022</b></p>
<b>Interests – declaration and restriction on participation</b>	<p>Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.</p>
<b>Quorum</b>	One third of the Council (22 members)
<b>Committee administrator</b>	<p><b>Claire Skoyles</b>          Democratic Services Officer  <b>Telephone</b> 01284 757176 / 07776 254986  <b>Email</b> <a href="mailto:claire.skoyles@westsuffolk.gov.uk">claire.skoyles@westsuffolk.gov.uk</a></p>

<b>Venue</b>	Conference Chamber, West Suffolk House, Bury St Edmunds
<b>Contact information</b>	Telephone: 01284 757176 / 07776 254986 Email: <a href="mailto:democratic.services@westsuffolk.gov.uk">democratic.services@westsuffolk.gov.uk</a> Website: <a href="http://www.westsuffolk.gov.uk">www.westsuffolk.gov.uk</a>
<b>Access to agenda and reports before the meeting</b>	The agenda and reports will be available to view at least five clear days before the meeting on our website.
<b>Attendance at meetings</b>	This meeting is being held in person in order to comply with the Local Government Act 1972. Measures will be applied to ensure the health and safety for all persons present is maintained. We may be required to restrict the number of members of the public able to attend in accordance with the room capacity. If you consider it is necessary for you to attend, please let Democratic Services know in advance of the meeting so they can endeavour to accommodate you and advise you of the necessary health and safety precautions.
<b>Public participation</b>	<p>Members of the public who live or work in the district may put questions about the work of the Council or make statements on items on the agenda to members of the Cabinet or any committee. A total of 30 minutes will be set aside for this with each person limited to asking one question or making one statement within a maximum time allocation of five minutes. 30 minutes will also be set aside for questions at extraordinary meetings of the Council, but must be limited to the business to be transacted at that meeting.</p> <p>The Constitution allows that a person who wishes to speak must register at least 15 minutes before the time the meeting is scheduled to start. Due to applying coronavirus health and safety measures, precautions taken will apply to members of the public in attendance and registered to speak, and <b>would therefore, strongly urge anyone who wishes to register to speak to notify Democratic Services by 9am on the day of the meeting so that advice can be given on the arrangements in place.</b></p>
<b>Accessibility</b>	If you have any difficulties in accessing the meeting, the agenda and accompanying reports, including for reasons of a disability or a protected characteristic, please contact Democratic Services at the earliest opportunity using the contact details provided above in order that we may assist you.
<b>Recording of meetings</b>	The Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded).

	<p>Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming.</p>
<b>Personal information</b>	<p>Any personal information processed by West Suffolk Council arising from a request to speak at a public meeting under the Localism Act 2011, will be protected in accordance with the Data Protection Act 2018. For more information on how we do this and your rights in regards to your personal information and how to access it, visit our website: <a href="https://www.westsuffolk.gov.uk/Council/Data_and_information/howweuseinformation.cfm">https://www.westsuffolk.gov.uk/Council/Data_and_information/howweuseinformation.cfm</a> or call Customer Services: 01284 763233 and ask to speak to the Information Governance Officer.</p>

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# Agenda

## Procedural matters

	<b>Pages</b>
<b>1. Minutes</b>	<b>1 - 16</b>
To confirm the minutes of the meeting held on 22 February 2022 (copy attached).	
<b>2. Chair's announcements</b>	<b>17 - 18</b>
To receive announcements (if any) from the Chair.	
A list of civic events/engagements attended by the Chair and Vice-Chair since the last ordinary meeting of Council held on 22 February 2022 are <b>attached</b> .	
<b>3. Apologies for absence</b>	
To receive announcements (if any) from the officer advising the Chair (including apologies for absence).	
<b>4. Declarations of interests</b>	
Members are reminded of their responsibility to declare any pecuniary or local non pecuniary interest which they have in any item of business on the agenda <b>no later than when that item is reached</b> and, when appropriate, to leave the meeting prior to discussion and voting on the item.	

## Part 1 – public

<b>5. Leader's statement</b>	<b>19 - 22</b>
Paper number: <b>COU/WS/22/006</b>	
<b>Council Procedure Rules 8.1 to 8.3.</b> The Leader will submit a report (the Leader's Statement) summarising important developments and activities since the preceding meeting of the council.	
Members may ask the Leader questions on the content of both his introductory remarks and the written statement itself.	
A total of 30 minutes will be allowed for questions and responses. There will be a limit of five minutes for each question to be asked and answered. A supplementary question arising from the reply may be asked so long as the five minute limit is not exceeded.	

**6. Public participation**

**Council Procedure Rules Section 6.** Members of the public who live or work in the district may put questions about the work of the council or make statements on items on the agenda to members of the Cabinet or any committee.

(Note: The maximum time to be set aside for this item is 30 minutes, but if all questions/statements are dealt with sooner, or if there are no questions/statements, the Council will proceed to the next business.)

Each person may ask **one** question or make **one** statement only. A total of **five minutes will be allowed for the question to be put and answered or the statement made.** If a question is raised, one supplementary question will be allowed provided that it **arises directly from the reply and the overall time limit of five minutes is not exceeded.**

If a statement is made, then the Chair may allow the Leader of the Council, or other member to whom they refer the matter, a right of reply.

The Constitution allows that a person who wishes to speak must register at least 15 minutes before the time the meeting is scheduled to start. Due to applying coronavirus health and safety measures, precautions taken will apply to members of the public in attendance and registered to speak, and **would therefore, strongly urge anyone who wishes to register to speak to notify Democratic Services by 9am on the day of the meeting so that advice can be given on the arrangements in place.**

As an alternative to addressing the meeting in person, **written questions** may be submitted by members of the public to the Monitoring Officer **no later than 10am on Monday 21 March 2022.** The written notification should **detail the full question** to be asked at the meeting of the Council.

**7. Referrals report of recommendations from Cabinet**

There were no referrals emanating from the Cabinet meeting held on 15 March 2022.

<b>8. Community Governance Review</b>	<b>23 - 46</b>
Report number: <b>COU/WS/22/007</b>	
<b>9. Pay Policy Statement 2022 to 2023</b>	<b>47 - 60</b>
Report number: <b>COU/WS/22/008</b>	

**10. New Model Code of Conduct**

**61 - 126**

Report number: **COU/WS/22/009**

**11. Any other urgent business**

To consider any business, which by reason of special circumstances, should in the opinion of the Chair be considered at the meeting as a matter of urgency.

**Part 2 – exempt**

None

# Council



**Minutes** of a meeting of the **Council** held on **Tuesday 22 February 2022** at **6.30 pm** in the **Conference Chamber, West Suffolk House**, Western Way, Bury St Edmunds IP33 3YU

Present

**Councillors**

**Chair** Margaret Marks

**Vice Chair** Mike Chester

John Augustine	Diane Hind	Joanna Rayner
Sarah Broughton	Ian Houlder	Karen Richardson
Simon Brown	Paul Hopfensperger	David Roach
Tony Brown	Beccy Hopfensperger	Richard Rout
Carol Bull	James Lay	Marion Rushbrook
John Burns	Aaron Luccarini	Andrew Smith
Max Clarke	Victor Lukaniuk	Karen Soons
Nick Clarke	Birgitte Mager	Sarah Stamp
Simon Cole	Joe Mason	Lance Stanbury
Roger Dicker	Elaine McManus	Peter Stevens
Andy Drummond	Sara Mildmay-White	Peter Thompson
Robert Everitt	Andy Neal	Jim Thorndyke
Stephen Frost	David Nettleton	Julia Wakelam
Susan Glossop	Robert Nobbs	Cliff Waterman
Pat Hanlon	Colin Noble	Nick Wiseman
Brian Harvey	Sarah Pugh	Phil Wittam

**179. Welcome and introduction**

The Chair opened the meeting and welcomed all persons present in the Conference Chamber. She explained the rationale behind the precautionary health and safety measures that remained in operation for this meeting which aimed to reduce and restrict the transmission of the COVID-19 virus.

**180. Minutes**

The minutes of the meeting held on 14 December 2021 were confirmed as a correct record and signed by the Chair.

**181. Chair's announcements**

The Chair reported on the civic engagements and charity activities which she and the Vice-Chair had attended since the last ordinary meeting of Council on 14 December 2021.

Particular recognition was drawn to the excellent attendance at the Holocaust Memorial Service held in the Holocaust Memorial Peace Garden, Abbey Gardens on 27 January 2022.

182. **Apologies for absence**

Apologies for absence were received from Councillors Richard Alecock, Michael Anderson, Trevor Beckwith, Mick Bradshaw, Patrick Chung, Jason Crooks, Dawn Dicker, John Griffiths, Rachel Hood, David Palmer, David Smith, Ian Shipp, Clive Springett and Don Waldron.

The Chair paid tribute to Councillors Alecock and Bradshaw who remained significantly unwell. All members joined the Chair in wishing them well in their recovery.

183. **Declarations of interests**

Members' declarations of interest are recorded under the item to which the declaration relates.

184. **Leader's statement (Paper number: COU/WS/22/001)**

On behalf of the Leader of the Council, Councillor Sara Mildmay-White, Deputy Leader, presented the Leader's Statement as outlined in paper number: COU/WS/22/001

In her introductory remarks, Councillor Mildmay-White:

- a. **Storms:** thanked councillors and staff for their support in helping to keep residents safe during the recent storms. Special recognition was given to the emergency services and the Suffolk-wide emergency planning team.
- b. **Budget:** made references to the proposed budget for 2022 to 2023, which was to be considered later on the agenda.
- c. **Historical anomalies:** that work was being undertaken to look at historical anomalies between the former St Edmundsbury and St Forest Heath councils when West Suffolk Council was created. The proposed review would not only look at street lighting and other similar issues, as highlighted by other members but would look at the future role and relationships the Council could have with the district's town and parish councils.
- d. **COVID-19 Additional Relief Fund (CARF):** West Suffolk Council had received an allocation of £4 million from the CARF, and applications could now be made by eligible businesses. This funding was to be used to support businesses most affected by the COVID-19 pandemic, but who were not eligible for earlier business rates reliefs linked to COVID-19.
- e. **Easing of COVID-19 restrictions:** following the Prime Minister's recent announcement to further ease mandatory COVID-19

restrictions, the Council remained committed to its business continuity plans and would ease restrictions in line with these plans. This involved making better use of space within the office, adopting a flexible approach which would allow staff to work collaboratively on projects, as well as providing sufficient desks to enable staff to work individually. Capacity was not being reduced and would return to pre-pandemic levels; however, working patterns within the office would fluctuate depending on working practices of individuals and teams.

- f. **Environment:** the Council was continuing with implementing initiatives to protect and improve the environment, and tackle climate change. The West Stow Anglo Saxon Village had recently won the RAC Cooling Industry Awards 2021 Building Energy Project of the Year for its bespoke heating and cooling systems, which demonstrated a range of benefits and efficiencies.
- g. **New Community Centre:** was delighted to attend the opening of the new community centre on the Howard Estate, Bury St Edmunds. This was an excellent example of the community coming together to achieve a common goal. Supported by public bodies, this project to replace the former nearby out-dated centre was led by the New Bury Community Association.
- h. **Families and communities:** recognised the importance of the Council's priority to support families and communities, which included a significant budget investment in councillors' locality funding and the Community Chest grant scheme. Over £460,000 had recently been allocated to voluntary and social enterprise organisations throughout the district following applications received for the 2022 to 2023 round of Community Chest funding. Examples of organisations receiving funding and their valuable work were provided.
- i. **Community Governance Review (CGR):** reminded members that the deadline for receiving initial CGR submissions was 25 February 2022. Subject to Council approval on 22 March 2022, consultation would commence on the draft CGR recommendations thereafter.

The Deputy Leader responded to a range of questions relating to:

- a. **Harmonisation process:** as stated in her introductory remarks, and upon invitation, explained by Councillor Sarah Broughton, Portfolio Holder for Resources and Property, the historic anomaly between the provision and cost of street lighting between the former Forest Heath and St Edmundsbury areas was to be analysed, together with other anomalies that remained between the two areas following the creation of West Suffolk Council. Details of that review would be announced shortly. It was a previous Council decision to harmonise council tax across the two predecessor authorities sooner than the required seven years. This had resulted in numerous benefits for residents across the entire district.

## 185. **Public participation**

The following members of the public had registered to speak under this agenda item:

1. **Nathan Loader** was not in attendance but had submitted a written question in connection with the proposed Haverhill North West relief road. Mr Loader had provided context to his question in respect of the road's connection to the planning permission granted for development of a strategic site to the north west of Haverhill and asked whether the programme of construction of the North West relief road, including the start and completion dates, was still on track for completion by 21 March 2023; and if not, the nature of restrictions that would be imposed on both the North West and North East Haverhill construction sites.

The following response was provided by Councillor David Roach, Portfolio Holder for Planning:

"Outline planning permission SE/09/1283 for North West Haverhill includes planning permission for the construction of a relief road, residential development, a primary school, a local centre including retail and community uses, public open space and associated development. The S106 Obligation (legal agreement) for the development includes the requirement that the relief road should be complete no later than five years after the commencement of development (21 March 2023) or before the construction of the 500<sup>th</sup> dwelling on the site whichever is the sooner.

No date for commencement of the relief road has been given yet but work continues to prepare for its commencement and with an estimated build time of nine months, officers from West Suffolk planning team and Suffolk County Council Highways team have confirmed that the relief road is still on track to be delivered before the March 2023 deadline.

There is no restriction relating to the construction of the relief road on the planning permission for the North East Haverhill (Great Wilsey) development granted under planning permission DC/15/2151/OUT. This was not deemed necessary by Suffolk Highways Authority at the time permission was granted given the timings of the restriction on the North West Haverhill consent, predicted capacities and delivery rates relating to the two developments taken as a whole and the existence of the NW Haverhill relief road bond.

The current completion rates for the two developments are 230 at North West Haverhill and at North East Haverhill their first completion was at the end of January 2022."

As Mr Loader was not in attendance, no supplementary question was asked arising directly from the reply. The above response would be emailed to Mr Loader following the meeting.

2. **James Sheen** asked a question in connection with the forthcoming ballot for the establishment of a new Business Improvement District (BID) in Haverhill, and whether the Council should abstain from exercising its right to

vote in the ballot as Mr Sheen felt the businesses of Haverhill should decide for themselves how their town should be promoted.

Councillor Susan Glossop, Portfolio Holder for Growth, thanked Mr Sheen for his question and stated that he would be provided with a written response.

As the question was not answered during the meeting, no supplementary question was asked arising directly from the reply.

The Chair thanked Mr Sheen for attending and welcomed his presence for the remainder of the meeting should he wish to do so.

(Councillor Roger Dicker left the meeting at the conclusion of this item.)

186. **Referrals report of recommendations from Cabinet (Report number: COU/WS/22/002)**

Council considered the referrals report of recommendations from Cabinet, as contained within report number: COU/WS/22/002.

**A. Referrals from Cabinet: 8 February 2022**

**1. Financial Resilience – Strategy Statement 2022 to 2023 and Treasury Management Code of Practice**

Approval was sought for the Financial Resilience - Strategy Statement 2022 to 2023 and the Treasury Management Code of Practice.

Councillor Sarah Broughton, Portfolio Holder for Resources and Property, drew relevant issues to the attention of Council, including that the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management Code of Practice required that, prior to the start of the financial year the Council should formally approve a Treasury Management Policy Statement and Investment Strategy, setting out the Council's treasury management policy and strategy for the forthcoming year.

The Treasury Management Strategy Statement 2022 to 2023 was attached as Appendix 1 to Report number: FRS/WS/22/002, and the Treasury Management Code of Practice attached as Appendix 2.

The report also included additional supporting information on treasury advisors; borrowing strategy; investment strategy counterparty ratings and interest rate projections.

On 27 January 2022, the Performance and Audit Scrutiny Committee (PASC) considered the report and asked various questions relating to the setting of net costs, capital and revenue limits and the borrowing strategy, to which responses were provided. In particular, the Committee discussed the Treasury Management Code of Practice (Appendix 2) and referred to page 24 of the Code and the section which related to 'Use of External Brokers/Advisors/Fund Managers'. The Committee expressed some reservations around the wording used within that section, in that the Council 'will' employ the services of other organisations to assist it in the field of

treasury management. The Committee recommended that this word be replaced with 'may', so that the Council had the flexibility around the use of services of other organisations.

The Cabinet had supported the approval of the Code of Practice, including the proposed amendment, and approval of the Treasury Management Strategy Statement 2022 to 2023, as summarised above.

On the motion of Councillor Broughton, seconded by Councillor Ian Houlder, it was put to the vote and with the vote being 45 for the motion, none against and four abstentions, it was

**Resolved:**

That:

1. The Treasury Management Strategy Statement 2022 to 2023 as set out in Appendix 1 to Report number: FRS/WS/22/002, be approved.
2. The Treasury Management Code of Practice, as set out in Appendix 2 to Report number: FRS/WS/22/002, be approved, subject to an amendment within the section of the Code of Practice entitled 'Use of External Brokers / Advisors / Fund Managers', with the removal of the word 'will', to be replaced with the word 'may', to ensure that the Council has the flexibility on the use of services of other organisations.

**2. Treasury Management Report (December 2021)**

Approval was sought for the Treasury Management Report for the third quarter of the 2021 to 2022 financial year.

Councillor Sarah Broughton, Portfolio Holder for Resources and Property, drew relevant issues to the attention of Council.

On the motion of Councillor Broughton, seconded by Councillor Brian Harvey, it was put to the vote and with the vote being 45 for the motion, none against and four abstentions, it was

**Resolved:**

That the Treasury Management Report (December 2021), as contained in Report number: FRS/WS/22/001, be approved.

**3. Budget and Council Tax Setting 2022 to 2023 and Medium Term Financial Strategy 2022 to 2026**

The recommendations emanating from the Cabinet's consideration of this report, together with its approval of the Performance and Audit Scrutiny Committee's recommendation contained in Report number: CAB/WS/22/005 'Delivering a Sustainable Medium-Term Budget' were

integrated within the main budget setting report, which was considered next on this agenda.

No decision was therefore required at this stage.

**187. Budget and Council Tax Setting 2022 to 2023 and Medium Term Financial Strategy 2022 to 2026 (Report number: COU/WS/22/003)**

Council considered this report, which presented the proposals for Budget and Council Tax Setting in 2022 to 2023 and the Medium Term Financial Strategy (MTFS) 2022 to 2026.

West Suffolk Council had an exemplary track record in robust financial management which had meant it continued to deliver high quality services as well as meeting the strategic vision of the authority.

This was despite a series of challenges. For example, the COVID-19 pandemic which had not only reduced income (Government policy had been that councils created income to supplement reduction in national funding) but also costs to the Council in playing its role to support communities and businesses. National finances had been reduced significantly over the last decade for local councils and added burdens had been placed on authorities too during this time.

The 2022 to 2023 budget had been created not only to be balanced and sustainable but as an investment in the priorities of the district's residents and businesses. It was designed to make the communities of West Suffolk greener, healthier and more prosperous.

Members considered the report in detail, which included the following issues for securing a balanced budget for 2022 to 2023 and plans for the medium term from 2022 to 2026, together with corresponding detailed appendices:

- Section 1: Summary: which included reference to the Council's proposed new £9 million investment in a range of initiatives to help meet priorities that would contribute to achieving the aspiration of zero carbon emissions by 2030; progressing its health and wellbeing agenda; and a proposed £1.3 million (2022 to 2026) for the upkeep of the district's open spaces, parks and other leisure attractions.
- Section 2: Context: which included reference to the Council's robust financial planning and management enabling the Council to deliver both services and the strategic aims of West Suffolk despite the pressures on local government finances; the impact of the COVID-19 pandemic on the Council's finances, including the role of the Council in supporting residents and businesses throughout the pandemic; 'Investing in our Growth Agenda'; the Council's transformation programme; and further detail on the Council's plans to achieve net zero carbon emissions by 2030.
- Section 3: Provisional local government finance settlement: which included reference to the Revenue Support Grant and Rural Services Delivery Grant; the Lower Tier Services Grant; the new 2022 to 2023 Services Grant; the future of New Homes Bonus; the

- expected cessation of the Sales, Fees and Charges Lost Income Reimbursement scheme; business rates and business rates reliefs; Transitional Relief and Supporting Small Business Relief; Collection Fund deficits; council tax referendum limits; and support for energy prices – the council tax energy rebate.
- Section 4: Council tax for 2022 to 2023
  - Section 5: Setting the budget – 2022 to 2023 and across the medium term to 2025 to 2026: which included reference to inflation assumptions assumed in the MTFS; fees and charges (as approved by Cabinet on 8 February 2022); delivering a sustainable future beyond 2022 to 2023.
  - Section 6: Capital programme 2020 to 2025: which included reference to the planned capital expenditure over four years to 2025/2026; disposal of surplus assets.
  - Section 7: Minimum revenue provision (MRP)
  - Section 8: General fund balance
  - Section 9: Earmarked reserves
  - Section 10: Strategic priorities and MTFS reserve
  - Section 11: Adequacy of reserves
  - Section 12: Calculation of the council tax

Having acknowledged the issues highlighted above, Council noted that currently, council tax made up approximately one fifth of the authority's budget (exclusive of housing benefit) and therefore only contributed to a fifth of service delivery. West Suffolk Council charged around 11 percent of a local council tax payer's bill with the rest comprising precepts from the County Council, Police and Crime Commissioner as well as the relevant Parish or Town Council. It was recognised that any increase provided an extra burden on taxpayers but did mean the protection of vital services which would otherwise possibly have to be considered for reductions. Councillors were asked and expected by Government to look at local taxation levels to meet the authority's financial needs to support its communities and help future proof from financial uncertainty.

To help secure a balanced budget for 2022 to 2023, on 8 February 2022, the Cabinet recommended to Council that the level of Band D council tax for 2022 to 2023 be set at £187.11, an increase of £5 on the average West Suffolk council tax for 2021 to 2022. This recommendation was based upon the option to harmonise the council tax levels of the two predecessor areas (Forest Heath and St Edmundsbury) by 2022 to 2023. For 2022 to 2023 this represented an average Band D weekly increase of 22 pence (for the predecessor area of Forest Heath) and three pence (for the predecessor area of St Edmundsbury). Noting that just over 70 percent of West Suffolk residents were in bands A to C, these would actually see a lower increase.

Councillor Broughton drew relevant issues to the attention of Council, including commending the finance team and the Performance and Audit Scrutiny Committee, together with staff and other members across the authority for their work in securing a balanced budget for 2022 to 2023 and for developing plans in the medium term. Recognition was also given to the Anglia Revenues and Benefits Partnership, particularly for the additional work created for the partnership during the pandemic. Councillor Broughton duly summarised the extensive work that had been undertaken to reach this point

and the key proposals that contributed to securing a balanced budget for 2022 to 2023 and their significance in planning for the medium term.

A detailed debate ensued which included a number of comments, observations and questions, including:

- a. **Creation of £9 million net zero carbon budget:** The proposed creation of a new £9 million investment facility to demonstrate the Council's commitment to its previous declaration of an environment and climate emergency and to achieve its aspiration of meeting the Council's net zero emissions target by 2030. Examples were provided on the proposed initiatives contained in the budget that would help deliver a number of the recommendations identified by the Environment and Climate Change Taskforce and approved by Cabinet. This budget facility specifically allocated within the capital programme to deliver environmental projects were anticipated to deliver a 31 per cent carbon saving on Council operations, together with a return to the Council of two per cent after allowing for borrowing costs. Businesses and residents were encouraged to access Government-funded grant schemes for making energy efficiencies, where possible.
- b. **Western Way Development:** Whilst the Labour Group commended officers and staff for their support to communities during the past year and for the formulation of a balanced budget for 2022 to 2023, the Group felt it could not support approval of the budget due to consistent under-funding from central Government; and due to the capital expenditure allocated towards the proposed Western Way Development (WWD) project. It was questioned whether, in the current financial climate, with rising inflation, interest rates, energy costs and the cost of living in general, it was appropriate to proceed with the WWD at the present time. Examples were given of where, in the Labour Group's opinion, the proposed capital could potentially be better utilised or how the site could be alternatively redeveloped. Concern was also expressed regarding the need to undertake such substantial borrowing; the impact on the existing road network in the locality and the need to focus efforts on addressing services that required immediate improvement and support.

In response, Council was informed that following unanimous approval given for the full business case in September 2019, recognition had been given to the impact the COVID-19 pandemic had had on the context in which the Western Way Development would be delivered, which had changed significantly. It had therefore been appropriate to assess whether the tests set for the project in 2019 could still be met. Whilst the original masterplan for the site, the strategic case for the project, the design of the scheme, its highways provisions or the final mix of facilities did not require reconsideration, Council was asked in June 2021 to review the affordability of a deliverable scheme, and the appropriate safeguards that needed to be in place to secure delivery. The adjustments to the business case as a result of the review were subsequently approved by Council as the majority of members had been assured that each key area of the proposed scheme had been carefully reviewed against affordability, risk, safeguards and

deliverability. The adjusted flexible, phased approach within the parameters of the full business case and planning consent would enable the project to progress.

Emphasis was placed on the fact that at each gateway review, the relevant checks and balances would be assessed to ensure the project remained on track to proceed to the next stage.

The NHS were potential key public sector partners within the proposed development and emphasis was placed on the continued commitment the NHS had on partnership working with other public sector organisations and the provision of space within the Western Way Development would help achieve its aims and ambitions for undertaking a joined-up approach to delivering excellent care and health services within the community.

The Council had been working with the Highways Authority throughout the development of the proposed scheme. Working within the parameters of the masterplan for the site, planning consent had been given, which included measures required to be met by the Highways Authority and a travel plan was in place.

The majority of members remained confident that sufficiently robust safeguards were in place to mitigate the risks. To move forward with this exciting, innovative project required courage and leadership; however, it was recognised that through effective partnership working, better services and outcomes would be delivered for the residents of West Suffolk. The consensus was that organisations working collaboratively and holistically would lead to better outcomes for the residents of West Suffolk. Such outcomes included better health and wellbeing, economic and environmental benefits. A prime example of the successful co-location of services through the Hub approach were already being demonstrated following the opening of the Mildenhall Hub in summer 2021.

- c. **Swimming pool provision in the proposed new leisure centre (as part of the Western Way Development):** That following assessment of need, engagement with residents, dialogue with Sport England and Swim England which had resulted in the proposal for an eight-lane swimming pool for the new leisure centre, Councillor Paul Hopfensperger considered this remained unfit-for-purpose as he felt the pool would not be of sufficient size to accommodate major swim competitions.
- d. **Housing:** Whether New Homes Bonus could be allocated towards the provision of directly managed housing and for retrofitting poorly insulated and energy inefficient homes. In response, Council was informed that housing remained a key strategic priority of West Suffolk Council. Examples of where this priority was being met included the recent construction of two Barley Homes developments in Haverhill, including the provision of 30 percent affordable housing on both sites; together with highlighting that the Council's housing delivery target was currently being exceeded. The New Homes Bonus could be utilised

for directly managed housing; however, there were implications with this as the Council did not have its own housing stock. Three funding bids had been successful to deliver energy efficiencies to local housing. Access to the relevant grant could be made through an application process.

- e. **2022 to 2023 Capital Programme – Leisure Asset Management Plan Breakdown (Attachment D Appendix 2b): Motts Field (East Town Park) Haverhill:** The play area on this site was located within Haverhill South East ward and Councillor Tony Brown expressed his concern that the play area had been removed without consultation with him as ward member or seemingly those in the locality. He felt it was well-used by children of occupants of neighbouring flats and was disappointed that no consultation was undertaken before the decision was taken to close the play area. Officers would respond to Councillor Brown's comments accordingly.
- f. **Families and Communities:** This area remained a strategic priority of the Council and recognition was given to the work undertaken with partners, town and parish councils, and other key stakeholders to help improve the lives of residents in the community. Examples were provided, including that it was being proposed that the 2022 to 2023 budget should include an allocation of around £650,000 for the provision of Community Chest funding and councillor locality budgets, for granting to organisations and groups striving to make a difference in their communities.
- g. **Brandon:** The perceived lack of investment in Brandon by local ward members who felt that West Suffolk Council was not supporting prosperity for Brandon. In response, it was reiterated that Brandon Leisure Centre had recently benefitted from an almost £2 million investment to upgrade its current leisure offer. Members sympathised with the frustrations regarding the environmental challenges that had historically restricted housing development in the locality and extensive work was being undertaken to try and overcome these obstacles.

In summary, the majority of members acknowledged that despite the financial challenges being faced including the added pressures of COVID-19 and particularly its impact on income, the Council had made, and were continuing to make, successful investments in services; growth; greener; and health and well-being projects; together with creating efficiencies, resilience and ensuring the effective management of resources, all of which and more would enable West Suffolk Council to secure a balanced budget for 2022 to 2023.

The motion was then put to the statutorily required recorded vote. With 49 members present, the votes recorded were 37 votes for the motion, 10 against, and two abstentions; the names of those members voting for, against and abstaining, being recorded as follows:

**For the motion:**

Councillors Augustine, Broughton, Simon Brown, Bull, Chester, Nick Clarke, Drummond, Everitt, Frost, Glossop, Harvey, Beccy Hopfensperger, Houlder,

Lay, Mager, Marks, Mason, McManus, Mildmay-White, Nettleton, Nobbs, Noble, Pugh, Rayner, Richardson, Roach, Rout, Rushbrook, Andrew Smith, Soons, Stamp, Stanbury, Stevens, Thompson, Thorndyke, Wakelam and Wiseman.

**Against the motion:**

Councillors Tony Brown, Burns, Max Clarke, Hanlon, Hind, Luccarini, Lukaniuk, Neal, Waterman and Wittam.

**Abstentions:**

Councillors Simon Cole and Paul Hopfensperger.

It was therefore

**Resolved:**

1. Having taken into account the information received by Cabinet on 8 February 2022 (Report number: CAB/WS/22/008) including the report by the Director (Resources and Property) (Section 151 Officer) set out in Attachment C, together with the up to date information and advice contained in Report number: COU/WS/22/003, the level of West Suffolk Council's band D council tax for 2022 to 2023 be set at £187.11. The level of council tax beyond 2022 to 2023 will be set in accordance with the annual budget process for the relevant financial year.
2. Subject to recommendation 1. above, the following formal council tax resolutions be adopted:
  - a. the revenue and capital budget for 2022 to 2026, attached at Attachment A to Report number: COU/WS/22/003, and as detailed in Attachment D (Appendices 1 to 5), Attachment E (Appendices 1 to 4), Attachment F and Attachment H to, be approved.
  - b. A general fund balance of £5 million be agreed to be maintained, as detailed in paragraph 8.2.
  - c. The statutory calculations under Section 30 to 36 of the Local Government Finance Act 1992, attached at Attachment J, be noted.
  - d. The Suffolk County Council and Office of the Police and Crime Commissioner for Suffolk precepts issued to West Suffolk Council, in accordance with Section 40 of the Local Government Finance Act 1992 and outlined at paragraphs 12.6 and 12.7, be noted.
  - e. In accordance with Section 30(2) of the Local Government Finance Act 1992, the amounts shown in Schedule D of Attachment I be agreed as the amount of Council Tax for the year 2022 to 2023 for each of the categories of dwellings shown.

3. The Director (Resources and Property), in consultation with the Portfolio Holder for Resources and Property, be authorised to vire funds between existing Earmarked Reserves (as set out at Attachment D, Appendix 3) as deemed appropriate throughout the medium term financial planning period.
4. Approval be given to the extension of the business rate reliefs set out in paragraphs 3.12 to 3.15, in support of West Suffolk's business community.
5. Approval be given to the Flexible Use of Capital Receipts Strategy as set out in Attachment G.
6. The Director (Resources and Property), in consultation with the Portfolio Holder for Resources and Property, be authorised to implement the council tax energy rebate scheme and discretionary fund, as set out in paragraphs 3.18 to 3.23.

(Councillors Beccy Hopfensperger and Karen Richardson left the meeting at the conclusion of this item.)

**188. Amendments to the Constitution (Report number: COU/WS/22/004)**

Council considered this report, which sought approval for proposed amendments to the Constitution following their consideration by the Council's informal Constitution Review Group.

Councillor Carol Bull, Portfolio Holder for Governance, drew relevant issues to the attention of Council, including that as a result of requests for change, the following issues had been considered and accepted by the Constitution Review Group. These would require amendments to the Constitution, further details of which were set out in section two of the report:

- Formalisation of the procedure allowing adjacent ward members to be able to speak on applications at Development Control Committee meetings, on behalf of and with the approval of the relevant ward member(s)
- Changing the commencement time for Council meetings from 6.30pm to 7pm, which would allow greater flexibility for working members of the Council, or those with other commitments, to attend on time.

On the motion of Councillor Bull, seconded by Councillor Andrew Smith, it was put to the vote and with the vote being unanimous, it was

**Resolved:**

That, with immediate implementation of the decisions:

1. the revised wording to paragraph 4.2 of Section 3 (Functions and Responsibilities) Section 2 – Responsibility for Council (Non-Executive) Functions – Development Control Committee as set out in paragraph 2.1 of Report number: COU/WS/22/004, be approved.

2. It be agreed for Council meetings to start at 7pm, effective from the Annual Meeting of Council in May 2022, as set out in paragraph 2.2.

(Councillor Paul Hopfensperger left the meeting during the consideration of this item.)

189. **Calendar of Meetings: 2022 to 2023 (Report number: COU/WS/22/005)**

Council considered this report, which sought approval for the proposed calendar of meetings for West Suffolk Council in 2022 to 2023.

Councillor Carol Bull, Portfolio Holder for Governance, drew relevant issues to the attention of Council, including that there had been an increasing number of meetings cancelled over the past few years due to no items requiring decision. This had been particularly noticeable for full Council meetings.

To try to avoid this situation this year, before producing next year's calendar the Democratic Services Team had completed some analysis of meetings held and cancelled over recent years and adjusted the meeting dates and frequency to reflect forthcoming expected agenda items. Members noted that some additional reserve dates for Council and Cabinet had been included in the proposed 2022 to 2023 calendar, which would be used for meetings if required. This should see less meetings being cancelled.

No venues had been stipulated on the calendar at present. This was largely due to the COVID-19 situation as was known at the time of preparing the report, together with the need to have the required equipment in place to support meetings at the Mildenhall Hub.

Furthermore, a corporate hybrid meeting project was currently ongoing. The outcome of which would influence future meeting operation, being mindful of current legislation which required public, decision making meetings to be held in person, but noting that the Government was considering a longer-term decision about whether to make provision for councils to be able to meet remotely on a permanent basis. The venues would therefore be reviewed throughout the year and members would be updated accordingly.

Other specific changes proposed to previous years' calendar of meetings, as set out in section two of the report were also noted.

In response to questions, Council was informed that:

- In future, communication would be had with town councils in advance of the report containing the draft meetings calendar being published on the Council's website in order to avoid potential meeting clashes, where possible.
- Since the creation of West Suffolk Council, the Licensing and Regulatory Committee had met regularly, but this was largely on an informal basis as no decisions had needed to be made. For 2022 to 2023, four meetings had been scheduled and, as agreed with the Chair of the Committee, these had

been arranged as informal briefings as it was not yet known when formal decisions would be required. If a decision was needing to be taken then, with agreement of the Chair, the meeting would be changed to a formal public, decision making meeting.

Decision making meetings of Licensing and Regulatory Sub-Committees, for which membership was drawn for each hearing from the full Committee, were held quite regularly on an ad-hoc basis.

On the motion of Councillor Bull, seconded by Councillor Mike Chester, it was put to the vote and with the vote being unanimous, it was

**Resolved:**

That the Calendar of Meetings 2022 to 2023, as attached at Appendix A to Report number: COU/WS/22/005, be approved.

(Note: the decision to change the commencement time for Council meetings from 6.30pm to 7pm with effect from the Annual Meeting in May 2022, had previously been agreed for immediate implementation, as recorded under minute 188 above.)

190. **Any other urgent business**

There were no matters of urgent business considered on this occasion.

The meeting concluded at 8.20 pm

**Signed by:**

**Chair**

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## Civic communication for council 22 February to 22 March 2022

Chair attended 7 engagements

Vice Chair attended 1 engagement

Event	Venue	Date	Time	Attending
Full Council	West Suffolk House	Tuesday 22 February	6.30pm	Chair and Vice Chair of Council
RAF Lakenheath Family PT	RAF Lakenheath	Thursday 24 February	3.30pm to 5.30pm	Chair of Council
Love Newmarket BID Business Start Up Exhibition	Bedford Lodge Hotel, Newmarket	Wednesday 9 March	11.30am to 1pm	Chair of Council
An Evening of Solidarity for Ukraine	St Edmundsbury Cathedral	Wednesday 9 March	6.30pm	Chair of Council
The Queen's Green Canopy - Chair to plant a tree	Jubilee Park, Haverhill	Friday 11 March	10am	Chair of Council
Suffolk branch of SSAFA AGM	Needham Market Community Centre	Friday 18 March	10am to 2.30pm	Chair of Council
Suffolk Justice Service	St Edmundsbury Cathedral	Sunday 20 March	3.30pm	Chair of Council
Full Council	West Suffolk House	Tuesday 22 March	6.30pm	Chair and Vice Chair of Council

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## Leader’s statement

<b>Report number:</b>	<b>COU/WS/22/006</b>	
<b>Report to and date:</b>	<b>Council</b>	22 March 2022
<b>Documents attached:</b>	<b>None</b>	

### Leader’s Statement: March 2022

Dear all,

#### Ukraine

1. As I write this I have just been listening to the latest news in Ukraine and the desperate plight of the people in that country, which has overshadowed almost everything for the last couple of weeks. The distressing events and pictures we see cannot fail to move any of us.
2. As ever, we, with the rest of Suffolk, stand ready to support any refugees that come to the UK and our county. The Council is both coordinating with partners and putting plans in place. These, no doubt, will require some further complex discussion and actions to support people with a range of needs, having had to leave their homes in the middle of an invasion.
3. To show our support and solidarity we have lit up the outside and box office of the Apex in the colours of the Ukraine flag. At a time when many cities and villages in Ukraine are forced to have no lights at night due to this abhorrent invasion, when innocent people and children are being killed, we wanted to have a beacon of light that shows we stand with the people of Ukraine; and ask people to do what they can to give and show their support.
4. There are many local organisations supporting the people of Ukraine and you can find out more how they can help by going to [Supporting Afghan and Ukrainian refugees | Suffolk County Council](#)
5. In addition, we of course have many friends and neighbours working on the military bases in West Suffolk and whose mission with NATO has been publicised.
6. Our bond with the bases and their personnel is very strong. Indeed, recently staff from the 100 Air Refuelling Wing volunteered to help remove 560 paving slabs from our former Mildenhall offices. These are to be used to improve access for people with disabilities and wheelchair users so they can enjoy and take part in activities at The Shed, a West Row community project.

7. I have sent a message (on behalf of us all) of thanks and support to all personnel for the work they are doing and recognising the strain that they and their families must be under in these uncertain times.

## **Introduction**

8. The second newsletter has been sent to you all so I will not labour the points therein nor the great achievements that are highlighted in it. That said, I would like to thank everyone for their feedback which helps us evolve and improve it. We have introduced this monthly newsletter primarily to support councillors in their own wider communications to local communities and businesses about what the Council is or has been doing. I know many of you blog and use social media as well as send out newsletters in addition to briefing your local Parish and Town Councils. So, I hope this will prove useful to you. Please continue to send your views or ideas to the Communication Team.
9. I am sorry I was not able to attend our last meeting in person, but I know the debate was robust and in depth.....something our electorate expect of us on such a vital topic as the budget.
10. Now that the budget is set however, I look forward to the Council continuing to deliver on the vision we have set and the initiatives this funding unlocks.
11. In particular, I would like to highlight the environmental improvements this budget is making possible. But I also want to reflect briefly that this was something made into a reality thanks to the hard work of the cross-party taskforce that I set up when West Suffolk Council was formed. I hope those members are equally pleased as they see their work come to fruition.
12. This is also part of another example of the cross-cutting work we are doing across the county where Leaders of all authorities have joined together to make the environment a priority for all.

## **Sunnica**

13. As I write this, I have just received the papers for the Cabinet meeting next week in Mildenhall including the serious concerns we have about the proposed Sunnica Energy Farm.
14. This very large, proposed site spans land in both West Suffolk and East Cambridgeshire. While we understand and indeed support the need for improving green and sustainable energy, we also have a duty to balance that with many other considerations, including planning policies and the needs of our communities.
15. I, of course, will leave my own thoughts to the debate and look forward to hearing the advice of our planning officers as well as views of our local residents and communities. But it perhaps highlights the kind of decisions we face as councillors not just on this proposal but others as we continue to put

our own Local Plan together to meet the current and future needs of our residents and businesses.

16. In talking to colleagues following the last Council meeting, I also want to echo a point that was made in reference to the Local Plan specifically about Brandon. We all know how Brandon has been calling for development and of course we understand the constraints placed on that due to the habitat of the stone curlew inter alia. While changing that is not actually in our gift, I want to echo the assurances made at Council, that we are with Brandon in seeking to find a way to balance these needs. The budget that was agreed at our last Council enables us to carry on championing this cause and provide further evidence for our arguments.
17. I look forward to the debate in Mildenhall, especially as it is at the hub, which from our newsletter you will see is going from strength to strength. Indeed, it is proving the benefits of co-locating services and is illustrating the incredible rise in use compared to the separate previous facilities it replaced. Importantly the bond between health and leisure is working very well and we are also seeing a huge up-tick in the amount of people using the leisure facilities - all vital in our continuing to help improve the health and wellbeing of our residents throughout West Suffolk.

### **Supporting business**

18. I also want to highlight the amazing work we have been doing as a council to make sure more than 400 businesses have been able to access the latest £1.4 million in Government grants to help combat the impact of COVID. I know this has been a mammoth task, and our thanks go to all involved. Once again, we have been at the forefront of this work.
19. The budget we have set is enabling us to further support the growth of the local economy and much needed skills improvement. We continue to forge stronger links with business groups and local councils and organisations to further ensure a more prosperous future. This also includes securing funding, such as that highlighted in the newsletter, to encourage people to shop locally.
20. I also welcome the formation of a strong new partnership formed by local organisations, including the Our Bury St Edmunds BID, to put on five days of linked festive events this year.
21. This again illustrates our ongoing work together with others, to cross boundaries, be they organisational or geographic, and work with partners, businesses, and communities to put them at the heart of decision making. It also builds wider capacity; better outcomes designed locally and helps achieve more with the resources we have.
22. The five days of events, being held from November 23 to 27, take over from the former Christmas Fayre run by the Council and will also complement the events being put on by the Abbey 1000 celebrations. They are being planned, delivered, and funded by the new Christmas in Bury St Edmunds Partnership with the aim of delivering a set of linked entertaining, varied and safe events, with minimal disruption to residents and local businesses. Crucially it will also

provide an opportunity to showcase all that Bury St Edmunds has to offer for visitors as well as encouraging return visits throughout the year.

23. The partnership includes The Arc, Our Bury St Edmunds BID, Bury St Edmunds Town Council, St Edmundsbury Cathedral and West Suffolk Council who together will be at the heart of this to help drive forward the benefits for local traders and the community.
24. I of course, will welcome any suggestions from councillors how similar events can be supported elsewhere in West Suffolk.
25. Meanwhile, businesses have just voted in Haverhill not to have a Business Improvement District. This decision was taken democratically by local rate paying businesses (and I think as councillors we can all agree how important democracy and the electoral process is). I, with the rest of the Cabinet, very much look forward to continuing to work with all organisations and businesses in Haverhill, and of course throughout West Suffolk, on the collective goal of improving the local economy and making sure our towns and villages continue to thrive.

### **International Women's Day**

26. This week saw the annual international women's day which also acts to remind us there is still more to be done in terms of equality; this is of course something West Suffolk Council is very conscious of, and you will see in our papers for Council we have a report on the gender pay gap.
27. Nationally, in 2019, the average pay for full time female employees was 8.9 percent lower than for full time employees. And it is good to be able to report that for the period April 2020 to March 2021, our figures here show that female employees are likely to earn slightly more.
28. International Women's Day also saw the news that the Women's Tour, Britain's biggest and longest running international women's cycling stage race, is coming back to West Suffolk and we are excited to be hosting the Stage One finish in Bury St Edmunds in June. Major events such as these also raise the profile of West Suffolk and help our local economy thrive and it will be a fantastic day for our residents, businesses, and visitors alike. But equally important, it is a great way for young cyclists to see fantastic role models for their sport and hopefully encourage them onto greater things.

### **Finally**

29. Although COVID has certainly not gone away, and we continue to take sensible precautions I much look forward to seeing you all in the Council Chamber again.

With best wishes,

**Councillor John Griffiths**  
**Leader of West Suffolk Council**

# Community Governance Review

<b>Report number:</b>	<b>COU/WS/22/007</b>	
<b>Report to and date:</b>	<b>Council</b>	22 March 2022
<b>Cabinet member:</b>	Councillor Carol Bull Portfolio Holder for Governance Telephone: 01953 681513 Email: <a href="mailto:carol.bull@westsuffolk.gov.uk">carol.bull@westsuffolk.gov.uk</a>	
<b>Lead officers:</b>	Jen Eves Director for HR, Governance and Regulatory Telephone: 01284 757015 Email: <a href="mailto:Jennifer.Eves@westsuffolk.gov.uk">Jennifer.Eves@westsuffolk.gov.uk</a>  Ben Smith Business Partner for Governance Telephone: 07961 809122 Email: <a href="mailto:ben.smith@westsuffolk.gov.uk">ben.smith@westsuffolk.gov.uk</a>	

**Decisions Plan:** **Not applicable as this is not an executive matter**

**Wards impacted:** **All wards**

**Recommendation:** **It is recommended that:**

- 1. the draft recommendations, as set out in Appendix A to Report number: COU/WS/22/007, be approved for consultation.**
- 2. The Director for HR, Governance and Regulatory be authorised to prepare the draft recommendations for consultation, in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007.**

- 3. The Community Governance Review Task and Finish Group be authorised to amend draft recommendations and re-consult where necessary.**
  
- 4. The Chief Executive be asked to write to the Local Government Boundary Commission for England (LGBEC) to request their support with any consequential changes to district warding arrangements ahead of the elections in May 2023.**

## 1. Context to this report

- 1.1 The purpose of this report is to ask Council to approve the draft recommendations to be put forward for consultation as part of the interim Community Governance Review (CGR).
- 1.2 At its meeting on 14 December 2021, Council approved the Terms of Reference for the CGR. Stage one of the CGR invited initial submissions to be put forward on future arrangements in accordance with the terms of reference for the review. The CGR Task and Finish Group met to consider the submissions received and to agree draft recommendations for consultation.
- 1.3 There will be a three-month consultation period on the draft recommendations between 1 April and the end of June 2022. Following this there will be two months for the CGR Task and Finish Group to consider the comments received, undertake any follow up consultation where necessary, and to draft the final recommendations. The final recommendations will then be considered by Council at its meeting in September 2022.
- 1.4 Subject to Council approval, officers will prepare the draft recommendations for consultation, in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007.
- 1.5 The timetable for the review is below

Stage	Action	Dates
Authorisation	Council resolves to undertake CGR Terms of Reference Approved Task and Finish Group established	Council – 14 December 2021
Commencement	Notice of Review published	17 December 2021
Stage One	Consultation with stakeholders – initial submissions invited on future arrangements in accordance with terms of reference	January 2022 – February (2 months)
Stage Two	Consideration of submissions received Draft recommendations prepared	March 2022
Stage Three	Draft recommendations to be considered by Council and approved for further consultation	22 March 2022

<b>Stage</b>	<b>Action</b>	<b>Dates</b>
Stage Four	Consultation with stakeholders on draft recommendations Final recommendations prepared	April 2022 – June 2022 (3months)
Stage Five	Final recommendations to be considered by Council with resolution to make a Re-organisation Order	Council – September 2022
Stage Six	Re-organisation Order made	As soon as practicable after publication of final recommendations

## 2. Proposals within this report

- 2.1 The submissions received during stage one of the review were used to prepare draft recommendations which are attached at Appendix A.
- 2.2 It should be noted that there is not currently a consensus among stakeholders in relation to some of the issues. However, testing the recommendation during consultation will assist the Council with its decision on final recommendations in September 2022.
- 2.3 Below is a summary of the responses received during the first stage of the Community Governance Review.

<b>Issue</b>	<b>Comments received</b>
Issue 1 – Bury St Edmunds Town Wards	Submission received from Bury St Edmunds Town Council supporting a single town ward for Westgate.
Issue 2 – Haverhill Town Wards	Submission received from Haverhill Town Council supporting a single town ward for Haverhill (Central).
Issue 3 – Newmarket Town Wards	Submission received from Newmarket Town Council requesting that the Freshfields, Several and All Saints wards remain as is and be subject to a wider review in future.
Issue 4 – Lark Grange	Submissions received from Bury St Edmunds Town Council and Moreton Hall Residents Association supporting the extension of Bury St Edmunds parish boundaries to include the Lark Grange growth site.

Issue 5 – Dunstall Green Road	Submission received from Ousden Parish Council support the extension of Ousden Parish boundary to include some properties on Dunstall Green Road. Submission received from Dalham Parish Council requesting that the boundary be left 'as is'.
Issue 6 – Bardwell Road	Submissions received from Cllr Jim Thorndyke and Suffolk County Cllr Joanna Spicer regarding anomalies with the boundary between Stanton, Bardwell and Barningham.
Issue 7 – Wickham Street	Submission received from Wickhambrook Parish Council requesting that the Wickhambrook/Denston boundary follow the A143. Comment received from Suffolk County Cllr Roberta Bennett supporting the submission.
Issue 8 – Withersfield	Submission received from Haverhill Town Council proposing that the Withersfeld parish be split into 2 parish wards for the 'Arboretum Estate' and 'The Village'. Submission received from Withersfield Parish Council requesting an increase in members from 7 to 8.
Issue 9 – Red Lodge	Submission received from Red Lodge Parish Council requesting an extension of the Red Lodge parish boundary to include the development on Turnpike Road.
Issue 10 – naming of Newmarket Town Wards	Submission received from Newmarket Town Council requesting that two of their town wards be renamed. The submission also included a suggestion that the number of members could be increased to be an odd number, and this is being investigated.
Other comments	1 x issue that is not being considered as it was resolved at the 2016 Community Governance Review. 7 x no comment or no change Haverhill Town Council requested West Suffolk to petition the Boundary Commission for two matters which are separate to this review.

### **3. Alternative options that have been considered**

- 3.1 The CGR Task and Finish Group noted that there is not currently a consensus among stakeholders in relation to some of the issues and that alternative options could be put forward. However, testing the recommendation during consultation will assist the Council with its decision on final recommendations in September 2022.

### **4. Consultation and engagement undertaken**

- 4.1 The Council will undertake proportionate consultation with stakeholders and those with an interest, including but not limited to:

- Local government electors/residents of the district
- Parish and town councils
- Parish meetings
- District councillors
- County councillors
- Members of Parliament
- Residents Associations
- Local businesses
- Local public and voluntary organisations
- Suffolk Association of Local Councils

4.2 The public engagement plan is overseen by the CGR Task and Finish Group. Information about each stage of the review will be published on the Council’s website and will be made available for inspection at West Suffolk House. Public libraries and parish and town councils will also be encouraged to make information available where facilities are available. Press releases and other publicity will be issued where appropriate.

## **5. Risks associated with the proposals**

- 5.1 The parish electoral arrangements for Bury St Edmunds, Haverhill and Newmarket are protected for five years following the 2019 Local Government Boundary Commission for England (LGBCE) review for West Suffolk Council and will require the consent of the LGBCE before any Order implementing changes can be made.
- 5.2 There are also some draft recommendations that, if adopted, would require a consequential amendment to the district ward to ensure ongoing coterminosity of governance arrangements at parish, district and county level. This would ensure effective and convenient local governance.
- 5.3 Subject to Council approval, the Chief Executive will contact the LGBCE to request their support with any consequential changes to district warding arrangements ahead of the elections in May 2023.

## **6. Appendices referenced in this report**

- 6.1 Appendix A - Draft recommendations for consultation

## **7. Background documents associated with this report**

- 7.1 Guidance on Community Governance Reviews: [Guidance on community governance reviews \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guidance-on-community-governance-reviews)
- 7.2 Council meeting: [Agenda for Council on Tuesday 14 December 2021, 6.30 pm \(westsuffolk.gov.uk\)](https://westsuffolk.gov.uk/agenda-for-council-on-tuesday-14-december-2021-6-30-pm)

## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
1	<p>Bury St Edmunds (Out Westgate) Town Ward and Bury St Edmunds (Westgate) Town Ward</p> <p><b>This issue should be read in conjunction with issue 4 which also relates to Bury St Edmunds Town Council.</b></p>	•Bury St Edmunds	To combine the two town wards into a single ward called Bury St Edmunds (Westgate) Town Ward.

### Proposal of CGR Task and Finish Group

**The Town Council warding arrangements for Bury St Edmunds Town Council be amended so that there is a single Town Council Ward for Bury St Edmunds Westgate.**

The new town ward boundary would follow the existing district ward boundary for the Westgate district ward. The recommended new boundary is shown on the map overleaf.

The reasons for the recommendation include:

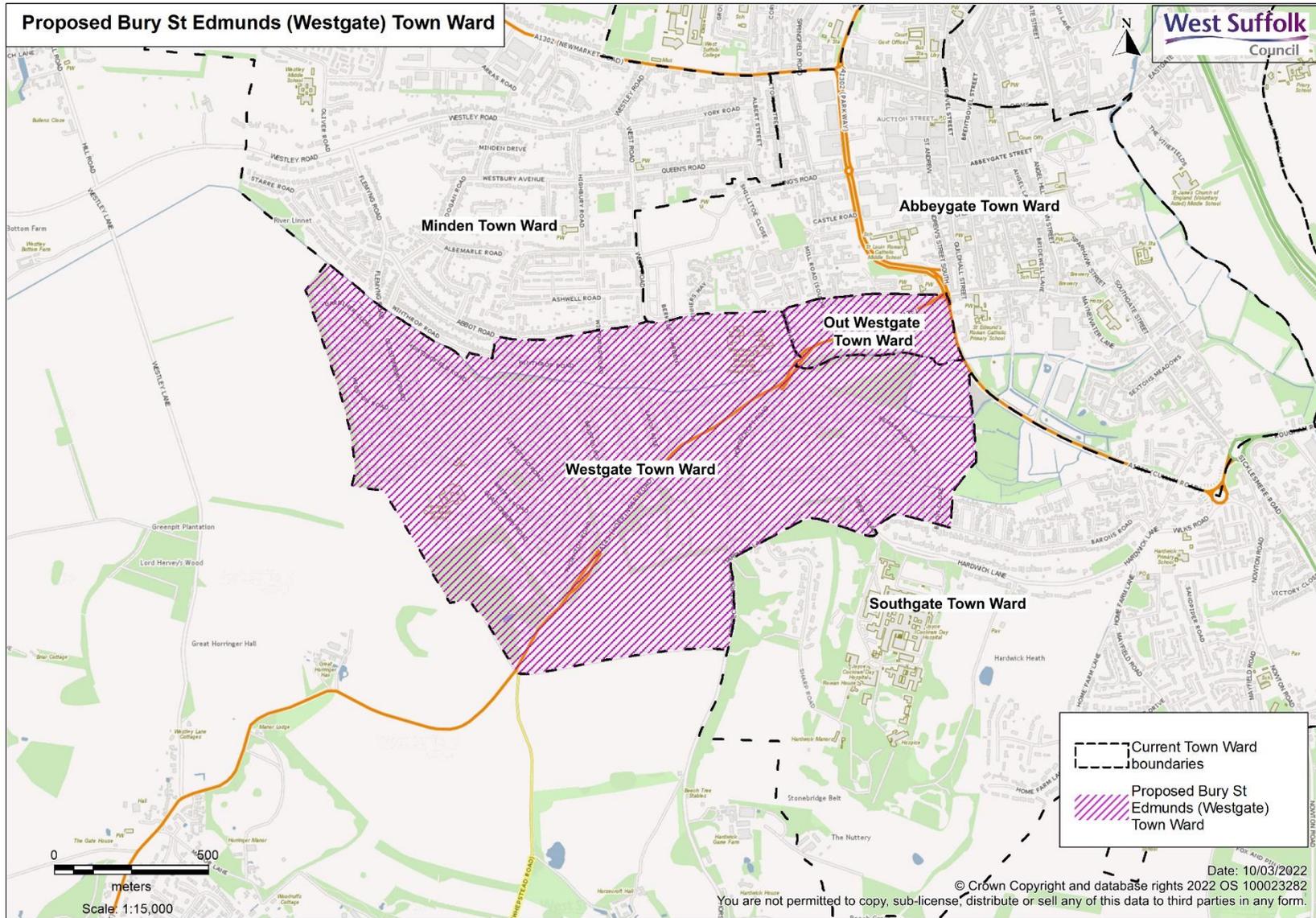
1. local preference (the proposal was supported by the Town Council); and
2. it potentially provides more appropriate parish boundaries to reflect the identities and interests of local residents and offers them more effective and convenient local government as the town ward would be coterminous with the district ward and county division.

### Allocation of councillors

The latest estimate of electorate change relating to Bury St Edmunds will be used to allocate town councillors to the Town Council Wards. The electorate forecast is only a guide figure and is produced using the councils 5-year housing land supply document.

Town Ward	Current number of town councillors
Bury St Edmunds (Abbeygate)	2
Bury St Edmunds (Eastgate)	1
Bury St Edmunds (Minden)	2
Bury St Edmunds (Moreton Hall)	3
Bury St Edmunds (Southgate)	2
Bury St Edmunds (St Olaves)	2
Bury St Edmunds (Tollgate)	2
Bury St Edmunds (Out Westgate)	1
Bury St Edmunds (Westgate)	2

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
2	Haverhill (Mount Road) Town Ward and Haverhill (Central) Town Ward	•Haverhill	To combine the two town wards into a single ward called Haverhill (Central) Town Ward.

### Proposal of CGR Task and Finish Group

**The Town Council warding arrangements for Haverhill Town Council be amended so that there is a single Town Council Ward for Haverhill Central.**

The new town ward boundary would follow the existing district ward boundary for Haverhill Central district ward. The recommended new boundary is shown on the map overleaf.

The reasons for the recommendation include:

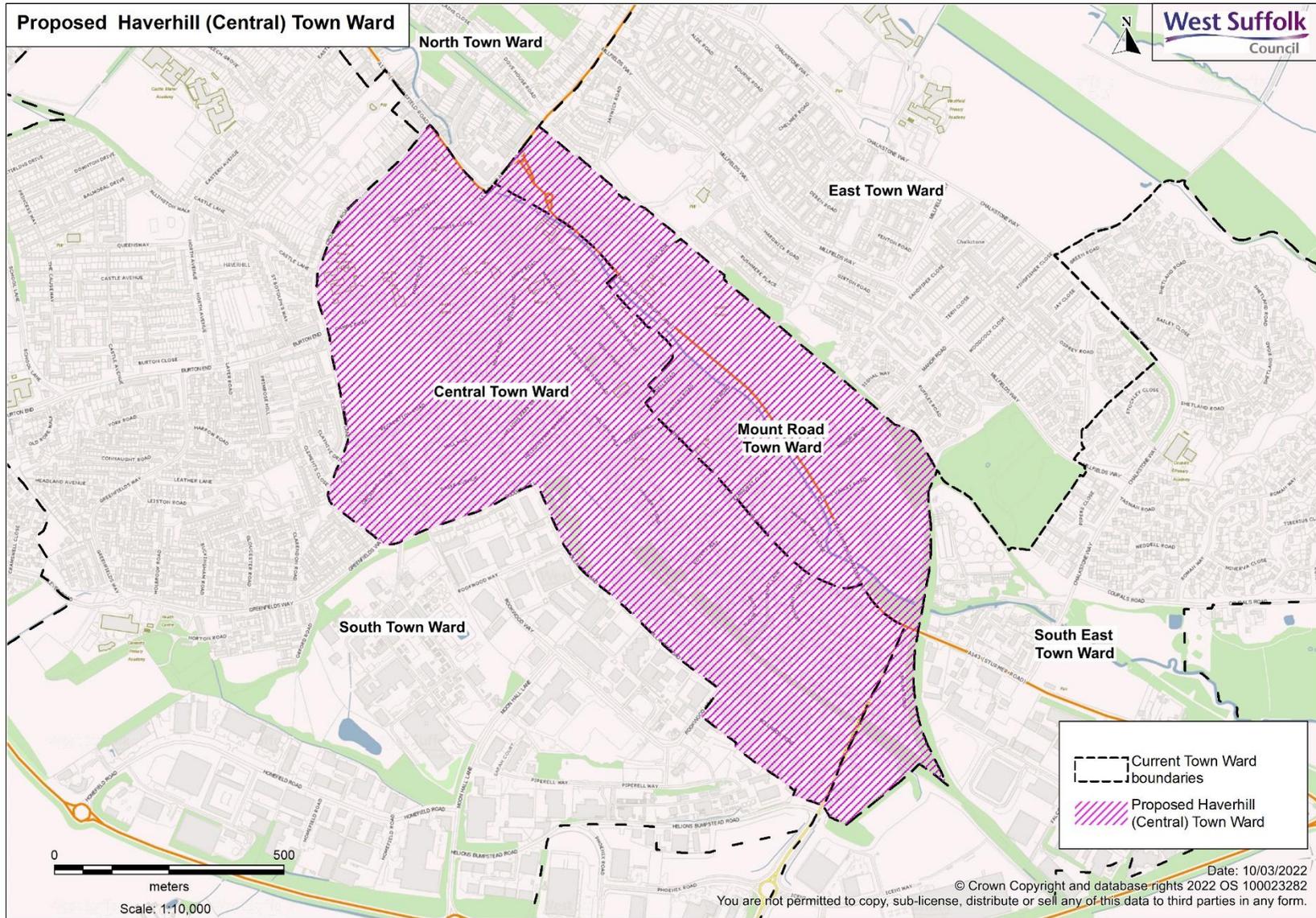
3. local preference (the proposal was supported by the Town Council); and
4. it potentially provides more appropriate parish boundaries to reflect the identities and interests of local residents and offers them more effective and convenient local government as the town ward would be coterminous with the district ward and county division boundaries.

#### Allocation of councillors

The latest estimate of electorate change relating to Haverhill will be used to allocate town councillors to the Town Council Wards. The electorate forecast is only a guide figure and is produced using the councils 5-year housing land supply document.

Town Ward	Current number of town councillors
Haverhill (Central)	1
Haverhill (Mount Road)	1
Haverhill (East)	3
Haverhill (North)	3
Haverhill (South East)	2
Haverhill (South)	3
Haverhill (West)	3

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
3	Newmarket (Freshfields) Town Ward, Newmarket (Severals) Town Ward and Newmarket (All Saints) Town Ward	•Newmarket	The governance arrangements for the three town wards to remain as is.
<b>Proposal of CGR Task and Finish Group</b>			
<p><b>No change to the warding arrangements for Newmarket Town Council in relation to Newmarket (Freshfields) Town Ward, Newmarket (Severals) Town Ward and Newmarket (All Saints) Town Ward.</b></p> <p>The terms of reference for the CGR had included a review of the warding arrangements for Newmarket Town Council to consider whether they could be improved by being coterminous with the district ward and county division boundaries. However, Newmarket Town Council resolved that the arrangements for the above wards should remain the same and potentially be subject to a full review of town wards over the coming years.</p> <p>The reasons for the recommendation include:</p> <ol style="list-style-type: none"> <li>1. local preference (the proposal was supported by the Town Council)</li> </ol>			

## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
4	Lark Grange housing development <b>This issue should be read in conjunction with issue 1 which also relates to Bury St Edmunds Town Council.</b>	<ul style="list-style-type: none"> <li>•Bury St Edmunds</li> <li>•Rushbrooke with Rougham</li> </ul>	The boundary of Bury St Edmunds Parish be extended to include the Lark Grange development.

### Proposal of CGR Task and Finish Group

*As resolved by St Edmundsbury Borough Council in 2016 the 2021-2022 CGR is considering the parish governance arrangements for the growth site to the east of Bury St Edmunds, which is commonly known as Lark Grange and is within the Rushbrooke with Rougham Parish area. The draft recommendation is below.*

- (1) The external boundaries between Bury St Edmunds and Rushbrooke with Rougham Parishes be amended as shown on the map overleaf.**
- (2) The area transferred to Bury St Edmunds parish be included as part of the Bury St Edmunds (Moreton Hall) Town Ward.**
- (3) The parish warding arrangement for Rushbrooke with Rougham be removed.**
- (4) The Local Government Boundary Commission for England be asked to amend the Moreton Hall district ward boundary so that it is coterminous with the Bury St Edmunds parish boundary.**

The reasons for the recommendation include:

1. local preference (the principle of the proposal was supported by Bury St Edmunds Town Council and Moreton Hall residents association and no response was received from Rushbrooke with Rougham Parish Council);
2. it potentially provides parish boundaries to reflect the identities and interests of local residents (current and future) and offers them more effective and convenient local government
3. it reflects, in community identity terms, the barrier created by the Rougham airfield.

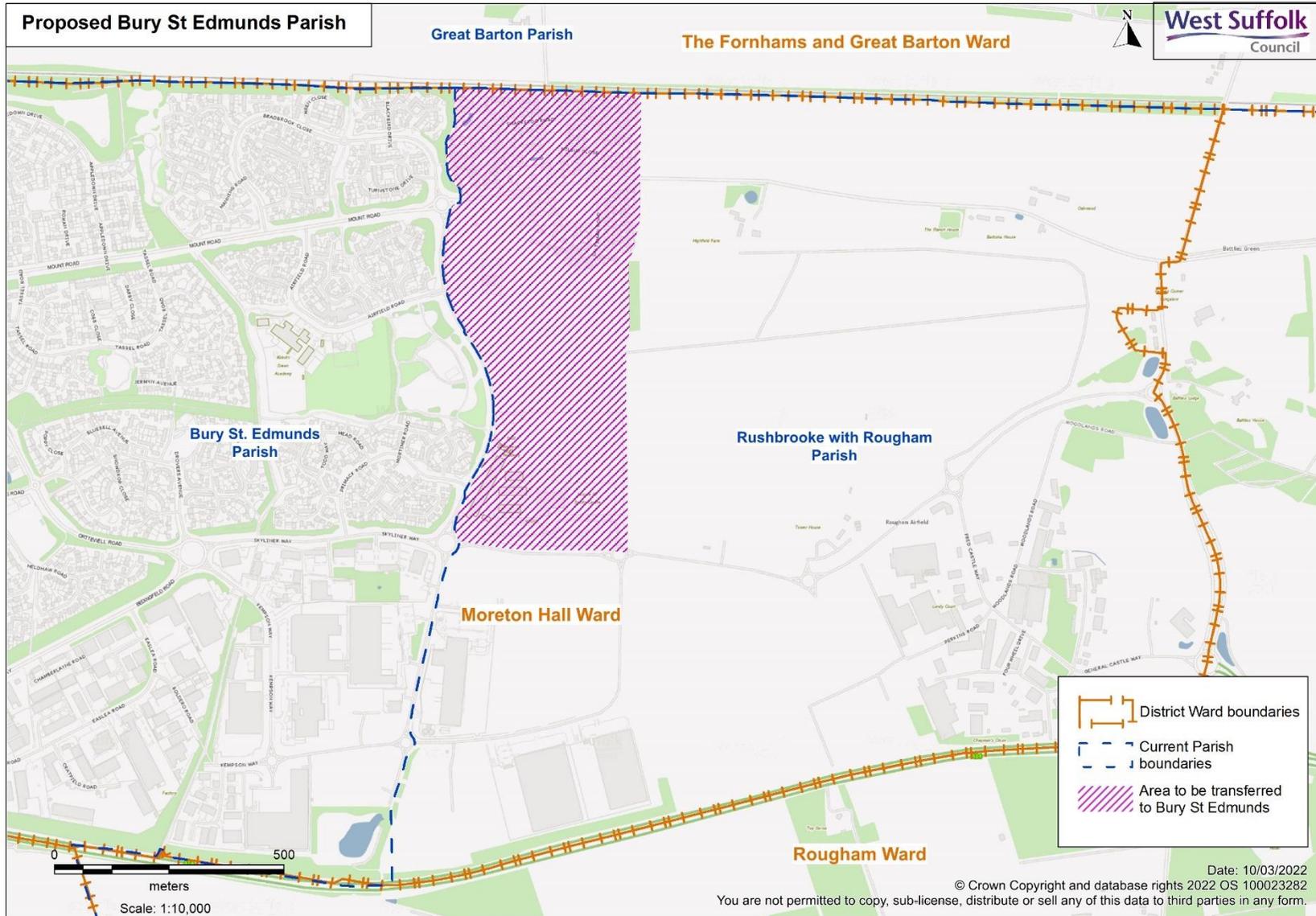
The recommendation impacts on 255 existing properties with 368 electors in total.

#### Allocation of councillors

The latest estimate of electorate change relating to Lark Grange will be used to allocate town councillors to the Bury St Edmunds (Moreton Hall) Town Ward. The electorate forecast is only a guide figure and is produced using the councils 5-year housing land supply document.

Town Ward	Current number of town councillors
Bury St Edmunds (Moreton Hall)	3

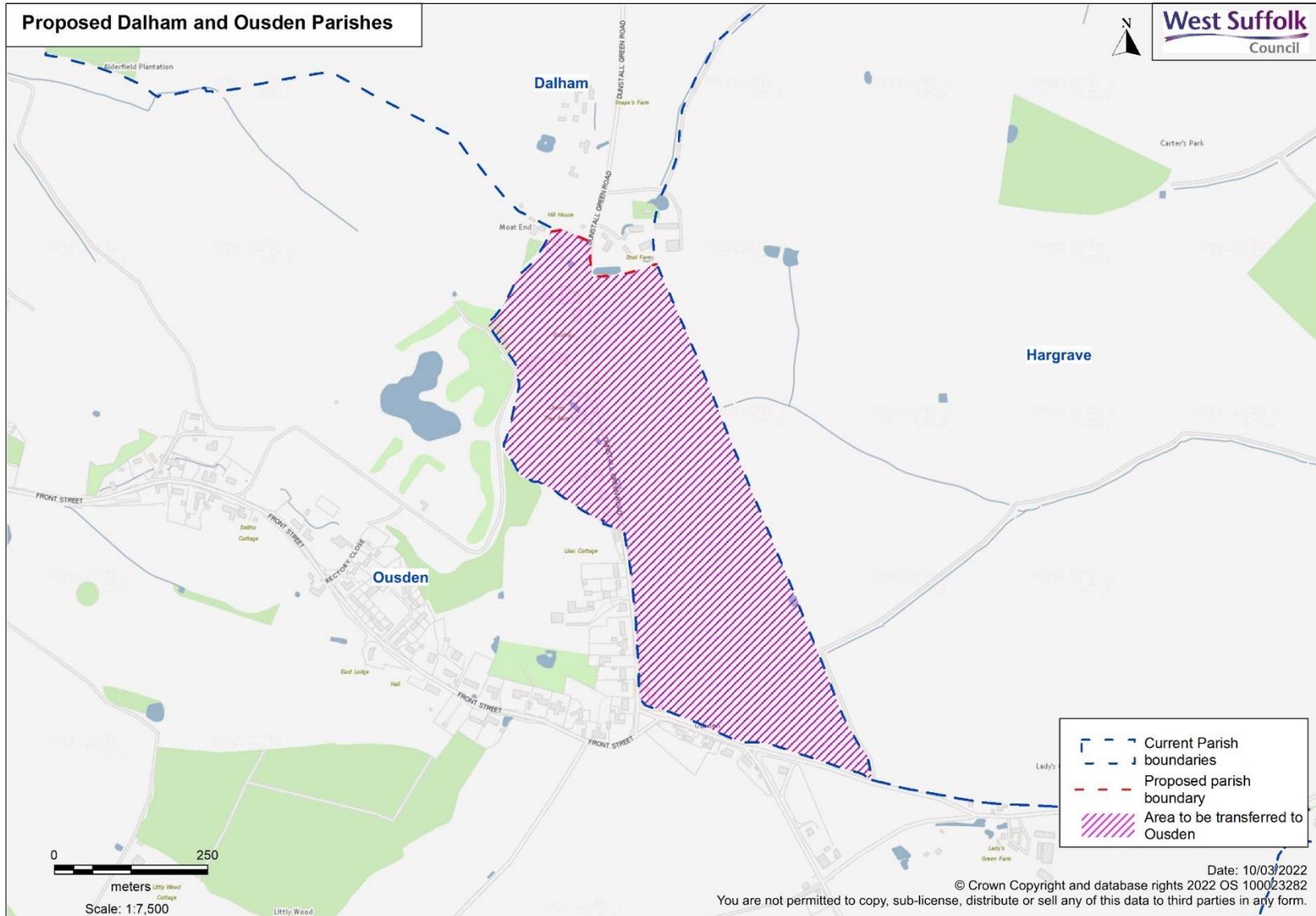
# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
5	Properties on Dunstall Green Road between Ousden and Dalham	<ul style="list-style-type: none"> <li>•Dalham</li> <li>•Ousden</li> </ul>	The boundary of Ousden Parish be amended to incorporate the properties on Dunstall Green Road
<b>Proposal of CGR Task and Finish Group</b>			
<p><b>The boundary of Ousden Parish be amended as indicated on the attached map to incorporate the properties on Dunstall Green Road</b></p> <p>The proposed new external parish boundaries for consultation are shown on the map overleaf.</p> <p>The reasons for the recommendations include:</p> <ol style="list-style-type: none"> <li>1. local preference (the principle of the proposal was supported by Ousden Parish Council but not by Dalham Parish Council). This should be tested further through the publication of a draft recommendation for consultation;</li> <li>2. the recommendation potentially offers parish boundaries to reflect the identities and interests of local residents and offer them more effective and convenient local government.</li> </ol> <p>The recommendation impacts on 6 properties with 13 electors in total.</p>			

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
6	Properties on Bardwell Road between Stanton and Barningham	<ul style="list-style-type: none"> <li>•Stanton</li> <li>•Barningham</li> <li>•Bardwell</li> </ul>	The boundary between Barningham Parish Council or Bardwell Parish Council and Stanton Parish Council be amended to include the properties on Bardwell Road in the Barningham or Bardwell parish area.

### Proposal of CGR Task and Finish Group

- (1) The boundary between Barningham Parish Council or Bardwell Parish Council and Stanton Parish Council be amended as indicated on the attached map to include the properties on Bardwell Road in the Barningham or Bardwell parish area.**
- (2) The Local Government Boundary Commission for England be asked to amend the Stanton district ward boundary so that it is coterminous with the parish boundary**

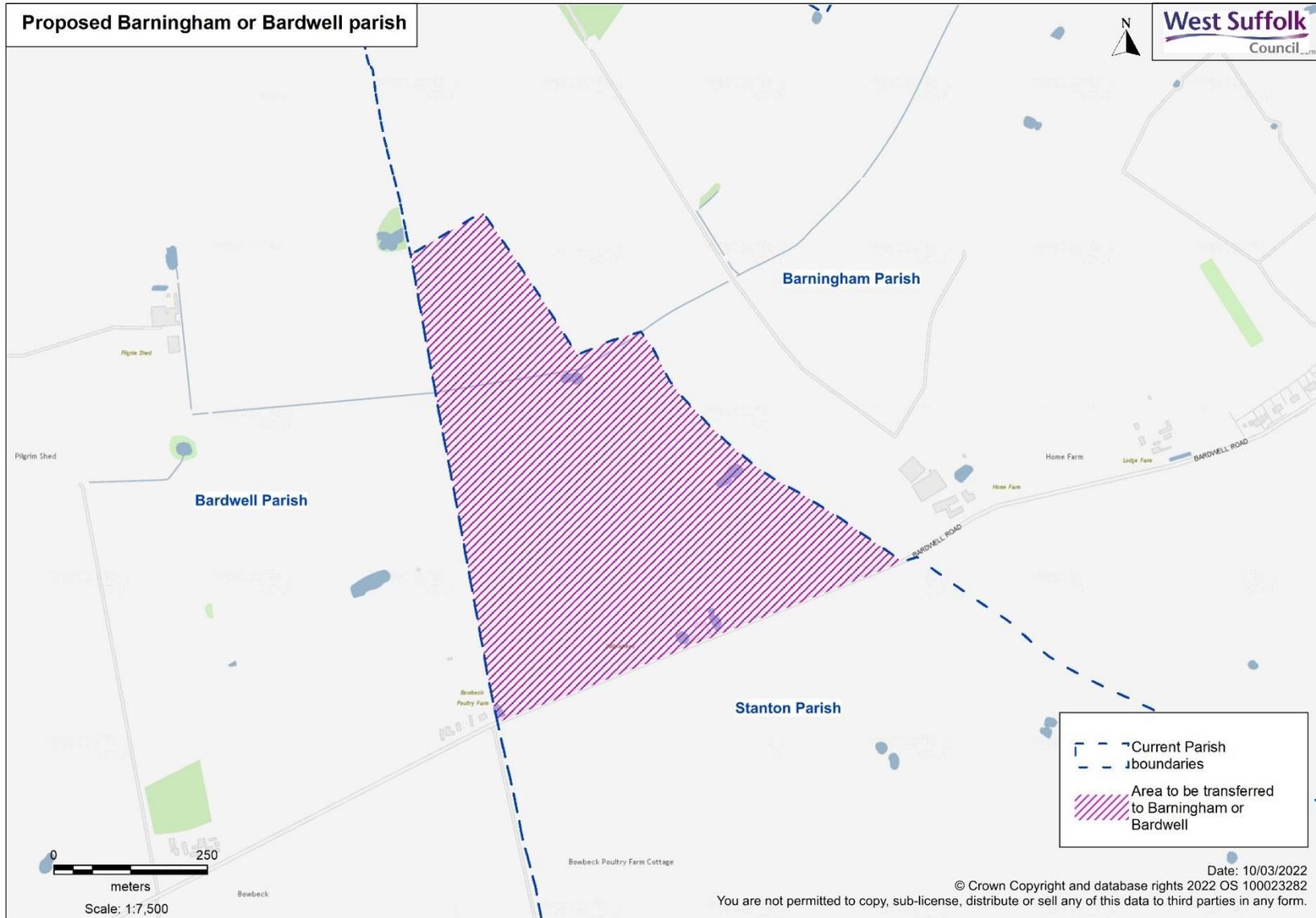
The proposed new external parish boundaries for consultation are shown on the map overleaf.

The reasons for the recommendations include:

1. local preference (the proposal was made by the district councillor for Stanton and amending the boundary anomalies in this area were also supported by the county councillor for Blackburn.)
2. the recommendation potentially offers parish boundaries to reflect the identities and interests of local residents and offer them more effective and convenient local government.

The recommendation impacts on 2 properties with 3 electors in total.

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
7	Properties on Wickham Street between Wickhambrook and Denston	<ul style="list-style-type: none"> <li>•Denston</li> <li>•Wickhambrook</li> </ul>	The boundary between Denston Parish Council and Wickhambrook Parish Council be amended so that it follows the A143.

### **Proposal of CGR Task and Finish Group**

**The boundary between Denston Parish Council and Wickhambrook Parish Council be amended as indicated on the attached map so that it follows the A143.**

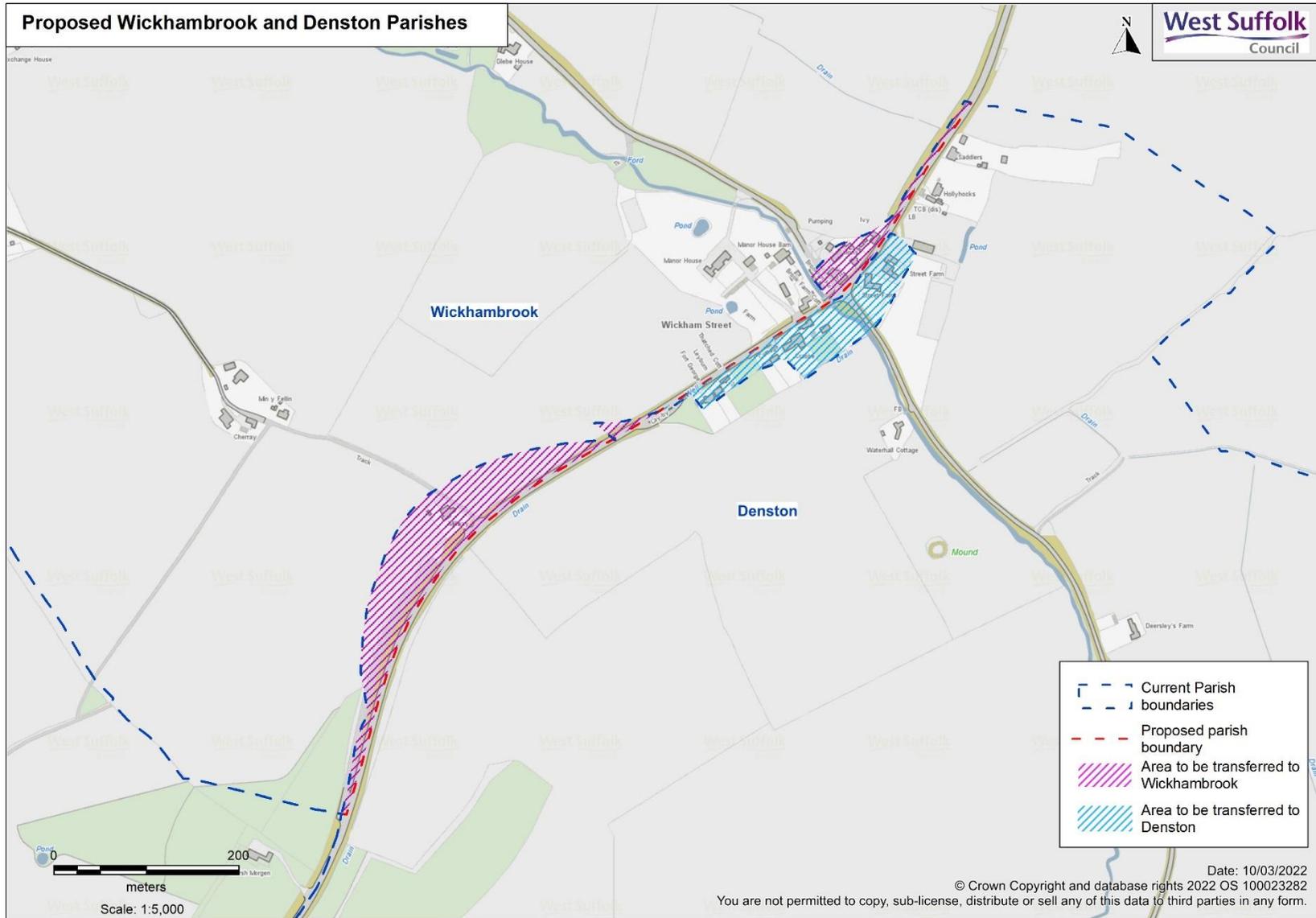
The proposed new external parish boundaries for consultation are shown on the map overleaf.

The reasons for the recommendations include:

1. local preference (the proposal was made by the Wickhambrook Parish Council)
2. the recommendation potentially offers parish boundaries to reflect the identities and interests of local residents and offer them more effective and convenient local government as a clearer boundary would be in place.
3. it reflects, in community identity terms, the natural boundary created by the A143.

The recommendation impacts on 17 properties with 29 electors in total.

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
8	Withersfield Parish Council	•Withersfield	Withersfield Parish Council be divided into two parish wards for the Withersfield (Arboretum) and Withersfield (Village) and increase the overall number of councillors to 8.

### Proposal of CGR Task and Finish Group

**Withersfield Parish Council be divided into two parish wards, as indicated on the attached map, for the Withersfield (Arboretum) parish ward and Withersfield (Village) parish ward.**

**The overall number of parish councillors for Withersfield be increased from seven to eight with 4 councillors allocated to Withersfield (Arboretum) and 4 councillors allocated to Withersfield (Village).**

The reasons for the recommendation include:

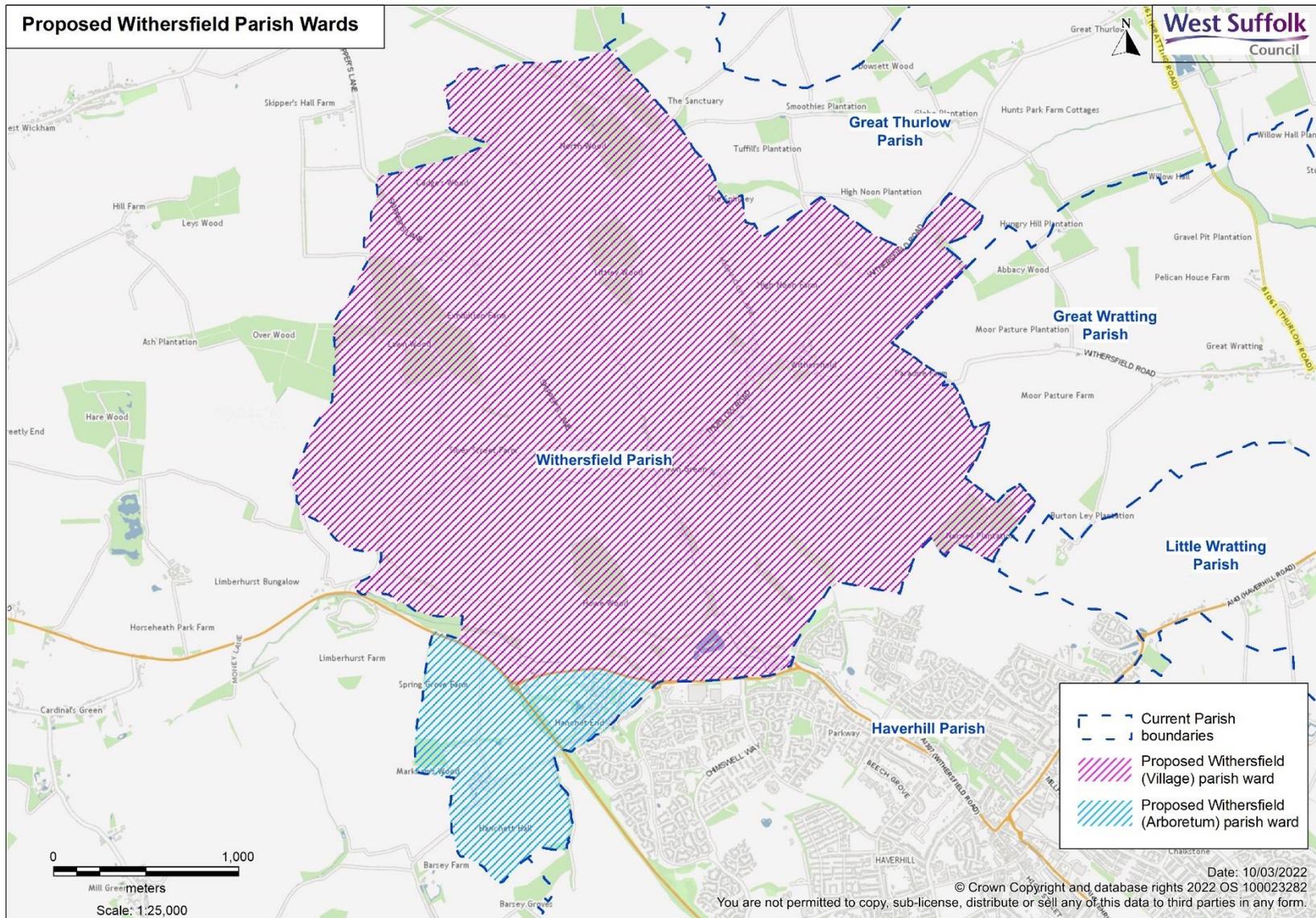
1. local preference (the increase in councillors is a request from the Parish Council); and
2. the increase will assist the Parish Council to provide effective local government for the Parish, especially with the expected increase in housing development on the Arboretum estate.
3. The proposed parish warding could reflect the community identity and allow the new 'Arboretum estate' community to develop a distinct local identity, appropriate local services and strong and focused democratic representation, as well as being an integrated part of the existing Withersfield Parish.

### Allocation of councillors

The latest estimate of electorate change relating to Withersfield will be used to allocate parish councillors to the Withersfield (Arboretum) and Withersfield (Village) parish wards. The electorate forecast is only a guide figure and is produced using the councils 5-year housing land supply document.

Parish Ward
Withersfield (Arboretum)
Withersfield (Village)

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
9	Properties on Chase Avenue between Worlington and Red Lodge	<ul style="list-style-type: none"> <li>•Red Lodge</li> <li>•Worlington</li> </ul>	The boundary between Red Lodge Parish Council and Worlington Parish Council be amended to include the properties on Chase Avenue (and properties on streets accessed via Chase Avenue) in the Red Lodge parish area.

### Proposal of CGR Task and Finish Group

- (1) The boundary between Red Lodge Parish Council and Worlington Parish Council be amended as indicated on the attached map to include the properties on Chase Avenue (and properties on streets accessed via Chase Avenue) in the Red Lodge parish area.**
- (2) The Local Government Boundary Commission for England be asked to amend the Red Lodge district ward boundary so that it is coterminous with the parish boundary**

The proposed new external parish boundaries for consultation are shown on the map overleaf.

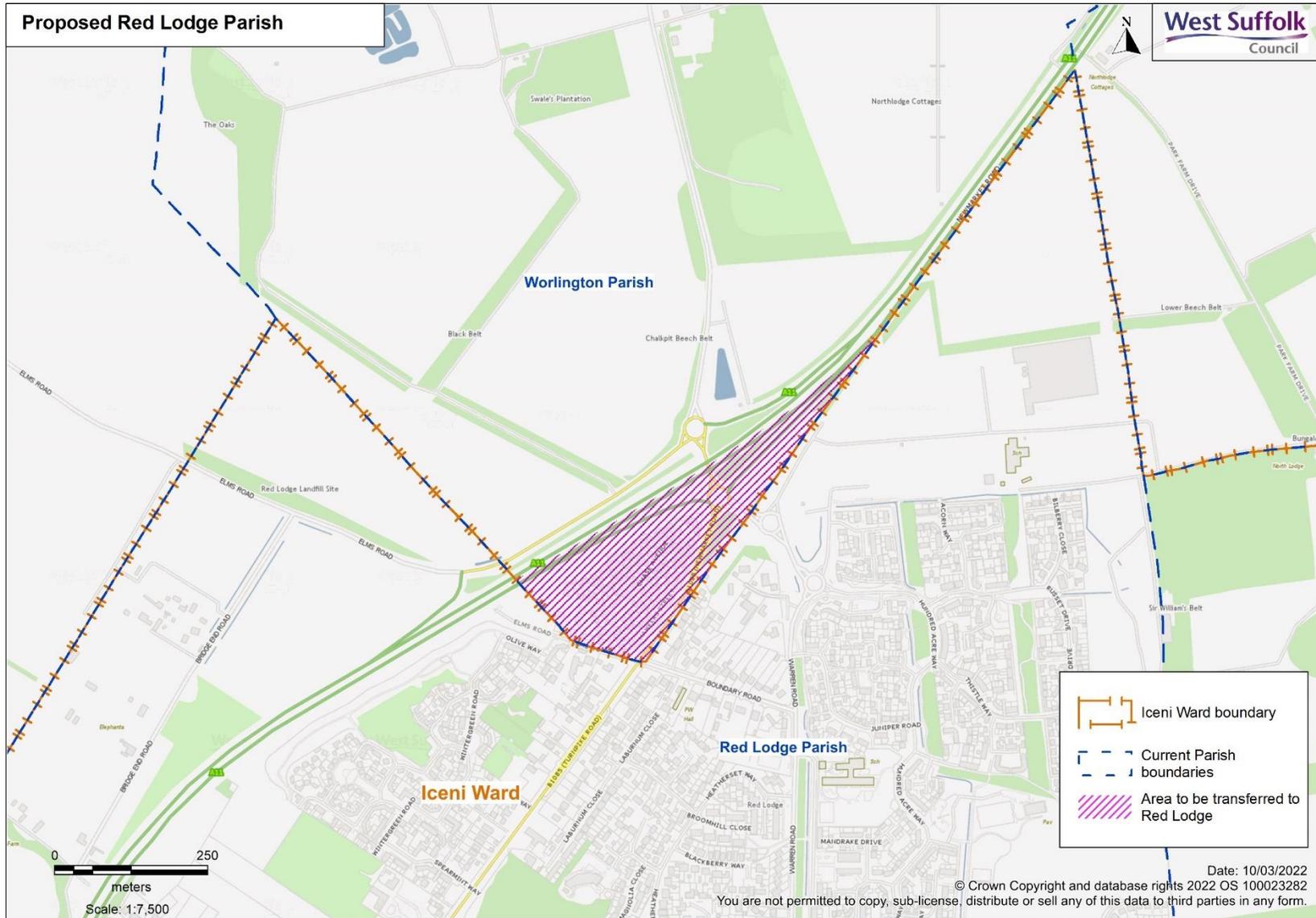
The reasons for the recommendations include:

1. local preference (the proposal was made by both Red Lodge Parish Council and Worlington Parish Council)
2. the recommendation potentially offers parish boundaries to reflect the identities and interests of local residents and offer them more effective and convenient local government.

The recommendation impacts on 113 existing properties with 153 electors in total.

The latest estimate of electorate change will be used to calculate the impact of the consequential change to the district warding arrangements on electoral equality. The electorate forecast is only a guide figure and is produced using the councils 5-year housing land supply document.

# Appendix A – DRAFT recommendations



## Appendix A – DRAFT recommendations

No	Area or Properties Under Review	Parishes Directly Affected	Draft Recommendation
10	Newmarket (Scaltback) Town Ward and Newmarket (Studland) Town Ward	•Newmarket	Rename Newmarket (Scaltback) Town Ward as Newmarket (West) Town Ward and Newmarket (Studlands) Town Ward as Newmarket (North) Town Ward
<b>Proposal of CGR Task and Finish Group</b>			
<p><b>The Town Council warding arrangements for Newmarket Town Council be amended so that the existing Newmarket (Scaltback) Town Ward is called Newmarket (West) Town Ward and the Newmarket (Studlands) Town Ward is called the Newmarket (North) Town Ward</b></p> <p>The reasons for the recommendation include:</p> <ol style="list-style-type: none"> <li>1. local preference (the proposal was supported by the Town Council); and</li> <li>2. it potentially provides more appropriate town ward names as the town ward names would be the same as the district ward name.</li> </ol>			

# Pay Policy Statement 2022 to 2023

<b>Report number:</b>	<b>COU/WS/22/008</b>	
<b>Report to and date:</b>	<b>Council</b>	22 March 2022
<b>Cabinet member:</b>	Councillor Carol Bull Portfolio Holder for Governance Telephone: 01953 681513 Email: <a href="mailto:carol.bull@westsuffolk.gov.uk">carol.bull@westsuffolk.gov.uk</a>	
<b>Lead officers:</b>	Jen Eves Director (HR, Governance & Regulatory Services) Telephone: 01284 757015 Email: <a href="mailto:jennifer.eves@westsuffolk.gov.uk">jennifer.eves@westsuffolk.gov.uk</a>  Wendy Canham Service Manager (Human Resources and Organisational Development) Telephone: 01284 757006 Email: <a href="mailto:wendy.canham@westsuffolk.gov.uk">wendy.canham@westsuffolk.gov.uk</a>	

**Decisions Plan:** **Not applicable as this is not an executive matter**

**Wards impacted:** **All wards**

**Recommendation:** **It is recommended that the Pay Policy Statement for 2022 to 2023, as contained in Appendix A to Report number: COU/WS/22/008, be approved.**

## **1. Context to this report and proposals**

- 1.1 The Localism Act 2011 and supporting guidance provides details of matters that must be included in this statutory pay policy, but, also, emphasises that each local authority has the autonomy to take its own decisions on pay and pay policies. The Pay Policy Statement must be approved formally by full Council each year. The statement can be amended in year, must be published on the Council’s website and must be complied with when setting the terms and conditions of Chief Officers.
- 1.2 This Pay Policy Statement includes:
- a. the level and elements of remuneration for Chief Officers (senior staff)
  - b. the remuneration of the lowest paid employees
  - c. the relationship between the remuneration of the highest and lowest paid employees
  - d. other specific aspects of Chief Officer remuneration, fees and charges and other discretionary payments
  - e. the gender pay position
- 1.3 The Code of Practice for Local Authorities on Data Transparency provides guidance on good practice in this area. The Council’s approach to data transparency is to establish the Council as an open and transparent Council that, in time, not only embraces the principles of the Code, but publishes all information that is likely to be of benefit to the communities and economy of our area.
- 1.4 Data can already be access through the “open data” link on the Council’s website. The Pay Policy Statement is published in that section annually.

## **2. Options considered**

- 2.1 No alternative options were considered as under Section 38/11 of the Localism Act 2011, local authorities must produce and publish a Pay Policy Statement annually.

## **3. Consultation and engagement undertaken**

- 2.1 Whilst there is no requirement to consult on this statement, it has been shared with Unison.

## **4. Risks associated with the proposals**

- 4.1 There are no decisions to be made. Failure to comply with the legislation would be a breach of the Act.

**5. Appendices referenced in this report**

5.1 Appendix A – Pay Policy Statement 2022 to 2023

**6. Background documents associated with this report**

6.1 None

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# West Suffolk Council

## Pay Policy Statement 2022/2023

### 1. Introduction

- 1.1 West Suffolk's ambition is to contribute to building a more prosperous local community by modelling good employment practice, including ensuring fairness in the way that it pays and rewards its existing and future employees. The Council wishes to be an attractive source of potential employment to job seekers across its community and is committed to using its resources to create meaningful and fairly remunerated employment opportunities for local people.
- 1.2 We recognise that, in the context of managing scarce public resources, remuneration at all levels needs to be adequate to secure and retain high quality employees dedicated to the service of the public, but at the same time needs to avoid being unnecessarily generous or otherwise excessive. Our approach to pay and remuneration therefore is based on ensuring that the overall remuneration aligns with:-
- The responsibilities and accountabilities of particular posts
  - Market norms for the local government and public sectors
  - Pay levels in the local area, including neighbouring public sector employers.
- 1.3 It is important that local authorities are able to determine their own pay policies and structures in order to address local priorities and to compete in the local labour market. In particular, it is recognised that senior management roles in local government are complex and diverse functions in a highly politicised environment where often national and local pressures conflict. Our ability to continue to attract and retain high calibre leaders, capable of delivering this complex agenda, particularly during times of financial challenge, remains crucial if we are able to retain their current high performance levels and ensure that West Suffolk services are protected during this continuing period of economic uncertainty.
- 1.4 In June 2013, a single pay and reward strategy was secured through collective agreement with Unison for all staff, except the Leadership Team, whose pay had been brought together in October 2012.
- 1.5. In April 2018 both Full Councils (former St Edmundsbury and Forest Heath councils) approved the recommendations from an independent senior pay review, carried out by EELGA, effective

from 1 April 2019 and, also, recommended a full pay review for all staff.

- 1.6 In April 2019 the new pay model introduced for the workforce, achieved the following:
- Incorporated the National Joint Council's pay review and pay award.
  - Minimum pay of £9.00 per hour, an improved position in relation to the national living wage of £8.21 per hour and ahead of the Government's proposed minimum wage of £9.00 per hour by 2020.
  - An improved position for the lower bands resulted in an increase in starting salaries.
  - Addressed the equality risks by reducing the number of pay points in each band from 9 to 6.
  - Addressed the pressures in recruitment and retention in lower pay bands.
  - Increased the median salary, the middle earner.

## **2. Legislation**

- 2.1 Section 38/1 of the Localism Act 2011 requires local authorities to produce a Pay Policy Statement annually. This pay statement must be prepared and approved by full Council for the end of the 31 March immediately preceding the financial year to which it relates. The data in this report, therefore, represents the period 1 April 2021 to 31 March 2022.
- 2.2 The Act, and supporting statutory guidance, provides details of matters that must be included in this statutory pay policy, but, also, emphasises that each local authority has the autonomy to take its own decisions on pay and pay policies. The Pay Policy Statement is approved formally by full Council annually. It must be published on the Council's website and be complied with when setting the terms and conditions of Chief Officer employees.
- 2.3 In October 2014 the Department for Communities and Local Government (DCLG), issued a Transparency Code for all public sector bodies. This code required us to publish specific data on our website from February 2015. We have published data on how we organise our structures, our senior salaries for those whose remuneration is at least £50,000; the pay multiple and any trade union facility time given. The code was issued to as part of a drive to increase local accountability, giving local people the opportunity to contribute to the local decision-making process and help shape their public services.
- 2.4 The National Minimum Wage applies for those aged 21 to 22 at £8.36 with effect from 1 April 2021; 18-20 at £6.56; under 18 at £4.62 and apprentice rate for first year is £4.30 and then paid at the rate for their age thereafter.

2.5 The National Living Wage, previously applied to those over 25, now applies for those aged 23 and over at £8.91, with effect from 1 April 2021.

### **3. Scope**

3.1 This Pay Policy Statement includes:

- (a) the level and elements of pay for each Chief Officer;
- (b) the pay of the lowest paid employees;
- (c) the relationship between the pay of Chief Officers and other officers; and
- (d) other specific aspects of Chief Officer remuneration, fees and charges and other discretionary payments.

3.2 Remuneration in this context is defined widely to include not just pay, but also charges, fees, allowances, benefits in kind, increases in enhancements of pension entitlements and termination payments.

### **4. Principles**

4.1 The following principles were agreed with Unison to guide the development of the single pay and reward policy:

- Single terms and conditions across both workforces
- Affordable: within the Mid Term Financial Strategy (MTFS)
- Attractive: to recruit and retain
- Responsible: maintains reputation
- Legal: satisfies equality requirement
- Fair: minimises risk of challenge
- Drives: new organisational values
- Rewards excellent performance
- Manages unacceptable performance; and
- Capable of achieving collective agreement

4.2 The remuneration of Chief Officers has been agreed outside of the collective agreement process and in regard to pay, based on Leadership Team pay correlating to the CE pay; these local arrangements are as agreed by the Councils in 2012.

### **5. Senior Pay**

5.1 In this policy the senior pay group covers posts in the top three tiers of the organisation. These include the Chief Executive, Strategic Directors and Directors.

5.2 The Council currently has the following number of posts at this level, 1 x Chief Executive, 2 x Strategic Directors, 5 x Directors.

5.3 The management structure of the Council can be found on the Council website and on the intranet.

#### 5.4 **Chief Executive**

- (a) The salary for this post, a local grade, was originally established when the Joint Chief Executive was appointed in April 2012 and reviewed in 2018, following an analysis of the degree of responsibility in the role, the downward movement in market rates, benchmarking with other comparators and the ability to recruit and retain an exceptional candidate. The current range is £135913 - £148980.
- (b) The salary of the Chief Executive with effect from 1 April 2021 was £148980. There have been no additional bonuses, honoraria, or ex-gratia payments made.
- (c) Other Conditions of Service are as prescribed by the Joint National Council (JNC) for Local Authority Chief Executives National Conditions, apart from those determined locally, as detailed in this policy.

#### 5.5 **Directors and Assistant Directors**

- (a) The salary for these posts has been established as a local grade following an analysis of the degree of responsibility in correlation to the CEO, using the LGA national recommended job evaluation scheme for senior posts and reviewed as part of the senior pay review in 2018.

The posts fall within the following ranges and incremental points:

Chief Officer Role	£	£	£
Strategic Director	101934	107814	111736
Director	83586	88408	91623

An additional payment of £5,000 per year is payable to those undertaking the statutory Monitoring Officer and Section 151 roles.

- (b) There are no other additional elements of remuneration in respect of overtime, flexi-time, bank holiday working, stand-by payments, emergency call rota, etc, paid to these senior staff, as they are expected to undertake duties outside their contractual hours and working patterns without additional payment.
- (c) Other terms and conditions are as prescribed by the NJC for Local Authority Services apart from those terms agreed locally, as detailed in this policy.
- (d) It is important to ensure that our Leadership Team salaries remain competitive and are set at a level that will continue to attract highly effective and experienced applicants for these roles in the

challenging local government labour market. Marketing testing and data analysis on labour market rates for salaries will continue to be independently obtained from the LGA as required in order to ensure salaries are competitive and that we recruitment and retain the right calibre of officers.

## **5.6 Additional Fees**

- (a) The fees payable to the Returning Officer are set by statute for national elections and are paid by central government. Fees are, also, payable to the Council's Returning Officer for local elections. These fees are payable as required and can be made to any senior officer appointed to fulfil the statutory duties of this role. The Returning Officer is an officer of the Council who is appointed under the Representation of the People Act 1983. Whilst appointed by the Council, the role of the Returning Officer is one which involves, and incurs, personal responsibility and accountability and is statutorily separate from his/her duties as an employee of the Council. As Returning Officer, he/she is paid a separate allowance for each election for which he/she is responsible.

## **6. Pay Structure**

- 6.1 The pay structure for all contractual employees, as agreed in 2021, except those staff in the senior posts detailed above, is established using NJC for Local Authorities Services National Pay Spine from spinal column point 1 (£18333 per annum) to spinal column point 54 (£62694 per annum). The lowest paid contractual employee will be paid at spinal point 3 (£9.79 per hour), at a full time equivalent basic pay rate of £18887 per annum.
- 6.2 Our pay bands range from Band 1 to Band 8 and to Service Manager. Casual staff, aged 23 and over, will be paid at the National Living Wage of £8.91 per hour. Under age 23 will be paid the national minimum wage of £8.36.
- 6.3 All posts, other than the senior posts, are evaluated using the NJC Job Evaluation Scheme, which is recognised by employers and trades unions nationally. This Scheme allows for robust measurement against set criteria resulting in fair and objective evaluations and satisfies equal pay requirements.
- 6.4 All employees receive the national NJC cost of living award. The value of the scale points in these pay grades are up lifted by the pay awards notified from time to time by the National Joint Council for Local Government Services.
- 6.5 Progression within the grade for all staff is subject to performance, which is assessed annually, in accordance with the performance review scheme, and progression payments are effective from 1 October each year.

6.6 There is no 'time served' progression.

## **7. Gender Pay Gap**

7.1 As of 1 April 2018 public, private and voluntary sector organisations with 250 or more employees were required to report on their gender pay gaps. In 2016 the national gender pay gap for full time employees was 9.4%, meaning that average pay for full time female employees was 9.4% lower than for full time male employees. In 2018 the national gender pay gap fell to 8.6% but has since risen in 2019 to 8.9%.

7.2 For the period April 2020 - March 2021 our mean gender pay gap was -3.28%, (compared with -0.61% for the period April 2019 - March 2020) showing that the average hourly rate of females was 3.28% more than the average hourly rate of males. The median gender pay gap is -2.01% (compared with -3.64% for the period April 2019 - March 2020).

## **8. Pay Protection**

8.1 Pay protection is applied to employees who are placed in a grade, through restructuring or a re-evaluation of a post, where the maximum salary of that grade is lower than their current earnings, in accordance with the Organisational Change and Redundancy Policies current at the time. Pay is protected for one year. Employees' pay is frozen at this rate, (with no cost of living or incremental increase) for up to one year, or until the maximum of the new grade has caught up or overtaken the current earnings due to annual pay increases.

Note: Pay protection excludes market supplement pay, essential user travel allowance, overtime allowances: it applies to basic pay only. These items are not protected.

## **9. Allowances and Benefits in Kind**

9.1 Allowances and benefits typically follow nationally agreed rates. However, there are a number of locally agreed allowances, which are payable following the collective agreement. Some are subject to eligibility criteria, as follows:

- Essential car user allowance at nationally prescribed lump sum and HMRC mileage rates, and
- Access to a lease car or a lease car scheme, both under strict eligibility criteria and where favourable to the Council.
- Casual user mileage allowance at HMRC rates.
- First Aid (an allowance paid to staff to act as First Aiders in the workplace).
- Reimbursement of one professional subscription fee if beneficial to the performance of the role.

## **10. Payments/Charges and Contributions**

- 10.1 The new Local Government Pension Scheme (LGPS) was implemented with effect from 1 April 2014.
- 10.2 The new LGPS is a 'CARE' (career average revalued earnings) scheme rather than a Final Salary Pension Scheme.

## **11. Multipliers**

- 11.1 The idea of publishing the ratio of the pay of an organisation's top earner to that of its median earner was recommended in order to support the principles of Fair Pay (The Hutton Review of Fair Pay in the Public Sector 2011), and transparency.
- 11.2 The Council's ratio in respect of the pay of the median earner compared to the pay of the highest earner as of 1 April 2021 is 5.6:1 ie the Chief Executive (top earner) earns 5.6 times as much as the Council's median earner (£26446 per annum), compared to April 2020 which was 5.4:1.
- 11.3 The Council's ratio of the highest paid employee (April 2021) to the lowest paid contractual employee remains 7.9:1, the same as April 2020.

The Hutton Review recommended that the average pay ratio between the chief executive of most public sector organisations and the lowest paid member of staff is below 12:1.

By comparison, the average estimated top-to-bottom pay ratio in FTSE 100 companies (which disclosed data) was 262:1 in 2018 (CIPD Research Report 2019 – most recent data available).

We, therefore, compare very favourably to these statistics, although Hutton warned against the difficulty of making direct comparisons between authorities.

- 11.4 The table below summarises the pay multiples;

Highest Pay	£148980
Median Pay	£26446
Lowest Pay	£18887
Highest to median ratio	5.6:1
Highest to lowest ratio	7.9:1

## **12. Discretionary Payments**

The policy for the award of any discretionary payments is the same for all staff, regardless of their pay level, up to a maximum of 104 weeks the following arrangements apply.

- 12.1 'Redundancy payments under regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006.'

As of 1 April 2015, this provides an overall lump sum of 1.5 times the statutory redundancy payment multiplier based on actual weeks pay. This is payable to employees made redundant with two or more years local government service regardless of their age.

## **12.2 Severance payments under regulation 6.**

Severance payments with a value above £100,000 will be approved by Full Council, in accordance with guidance from the Secretary of State under Section 40 of the Localism Act 2011. Contractual and pension entitlements are not included in this figure as part of a severance payment requiring such approval.

No severance payments are routinely made, but employees aged 55 and over, who are retiring early in the interests of efficiency, receive immediate payment of their pension benefits, with no additional years' service or compensatory payments. This forms part of the rules of the LGPS and in accordance with the Pensions Discretions Policy. The capital cost of the early payment of pension benefits will be met by the Council, but all such early retirements are subject to the costs being met by savings within a three-year period.

- 12.3 Additional membership for revision purposes under regulation 12 of the Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007.

None awarded.

- 12.4 Additional pension under regulation 13 of same legislation.

None awarded.

## **13. Decision Making**

- 13.1 Decisions on remuneration are made as follows:

- (a) Senior pay bands local level approved by Full Council;
- (b) Pay structure for all other posts approved by Full Council;
- (c) Performance progression, in accordance with the locally agreed scheme, and as approved by officers under existing delegated powers.

## **14. Disclosure**

- 14.1 This Pay Policy Statement will be published on the Council's website. In addition, numbers and details of posts paid above £50,000 are disclosed on the council's website in the annual Statement of Accounts and as part of the requirements of the Transparency Code.

For further information please contact:

Wendy Canham, Service Manager (Human Resources and Organisational Development)  
March 2022

## Comparison Data

Most recent available information	Ratio to median	Ratio to Lowest paid employee
Ipswich	5.6:1	6.6:1
West Suffolk	5.6:1	7.9:1
East Suffolk	5.5:1	8.1:1
Suffolk County Council	6.8:1	10.2:1
Breckland	7.65:1*	Within 10:1 actual figure not disclosed
East Cambs	Not disclosed	7.1:1 – 7.4:1
Babergh/Mid Suffolk	5.5:1	8.1:1

\*not disclosed, information derived from Statement of Accounts and Pay Policy Statement

# New Model Code of Conduct

<b>Report number:</b>	<b>COU/WS/22/009</b>	
<b>Report to and date:</b>	<b>Council</b>	22 March 2022
<b>Cabinet member:</b>	Councillor Carol Bull Portfolio Holder for Governance Telephone: 01953 681513 Email: <a href="mailto:carol.bull@westsuffolk.gov.uk">carol.bull@westsuffolk.gov.uk</a>	
<b>Lead officer:</b>	Teresa Halliday Monitoring Officer Telephone: 07572 144124 Email: <a href="mailto:teresa.halliday@westsuffolk.gov.uk">teresa.halliday@westsuffolk.gov.uk</a>	

**Decisions Plan:** **Not applicable as this is not an executive matter**

**Wards impacted:** **All wards**

**Recommendation:** **It is recommended that the Local Government Association Model Code of Conduct, as contained in Appendix A to Report number: COU/WS/22/009, be adopted as its new Local Code of Conduct for Councillors, with effect from the Annual Meeting of Council in May 2022.**

## **1. Context to this report**

- 1.1 The Localism Act 2011 places a duty on every council to promote and maintain high standards of conduct by councillors and co-opted members of the authority and, in discharging that duty, adopt a code dealing with the conduct that is expected of those members when they are acting in that capacity. A Suffolk-wide local code of conduct was adopted by the Councils in 2012.
- 1.2 In January 2019, following extensive consultation the Committee on Standards in Public Life (CSPL) published a report following their review of local authority standards. This review concluded that a model code of conduct would create consistency across England and reflect the common expectations of the public regardless of geography or tier. It would reduce the potential for confusion among dual-hatted or triple-hatted councillors.
- 1.3 CSPL also considered that matters such as gifts and hospitality, social media use, and bullying and harassment had all increased in salience, and were perhaps not regularly reflected in local authority codes of conduct and a model code of conduct would help to ensure that they do so.
- 1.4 The report directed a series of recommendations to Government and to the local government sector. A key recommendation of the CSPL was directed to the Local Government Association (LGA) - "The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government."
- 1.5 Consequently, the Local Government Association (LGA) Executive approved a Model Councillor Code of Conduct ('Code') in December 2020. The Model Code provides a template for councils to adopt in whole and/or with local amendments. During 2021, supplementary guidance was developed by the LGA, alongside sector experts and local authority representatives, to accompany the Code.
- 1.6 The Code (attached at Appendix A) contains much of the existing Suffolk Local Code of Conduct and provides welcome guidance to explain the rationale for the obligations and how councillors should follow them. The LGA has also published more extensive guidance that will assist councillors and the public in understanding the Code and what is included. This guidance is attached at Appendix B.
- 1.7 Moving forwards, the LGA have committed to undertake an annual review of the Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.
- 1.8 The LGA will offer support, training and mediation to councils and councillors on the application of the Code and the National Association of

Local Councils (NALC) and the county associations of local councils will be offering advice and support to town and parish councils.

- 1.9 As outlined above, the current Suffolk Local Code of Conduct has been adopted by Suffolk County Council, West Suffolk Council, Babergh and Mid Suffolk District Councils, Ipswich Borough Council, East Suffolk Council and the majority of Town and Parish Councils across Suffolk. The Suffolk Monitoring Officers group strongly recommends that there continues to be a Suffolk-wide code of conduct to enable clarity and consistency across the county and particularly across the tiers of local government where councillors represent more than one authority. The district council Monitoring Officer is responsible for investigating breaches of the code of conduct by Town and Parish Councillors across the whole district and the ability to apply a single code of conduct to all complaints is desirable. The Suffolk Association of Local Councils is also supportive of a Suffolk-wide code.
- 1.10 The purpose of this report is to outline the key differences in the new model Code before seeking endorsement of the LGA's model code of conduct and to resolve to recommend that the Model Code of Conduct be adopted by Full Council.

#### **Application of the new code**

- 1.11 The Code provides clarity that the requirements of the Code apply as soon as a councillor signs their declaration of acceptance of office or, in the case of a co-opted member, attends the first meeting, and continues to apply until a member ceases to be a councillor.
- 1.12 Additional clarification is also provided as to the types of interactions that amount to duties of a councillors' elected office and that would so be captured under the Code's remit and application – these are when a councillor is:
- Acting in their capacity as a councillor and/or a representative of the council
  - Claiming to act as a councillor and/or as a representative of the council
  - Giving the impression of acting as a councillor or a representative of the council
  - Referring publicly to their role as a councillor and using knowledge that could only be obtained in that role
- 1.13 The Code also provides clear guidance as to the forms and type of communication that are within scope:
- at face-to-face meetings
  - online or telephone meetings
  - in written communication
  - in verbal and non-verbal communication

- in electronic and social media communication, posts, statements and comments

1.14 There are new commitments to co-operate with any investigation, should a complaint be received, and to comply with any sanctions that may be imposed if a breach is proven. These are important to protect the integrity of the process.

### **Bullying, harassment and discrimination**

1.15 The new Code includes enhanced provisions relating to bullying, harassment and discrimination. The Code now includes a definition of bullying and harassment and makes it clear that online activity, for example posting on social media, is captured by the Code. The guidance notes which accompany the Code set out the types of behaviour which would constitute bullying or harassment.

1.16 The new Code now includes a requirement for Councillors to promote equalities, in accordance with the statutory duties imposed by the Equalities Act 2010, as well as avoiding any behaviour which would unlawfully discriminate against any person.

### **Confidentiality and access to information**

1.17 Specific requirements in relation to confidentiality and access to information have been incorporated. This clause sets out standards of conduct relating to the proper use of information by councillors.

### **Gifts and hospitality**

1.18 The provisions extend those set out in the Suffolk Code in two ways:

- by specifically referencing a requirement to not accept gifts or hospitality that could give rise to real or substantive personal gain or a suspicion of influence; and
- by placing a responsibility on councillors to register any significant gift or hospitality that has been offered but refused.

1.19 The new Code also increases the value of declarable gifts and hospitality from £25 to £50.

### **Protecting the reputation of members and the local authority**

1.20 This section primarily relates to the registration and declaration of interests. Importantly the section references a separate Appendix 2 that, if adopted, would place additional requirements on councillors in certain circumstances.

An example being where a matter arises (which is not a pecuniary interest) at a meeting and that matter directly relates to a financial interest or wellbeing of a relative or close friend of a councillor – extract below:

*8. 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 included in those you need to declare under Disclosable Pecuniary Interests*

*you must disclose the interest.*

### **Training**

- 1.21 A programme of training, based on LGA learning and guidance modules, will be coordinated by the Monitoring Officers within each council. Any opportunities for joint training will be taken, but it is recognised that authorities will be at different stages of their electoral cycles.

### **Procedure for considering complaints alleging a failure to comply with the Code of Conduct**

- 1.22 It will continue to be for each local authority to follow its agreed procedures for managing complaints and deciding upon any action should it be concluded that there has been a breach of the Code.

### **Adoption of a new Code**

- 1.23 The new Model Code of Conduct was considered the West Suffolk Standards Committee and the Constitution Review Group on 31 January 2022 and 16 February 2022 respectively. Both forums considered the new Code in detail and recommend that it be adopted by Council. The new Code will be effective from the Annual Council meeting in May 2022 which will provide sufficient time for training to be rolled out to all councillors.

## **2. Consultation and engagement undertaken**

- 2.1 The LGA undertook a range of consultation activities with various stakeholder groups during 2020 when preparing the new Model Code of Conduct. Further information about the consultation process can be found at: <https://www.local.gov.uk/publications/lga-model-member-code-conduct-consultation-response-analysis-november-2020>
- 2.2 The Council is not required to undertake formal public consultation before adopting its own code of conduct.

- 2.3 Informal consultation has been undertaken by the Monitoring Officer with West Suffolk Council Group Leaders and Cabinet Members.

### **3. Options considered**

3.1 The following options have been considered:

- To retain the existing Suffolk Local Code of Conduct – this option is not recommended as the new model code provides additional clarity, guidance and more up to date provisions for Councillor conduct.
- To adopt an alternative form of local code of conduct – this option is not recommended as the LGA model code reflects the legislative requirements and best practice based on the recommendations of the CSPL and therefore is the most appropriate code to adopt. It would also lead to possible inconsistencies with other authorities and Towns and parishes across Suffolk, which, as outlined at the start of this report could create confusion.
- To adopt the new LGA Model Code of Conduct for Councillors – this is the recommended option and other authorities across Suffolk are considering this proposal too.

### **4. Recommendation**

**It is recommended that West Suffolk Council adopts the Local Government Association Model Code of Conduct as their new Local Code of Conduct for Councillors.**

### **5. Risks associated with the proposals**

5.1 Key risks are set out in the table overleaf:

5.2

Risk Description	Likelihood	Impact	Mitigation Measures
That the Council fails to adopt a local code of conduct and are unable to fulfil its statutory duty under s.27 of the Localism Act	1 (Highly unlikely)	3 (Bad)	The Council already has an existing code of conduct which would continue to be in effect even if the new model code was not adopted.
The code of conduct adopted by the Council does not promote high standards of ethical conduct	1 (Highly unlikely)	2 (Noticeable)	Adopting the new model code will ensure that the Council's code fulfils the statutory duties placed on the Council to promote ethical conduct
That councillors are not aware of the new provisions and inadvertently breach the code of conduct	2 (Unlikely)	3 (Bad)	A programme of training will be put in place for councillors if the new local code is adopted.

## 6. Implications arising from the proposals

### 6.1 Financial

There are no direct financial implications of adopting the new Model Code of Conduct. Officer time will be required to provide training on the Code if adopted, however this will be accommodated within existing resources.

### 6.2 Legal Compliance

All local authorities are required to adopt a local code of conduct for councillors under section 27.2 of the Localism Act 2011. The Council's current local code of conduct complies with this statutory requirement, however adopting the revised Model Code of Conduct will bring the Council's local arrangements in line with the most up to date government guidance.

6.3 **Equalities**

No impacts on the protected characteristics have been identified, therefore a full Equality Impact Assessment is not required.

6.4 **Changes to existing policies**

This report was previously presented to the Constitution Review Group with a view to amending the Constitution if Council adopts the new Model Code of Conduct.

**7. Appendices referenced in this report**

7.1 Appendix A – New LGA Model Code of Conduct

7.2 Appendix B – Guidance on LGA Model Code of Conduct

**8. Background documents associated with this report**

8.1 None



**Local Government Association**

**Model Councillor Code of Conduct 2020**

**Joint statement**

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

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

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

## **Introduction**

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

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

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

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

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

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

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

## **Purpose of the Code of Conduct**

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

## **General principles of councillor conduct**

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

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

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

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

In undertaking my role:

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

## **Application of the Code of Conduct**

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

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

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

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

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

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

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

Officer.

## **Standards of councillor conduct**

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

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

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

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

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

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

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

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

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

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

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

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

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

### **3. Impartiality of officers of the council**

**As a councillor:**

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

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

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

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

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

## **5. Disrepute**

**As a councillor:**

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

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

## **6. Use of position**

**As a councillor:**

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

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

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

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

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

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

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

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

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

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

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

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

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

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

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

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

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

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

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

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

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

## Appendix B Registering interests

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

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

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

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

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. 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 relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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

### Table 1: Disclosable Pecuniary Interests

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

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<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 Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>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 —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘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.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(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.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

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

**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest :

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

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

## Appendix C – the Committee on Standards in Public Life

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

The recommendations cover:

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

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

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

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

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

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

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

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

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

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

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

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

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

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

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

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

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



# Guidance on Local Government Association Model Councillor Code of Conduct



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

08 Jul 2021

## Part 1 - Introduction

In December 2020, the Local Government Association (LGA) developed and published a **Model Councillor Code of Conduct** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>] in association with key partners and following extensive consultation with the sector. This was in response to the recommendation of the Committee of Standards in Public Life Local Government Ethical Standards 2019. The code was part of our work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance, and our civility in public life programme.

The code is a template for Local Authorities to adopt in whole and or with amendments to take into account local circumstances.

Our aim was to make the code relatively short and easy to read rather than an overly-complex legal document as it needed to be accessible to councillors, officers, and the public alike. The consultation response also asked for supporting guidance to help understand some of the key provisions in greater depth with examples and case illustrations.

We are therefore pleased to publish this supporting guidance which is aimed to help understanding and consistency of approach towards the code.

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

This guidance embeds the provisions of the code and is structured to enable each chapter to be directly accessed. We have also produced a standalone document without the embedded code intended to provide easy access to the guidance.

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

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

Any comments on the use of the guidance or suggestions for improvement would be welcomed and should be sent to [ModelCode@local.gov.uk](mailto:ModelCode@local.gov.uk) [<mailto:ModelCode@local.gov.uk>]

## General principles of Councillor conduct

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

The principles are set out in **Appendix 2** [<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#appendix-2-general-principles->] below.

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

## Application of the Model Councillors' Code of Conduct

### When does the Code apply?

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

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

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

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

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

There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA's **Guidance** [[https://www.local.gov.uk/sites/default/files/documents/11.166%20Councillors%20Guide%202019\\_08\\_0.pdf](https://www.local.gov.uk/sites/default/files/documents/11.166%20Councillors%20Guide%202019_08_0.pdf)] for new councillors is a helpful reference point.

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

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

at face-to-face meetings

at online or telephone meetings

in written communication

in verbal communication

in non-verbal communications

in electronic and social media communication, posts, statements, and comments.

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

### Acting as a private individual

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

#### Example

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

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

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

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

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

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

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

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

For example:

writing to someone on local authority headed paper or using a local authority email address may lead someone to assume you were writing in your capacity as a councillor

handing out a business card where you describe yourself as a councillor may also lead to that assumption

wearing official local authority regalia.

### **Examples**

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

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

A councillor returning from a party got into an argument with a taxi driver. When he arrived home, he refused to pay the fare and when he spoke to the manager of the taxi company, he said that he was a councillor and would make sure that the taxi driver's licence was withdrawn by the council. While he was entitled to dispute the payment if he was dissatisfied with the service he had received he was found to have breached the code by invoking his office and seeking to misuse his position to intimidate the manager and driver and to seek to gain an advantage for himself, notwithstanding the fact that he did not in reality have the ability to carry out his threat.

### **Social media postings**

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

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

Each matter would need to be looked at on a case-by-case basis ([see guidance on 'disrespect, bullying and harassment in Part 2 for further information \[https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#part-2-general-obligations-under-the-code-of-conduct\]](https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#part-2-general-obligations-under-the-code-of-conduct)).

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

To help avoid some of these issues, some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy settings are no guarantee that posts or actions will remain private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting. If your local authority has guidance on the effective use of social media this can help.

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

### Examples

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

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

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

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

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

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

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

### What if I sit on more than one local authority?

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

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

### What is a co-opted member?

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

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

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

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

## Part 2 – General obligations under the Code of Conduct

### Respect

#### As a councillor:

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

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

### Respect

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

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

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

### Disrespectful behaviour

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

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

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

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

## Freedom of expression

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

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

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

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

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

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

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

### Can councillors criticise officers?

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

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

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

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

### What kinds of conduct are not covered?

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

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

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

There has been a growing tendency for members of the public to use social media channels to unfairly criticise local councillors. For this reason, many local authorities now offer social media guidance to councillors in addition to the civility in public life resources available on the [LGA's website \[https://www.local.gov.uk/our-support/guidance-and-resources/civility-public-life\]](https://www.local.gov.uk/our-support/guidance-and-resources/civility-public-life)

### Examples

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

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

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

## Bullying

### As a councillor:

1.
  - 1.1. **I do not bully any person.**

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

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

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

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

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

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

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

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

Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

**[Freedom of expression 'Respect' guidance Part 2 \[https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respectful-behaviour-\]](https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respectful-behaviour-)**

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

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

### **Preventing bullying conduct from developing**

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

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

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

### **Bullying and harassment and the law**

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

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

- physical assault
- making threats of violence or death threats

- stalking
- hate crimes
- sexual harassment

## Intimidation of councillors

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

The LGA and the Welsh Local Government Association recognise the growing need among councillors for support related to intimidation and have jointly developed a “**Councillors' guide to handling intimidation. Practical steps that you and your local authority can undertake to protect yourself as a person in a public position**”

[\[https://www.local.gov.uk/sites/default/files/documents/Full%20word%20english%20version%20guide%20for%20councillors'](https://www.local.gov.uk/sites/default/files/documents/Full%20word%20english%20version%20guide%20for%20councillors)

. The guide covers topics such as how to handle abuse, both face-to-face, letters or online, guidance on personal safety, lone working and online abuse and the legal and practical remedies, including the nature of the criminal offences involved. It will be continuously updated with the latest advice and information available.

## Harassment

### As a councillor:

1.
  - 1.1. I do not harass any person.

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

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

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

Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

### **What does the law say about harassment?**

[\[https://www.local.gov.uk/sites/default/files/documents/Full%20word%20english%20version%20guide%20for%20councillors'](https://www.local.gov.uk/sites/default/files/documents/Full%20word%20english%20version%20guide%20for%20councillors)

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

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

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

**Example**

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

**Discrimination****As a councillor:****2.3 I promote equalities and do not discriminate unlawfully against any person.**

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

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

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

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

There are four main forms of discrimination:

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

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

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

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

Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs

- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers
- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

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

## Questions

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

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

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

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

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

## Examples

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

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

## Impartiality of officers

### As a councillor:

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

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

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

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

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

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

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

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

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

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

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

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

The fundamentally held principle is that "the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole<sup>[1].[\[#\\_ftn1\]](#)".</sup>

### Examples

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

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

### What does working on behalf of the authority mean?

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

### What if I disagree with the views of an officer?

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

If you feel dissatisfied with the advice you are given you should raise through appropriate management channels in line with your local authority's councillor-officer protocol (where you have one) - [\[https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respectful-behaviour-\]](https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respectful-behaviour-) **see guidance on respect, bullying and harassment in Part 2.** [\[https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#bullying\]](https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#bullying)

Where you have a declarable interest in a matter you are discussing with an officer you should make that clear to the officer – **see guidance on declarations of interest in Part 3.** [\[https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#declarations-of-interest\]](https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#declarations-of-interest) Where it is an interest which would stop you from taking part in a meeting you should not discuss those matters with officers except where you are seeking professional advice in the same way as any member of the public could – for example, assistance with making an application – and the officer should make a note that an interest has been declared. If you need to speak to an officer about the matter, you should arrange a meeting as a member of the public and not seek to use your position to gain preferential or quicker access.

[1] [\[#\\_ftnref1\]](#) Ahmed v United Kingdom (2000) 29 EHRR 1

## Having regard to Officer advice

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

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

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

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

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

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

The LGA published “

[\[https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor\\_x\]](https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor_x)  
**A councillor's workbook on effective councillor/officer relationships 2018**

[\[https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor\\_x\]](https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor_x)  
 ”

[\[https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor\\_x\]](https://www.local.gov.uk/sites/default/files/documents/11.141%20A%20councillor%27s%20workbook%20on%20councillor_x)

. This workbook has been designed as a distance learning aid for local councillors. It forms part of the suite of LGA resources intended to provide councillors with insight and assistance into key skills and knowledge. It is designed to provide a foundation for effective working as you progress in your councillor career, from the ward level to holding a leading councillor position. The workbook has been updated to contain information and examples obtained from the LGA's work on the ground in local authorities and through the **Corporate Peer Challenge programme** [\[https://www.local.gov.uk/our-support/peer-challenges/peer-challenges-we-offer\]](https://www.local.gov.uk/our-support/peer-challenges/peer-challenges-we-offer), and to reflect the changing nature of the councillor and officer relationship.

## Confidentiality and access to information

### As a councillor:

#### 4.1 I do not disclose information:

**a. given to me in confidence by anyone****b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

- I have received the consent of a person authorised to give it;
- I am required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- the disclosure is:

1. reasonable and in the public interest; and
2. made in good faith and in compliance with the reasonable requirements of the local authority; and
3. I have consulted the monitoring officer prior to its release.

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.**

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

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

### **Confidential information**

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

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

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

### **Disclosure in the public interest**

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

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

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

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

Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.

Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.

The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.

The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.

The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.

The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.

Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- a criminal offence is committed.
- your local authority or some other person fails to comply with any legal obligation to which they are subject.
- a miscarriage of justice occurs.
- the health or safety of any individual is in danger.
- the environment is likely to be damaged.
- that information tending to show any matter falling within the above is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party-political advantage or to settle a score with a political opponent.

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

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

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

### **Circumstances in which a local authority can treat information as confidential**

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

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

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

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

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

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

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

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

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

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

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

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

You should use your judgment when you are given information. An individual does not have to explicitly say that information is confidential if they tell you something which a reasonable person would regard as sensitive. You may, however, wish to clarify if somebody tells you something whether they want you to treat it as confidential.

### **Examples**

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

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

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

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

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

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

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

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

### **How does this relate to the Data Protection Act?**

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

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

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

## Access to information

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

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

### The 'need to know'

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

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

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

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

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

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

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

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

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

## Disrepute

### As a councillor:

#### 5.1 I do not bring my role or local authority into disrepute.

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

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

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

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

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

## Questions

### What distinguishes disrepute to “your role or local authority” from disrepute to you as a person?

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

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

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

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

## Examples

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

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

The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he had not brought his authority into disrepute but that he had brought his role into disrepute.

## Misuse of position

### As a councillor:

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

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

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

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

Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned. This applies equally to parish councillors when your local authority is consulted on planning matters. Similarly, while it is reasonable to expect councillors to help constituents apply to the local authority, for example, for housing, it is quite improper to seek to influence the decision to be taken by the officers and would also be in breach of paragraph 3 of the code.

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

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

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

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

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

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

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

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

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

## **Examples**

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

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

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

A parish councillor was found to have improperly used his position and secured an advantage for a member of the public by asking the parish clerk to make a payment which had not been approved by the Parish Council in breach of the Code of Conduct. The payment was for repairs to a private road used by the councillor to get to his allotment.

## **Misuse of resources and facilities**

### **As a councillor:**

**7.1 I do not misuse local authority resources.**

**7.2 I will, when using the resources of the local authority or authorising their use by others:**

**1. act in accordance with the local authority's requirements; and****1.1. ensure that such resources are not used for political purposes unless****1.1.1. that use could reasonably be regarded as likely to facilitate, or****1.1.2. be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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

Examples include:

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

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

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

**The recommended code of practice for local authority publicity**

<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity> published by Ministry of Housing, Communities & Local Government provides guidance on the content, style, distribution, and cost of local authority publicity.

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

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

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

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

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

**What are the "resources of the local authority"?**

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

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

**What constitutes using resources "improperly for political purposes"?**

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

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

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

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

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

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

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

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

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

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

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

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

### **Examples**

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

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

## **Complying with the Code of Conduct**

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

### **As a councillor:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Registration of gifts, hospitality and interests**

#### **Gifts and hospitality**

**As a councillor:**

**9.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

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

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

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

However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your monitoring officer for guidance.

### **What does “hospitality” mean?**

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

### **How much detail should I include on the register?**

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

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

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

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

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

### **What about gifts or hospitality I do not accept?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Government's guide to the Bribery Act for employers says that 'the Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act.'

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

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

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

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

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

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

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

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

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

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

Gifts that are clearly made to the local authority, for example a commemorative goblet which is kept on display in the local authority's offices, do not need to be registered in the councillor's register of gifts and hospitality. However, such gifts ought to be recorded by the local authority for audit purposes.

### Register of interests

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

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

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the monitoring officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)**. [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>] which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**. [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>].

You must register two different categories of interests:

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

Further details about these two categories follow. For guidance on when these interests give rise to a matter which needs to be declared at a meeting see the **guidance on declaring interests in Part 3**. [<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#declarations-of-interest>]

### Disclosable Pecuniary Interests

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

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

### Offences

It is a criminal offence under the Localism Act 2011 to

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

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

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>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:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'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.</p>
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the local authority for a month or longer
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(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.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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.</p>

\* '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.

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

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

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

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

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

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

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

**What is a contract with the local authority?**

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

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

**How much detail is required of landholdings?**

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

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

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

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

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

**What about my home and tenancies?**

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

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

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

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

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

1. It can be helpful for councillors to state on their form that they have funds invested in specific funds.
2. It can be helpful for councillors to make fund managers aware of their requirement to declare where they hold significant investments within a company that operates in the local authority's area so that they can be notified if this is the case.

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

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

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

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

### **Other registerable interests**

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

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

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

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

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

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

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

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

### **Do local campaigning or Facebook groups need to be registered?**

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

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

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

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

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

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

### **What about membership of a political party or trade union?**

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

### **Sensitive interests**

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

### **What is sensitive information?**

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

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

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

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

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

### **What happens if the information stops being sensitive?**

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

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

At present, councillors are required to register their home address as part of their local authority's register of interests which are typically published on their local authority website. There have been growing concerns about the potential for threats and intimidation to councillors by virtue of disclosing their home address. Whilst some councillors believe disclosing a home address is a core component of democracy and it is important for the public to know where a councillor may live as they may be making decisions that have an impact on their property, others are very concerned about it. Section 32 of the **Localism Act 2011** [[https://en.wikipedia.org/wiki/Localism\\_Act\\_2011](https://en.wikipedia.org/wiki/Localism_Act_2011)] allows Local Authorities to withhold sensitive interests from the public register where their disclosure could lead to violence or intimidation. It is recommended that councillors should not be required to register their home addresses as a disclosable pecuniary interest. The **Committee on Standards in Public Life** [[https://en.wikipedia.org/wiki/Committee\\_on\\_Standards\\_in\\_Public\\_Life](https://en.wikipedia.org/wiki/Committee_on_Standards_in_Public_Life)]'s review of Local Government Ethical Standard recommended in January 2019 that councillors should not be required to register their home addresses as a disclosable pecuniary interest. However, at present the Government has not legislated for this.

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

### **Who should you notify when registering your interests?**

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

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

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

## Declarations of interest

### As a councillor:

#### 9.1 I register and disclose my interests.

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

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

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1 of the Code** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>], is a criminal offence under the Localism Act 2011.

**Appendix B of the Code** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>] sets [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>] out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your monitoring officer.

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

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

The Code therefore requires members to declare interests in certain circumstances. Disclosure, in the register and at meetings, is about letting members of the public and interested parties know where you are coming from when involved in decision making and is to enable you to be 'up front' about who you are and what your conflicts of interest might be. Conflicts of interest in decision making as a councillor, and what in public law is known as 'apparent bias', are an established part of the local government legal landscape. The Nolan Principles and the Model Code require councillors to act impartially (i.e. not be biased) when carrying out their duties. **(See also guidance on bias and predetermination in Part 3) [1]**.

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

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

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

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

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

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

For the first two categories these are interests which must be recorded on a public register except in limited circumstances (**see guidance on Registration of Interests in Part 3**) [<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#declarations-of-interest>]. The third category do not need to be recorded on the register but will need to be declared as and when they arise.

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

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

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

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

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

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

**Disclosable Pecuniary Interests (Part A of the Register** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-a-the-seven-principles-of-public-life>]); [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-a-the-seven-principles-of-public-life>].

**Other Registerable Interests (Part B** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>]); [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>] and **Non-registerable interests** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>].

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

## Disclosable Pecuniary Interests

(**Annex B, paragraphs 4 and 5**) [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>]

Disclosable Pecuniary Interests (or 'DPIs') were introduced by s30 of the Localism Act 2011. They are a category of interests which relate to the member and/or their partner, such as financial interests of you or your partner such as your house or other property, or if you have a job or own a business. The categories are set out in regulations made under the Act and are in **Table 1 of Annex B of the Code** [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>].

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

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

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

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

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

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

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

### When does a Disclosable Pecuniary Interest arise?

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

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

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

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

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

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

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

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

### Other registerable interests

(Paras 6, 8 and 9 of Annex B) [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>]

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Non-registerable interest**

(paras 7, 8 and 9 of Annex B) [<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020#appendix-b-registering-interests>]

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

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

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

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

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

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

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

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

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

### **What is the difference between ‘relates to’ and ‘affects’?**

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

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

### **What does “affecting well-being” mean?**

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

### **What are the definitions of relative or close associate?**

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

### **What if I am unaware of the interest?**

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

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

### **Do I always have to withdraw if I have an ‘other registerable interest’ or a non-registerable interest to declare?**

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

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

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

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

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

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

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

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

### **What does 'withdraw from the meeting' mean?**

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

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

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

### **Executive decisions**

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

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

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

### **Dispensations**

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

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

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

### **What is a 'sensitive interest'?**

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

An interest will be a sensitive interest if the two following conditions apply: (a) That you have an interest (whether or not a DPI); and

(b) the nature of the interest is such that you and the monitoring officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.

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

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

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

### What do I do if I need advice?

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

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

No.	TYPE	SPEAK*	VOTE	STAY	EXAMPLE	COMMENTS
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can “address” meeting if public can do, but not take part in discussion.</i>
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate-Unforeseeable- can “address” meeting if public can do, but not take part in discussion.</i>
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	<i>Affects finances or well-being-test 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>

2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	<i>May not affect finances but Well-being=quality of life – apply 2-stage test</i>
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\*speak-take part in discussion, as opposed to addressing a public meeting as a member of the public where others can also address the meeting

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

## Bias and Predetermination

Bias and predetermination are not explicitly mentioned in the Code of Conduct. The code provisions on declarations of interest are about ensuring you do not take decisions where you or those close to you stand to lose or gain improperly. **(See guidance on declarations of interest in Part 2)**. [<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#part-2-general-obligations-under-the-code-of-conduct>]

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

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

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

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise the decision is at risk of being challenged on appeal or in the Courts. To quote a leading judgment in this field "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach." <sup>[1]</sup> [\[#\\_ftn1\]](#)

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

The first seeks accuracy in public decision-making.

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

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

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

<sup>[1]</sup> [\[#\\_ftnref1\]](#) Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is

made into whether the decision-maker was biased *in fact*. In these circumstances you should not participate in the discussion or vote on the issue. These are covered by the code's requirement to declare certain interests and withdraw from participation. (**see guidance on declaration of interests in Part 3**). [<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#declarations-of-interest>]

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

### **Predetermination**

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

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

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

### **How can bias or predetermination arise?**

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

### **Connection with someone affected by a decision**

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

**Examples**

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

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

Contrast this with:

The complaint about the officer described above is made by the local office of a national charity of which the councillor is an ordinary member and is not involved with the local office. The councillor should be able to participate in this situation because the matter is not concerned with the promotion of the interests of the charity.

**Improper involvement of someone with an interest in the outcome**

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

**Examples**

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of councillors are given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

**Prior involvement**

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

**Commenting before a decision is made**

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

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

**Examples**

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

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

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

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

### **What do I do if I need advice?**

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

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

## **Appendix 1 - Interests Flowchart**

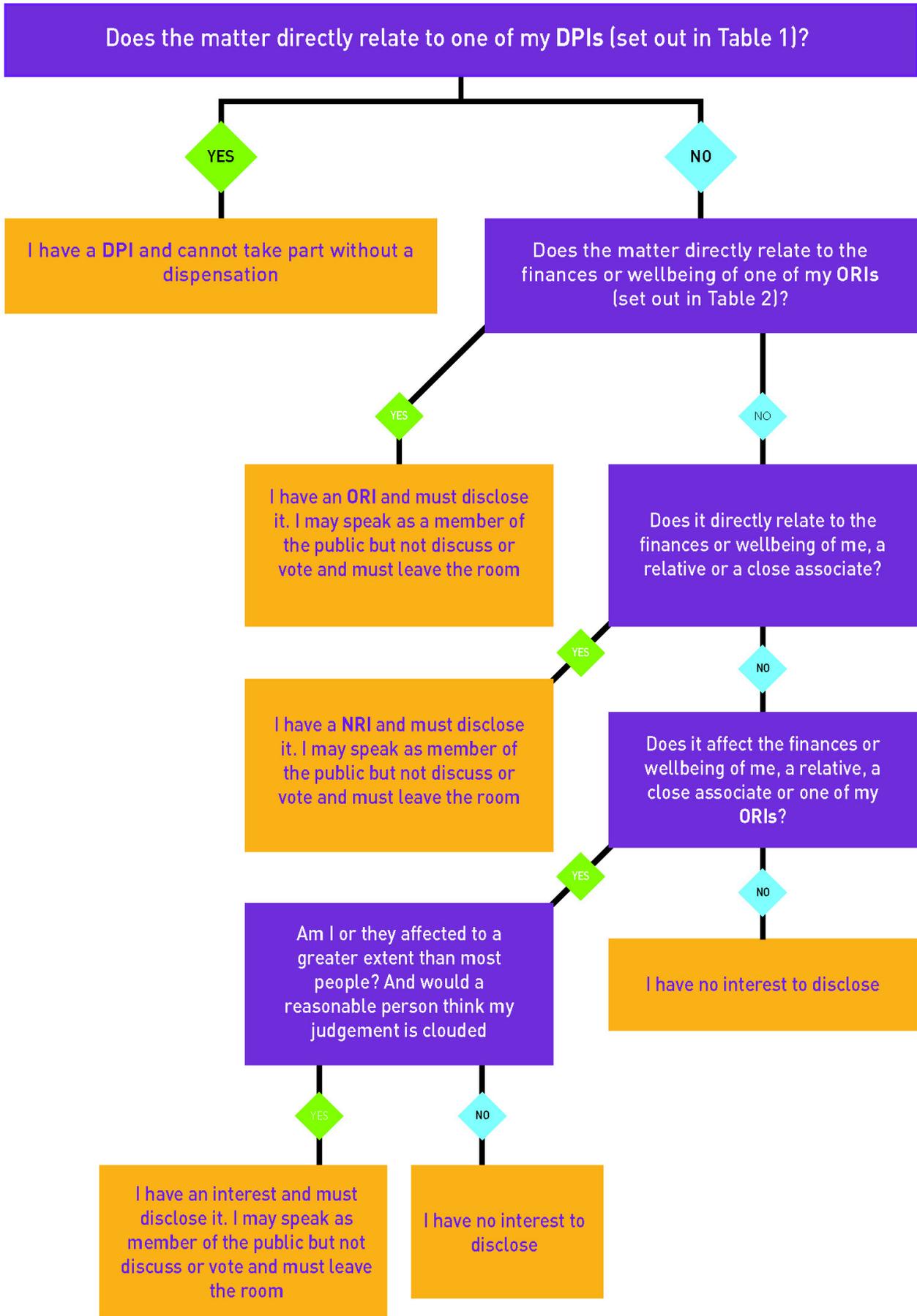
### **Interests Flowchart**

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

## **Appendix 2 - General Principles**

### **General Principles**

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



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