



17 August 2020

AUDIT AND STANDARDS COMMITTEE

An Extraordinary remote meeting of the Audit and Standards Committee will be held on **TUESDAY 25 AUGUST 2020** at **7.00pm**.

Kathy O'Leary
Chief Executive

This is a remote meeting in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Venue

This meeting will be conducted using Zoom and a separate invitation with the link to access the meeting will be sent to Members, relevant officers and members of the public who have submitted a question.

Public Access

Members of the public, who have not submitted a question, are invited to access the meeting streamed live via Stroud District Council's [YouTube channel](#).

Recording of Proceedings

A recording of the meeting will be published onto the Council's website (www.stroud.gov.uk). The whole of the meeting will be recorded except where there are confidential or exempt items, which may need to be considered in the absence of press and public.

AGENDA

- 1 **APOLOGIES**
To receive apologies for absence.
- 2 **DECLARATIONS OF INTEREST**
To receive declarations of interest.
- 3 **PROPOSED AMENDMENTS TO THE CODE OF CONDUCT FOR MEMBERS AND THE ARRANGEMENTS UNDER WHICH ALLEGATIONS CAN BE INVESTIGATED.**
To refer the recommendation of Council of the 16 July 2020 to the committee and provide members with an updated Code of Conduct and process for investigating complaints pursuant to the reference from Council.

Members of Audit and Standards Committee 2020/21

Councillor Nigel Studdert-Kennedy (Chair)

Councillor Tom Williams (Vice-Chair)

Councillor Dorcas Binns

Councillor Rachel Curley

Councillor Miranda Clifton

Councillor Stephen Davies

Councillor Karen McKeown

Councillor Keith Pearson

Councillor Mark Reeves

STROUD DISTRICT COUNCIL
AUDIT AND STANDARDS COMMITTEE

**AGENDA
ITEM NO**

25 AUGUST 2020

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| Report Title | PROPOSED AMENDMENTS TO THE CODE OF CONDUCT FOR MEMBERS AND THE ARRANGEMENTS UNDER WHICH ALLEGATIONS CAN BE INVESTIGATED |
| Purpose of Report | To refer the recommendation of Council of the 16 th July 2020 to the committee and provide members with an updated Code of Conduct and process for investigating complaints pursuant to the reference from Council. |
| Decision(s) | <p>It is recommended that Audit & Standards Committee:</p> <ul style="list-style-type: none"> a) Consider the draft amended Code of Conduct and Arrangements for investigating complaints appended to this report and, subject to any changes it wishes to make, recommend them to the next meeting of Council for adoption b) Authorise the Monitoring Officer to provide town and parish councils with the proposed process for investigating complaints for information and comment prior to consideration by Council at its next meeting c) Instruct the Monitoring Officer to ensure that the register of members gifts and hospitality is updated and published quarterly d) That where applicable, a report on any separate bodies set up or owned by the Council should be provided as part of the Annual Governance Statement to the committee and giving a full picture of its relationship with those bodies. |
| Consultation and Feedback | <p>The Audit and Standards Committee has responsibility for monitoring ethical standards within the authority and this report provides draft documents for it to consider by way of consultation.</p> <p>If approved the arrangements will be circulated to town and parish councils and all members of Stroud District Council for information prior to final approval by Council.</p> <p>The Monitoring Officer has consulted with the Independent Persons in the preparation of the drafts appended to this report.</p> |
| Report Author | Patrick Arran, Monitoring Officer Email: patrick.arran@stroud.gov.uk |

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| Options | The committee could decide not to accept any changes to the Code of Conduct or Arrangements but this is not recommended and would not comply with the reference from Council. | | | |
| Background Papers | None | | | |
| Appendices | Appendix A - the draft members Code of Conduct together with 'clean copy' Appendix B - the draft arrangements for investigating allegations under the Code of Conduct Appendix C – Link to the existing members Code of Conduct and investigations procedure - https://www.stroud.gov.uk/council-and-democracy/corporate-plans-and-policies/constitution | | | |
| Implications (further details at the end of the report) | Financial | Legal | Equality | Environmental |
| | No | Yes | No | No |

1. Background

At its meeting on the 16th of July 2020, Council considered the following motion which had cross party support:

“Stroud District Council believes, in the light of local, national and international Black Lives Matters protests, and the four Party Group Leaders’ commitment to “promoting equality and tackling discrimination” issued on 9 June, that the Council needs to update the Councillors Code of Conduct for councillors and resolves that the draft appended to this motion is strongly recommended to the next meeting of the Audit and Standards Committee for final review before recommendation at a future Council meeting.

Council should also instruct the Audit & Standards Committee to consider the arrangements under which allegations under the Code of Conduct are investigated as a matter of urgency and, in consultation with Group Leaders, provide a response to the consultation currently being undertaken by the Local Government Association into its draft Model Code of Conduct."

1.1 The draft minute of Council records the resolution which was passed unanimously as follows:

- *That the draft appended to the above Motion was strongly recommended to the next meeting of the Audit and Standards Committee for final review before recommendation at a future Council meeting.*
- *Council instructs the Audit and Standards Committee to consider the arrangements under which allegations under the Code of Conduct are investigated as a matter of urgency and, in consultation with Group Leaders, provide a response to the consultation currently being undertaken by the Local Government Association into its draft Model Code of Conduct.*

- 1.2 The purpose of this report is to refer the recommendation of Council to the Audit & Standards Committee for it to consider. There are three parts to the recommendation namely:
1. Consider the draft amended Code of Conduct which Council strongly recommended the committee to review and recommend to the next Council meeting for adoption.
 2. Consider the arrangements under which allegations under the Code of Conduct are investigated.
 3. In consultation with Group Leaders, provide a response to the consultation being undertaken by the Local Government Association in relation the draft model code.
- 1.3 Whilst it is reviewing the Code of Conduct and the Arrangements, the firm advice of the Monitoring Officer is that the committee should consider formal implementation of the best practice recommendations made by the Committee for Standards in Public Life.
- 1.4 The Committee on Standards in Public Life (CSPL) undertook a review of the ethical framework for members with its report being published in January 2019¹. The outcomes of the review were reported to this committee on the 7th May 2019 (Item 7 accessible [here](#))
- 1.5 The CSPL review concluded that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. The terms of reference for the review were to examine the structures, processes and practices in local government in England for:
- maintaining codes of conduct for local councillors
 - investigating breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistle blowing
- 1.6 The CSPL also assessed whether the existing structures, processes and practices are conducive to high standards of conduct in local government and were to make any recommendations for how they can be improved. The full report can be accessed [here](#).
- 1.7 The CSPL made 15 best practice recommendations which are contained in the report which is accessible by the link in the previous paragraph. The expectation of the CSPL was that the best practice recommendations should be adopted by all councils. The CSPL wrote to all local authority Chief Executives in July to follow up the recommendations and will write to each council in the autumn to ask for progress against the recommendations.
- 1.8 The Monitoring Officer has included all but two of the best practice recommendations in the draft Code and Arrangements appended to this report in order that the authority can report to the CPSL that it has formally adopted their recommendations. In respect of the two recommendations which it was not appropriate to build into the draft Code and arrangements, the Monitoring Officer will suggest an approach below that the committee may wish to consider in terms of future best practice as part of its role in monitoring the ethical standards process adopted by Council.

¹Local Government Ethical Standards: A review by the Committee on Standards on Public Life - 30 January 2019

2. Draft Amended Code of Conduct

Council recommended amendments to the existing Code and proposed changes by means of the draft appended to the motion to Council which it strongly recommended to the committee. As mentioned above, the Monitoring Officer has also suggested amendments to comply with the best practice recommendations and to provide further clarification for members where he considers that necessary. These amendments will be explained below.

- 2.1 However, in order to ensure that the committee is able to easily see the proposed changes, the Monitoring Officer has colour coded the amendments. Those highlighted in grey are changes proposed by Council as a result of the motion. The amendments in yellow are changes suggested by the Monitoring Officer. A 'clean' copy will also be provided to members as the amendments can impact on the overall clarity of the document.
- 2.2 Rather than refer to the legal implications in isolation at the end of this report the Monitoring Officer will set out the legal position in relation each element as it is discussed.
- 2.3 The Localism Act 2011 (the Act) (Section 27) places a duty on relevant authorities to promote and maintain high standards of conduct. In order to discharge its duty a council must adopt a code dealing with the conduct that is expected of members of the authority when they are acting in that capacity. A town or parish council may either adopt the code adopted by its principal authority – i.e. Stroud District Council - or adopt its own. There are a variety of approaches to codes adopted by town and parish councils within Stroud District.
- 2.4 Section 28 of the Act provides that a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with the Nolan Principles. These are:
 - (a) selflessness
 - (b) integrity
 - (c) objectivity
 - (d) accountability
 - (e) openness
 - (f) honesty
 - (g) leadership
- 2.5 Any Code must include provisions which the authority considers appropriate to register and disclose pecuniary interest and interests other than pecuniary interests. Other than these requirements, it is a matter for each council to adopt a code that is relevant to its particular circumstances. There is power to amend or replace a code as circumstances dictate.
- 2.6 Section 28(3) provides that a failure to comply with the Code can only be dealt with in accordance with arrangements for investigating and making decisions on allegations adopted by Council and the proposed changes to the arrangements will be referred to below. However, the legal position is clear that it is the responsibility of the principal council, i.e. Stroud District Council, to make a decision regarding breaches of the Code and to decide any sanctions in relation to allegations made against town and parish councillors.
- 2.7 Stroud District Council initially adopted the members Code of Conduct on 5th July 2012, updated it on 10th April 2014 and again in November 2016. It forms part of the Constitution

and the function of adoption, revision or replacement of the Code may only be discharged by Council. Any changes to the Code must be publicised to bring it to the attention of the residents of the district.

2.8 Amendments

- 2.9 A 'purpose' section has been introduced to provide clarity to both members and members of the public about the Code of Conduct. It is intended to make it clear what the Code is intended to do and why.
- 2.10 The legal position as set out in Section 27 of the Localism Act is that the code of conduct applies to members **when they are acting in that capacity**. This is of course open to interpretation and can lead to confusion, particularly when members use social media. As such the CSPL recommended a change to legislation to make the Code applicable in other aspects with a rebuttable presumption that a member is acting in his/her official capacity unless proven otherwise. The current legal position is that the Code can only apply when a member is acting in their capacity as a member.
- 2.11 The proposed changes to the Code introduced by the motion clarify the applicability of the Code and sub paragraphs (a) – (c) are capable of application to members because they cover situations where a member uses their office inappropriately - the 'don't you know who I am' scenario. (Though if one considers the CPSL report, it is clear that strictly speaking, the current law would not cover this situation). However, the Monitoring Officer is of the view that sub paragraph (d) would not be lawful and could be open to challenge because it seeks to include conduct which would be in a members personal life and consequently beyond the reach of the Code.
- 2.12 If a member is convicted of a criminal offence and sentenced to imprisonment for a period of three months or more, they are disqualified from being a councillor. However, whilst there are calls for Section 80 of the Local Government Act 1972 to be amended to reflect modern sentencing practice, the provisions of the '72 Act have not been changed. Therefore, it is the Monitoring Officers view that the Code cannot extend further than that envisaged in legislation or into a members private life which this amendment purports to do.
- 2.13 The interpretation section at paragraph 1.2 will assist members and the Monitoring Officer has added some further clarification in this regard.
- 2.14 The Monitoring Officer is of the view that, given the current legislation in England, Paragraph 1.3 can only apply when a member is acting in their official capacity. Whilst this could cover situations where members referred to themselves as councillor or discussed council business on social media for example, it would not be appropriate for the Code to extend to a member's private life. Members are not perpetually on duty 24/7. The wording is taken from the Welsh Code of Conduct where conduct in one's private life can be capable of bringing the office or authority into disrepute, but this is based on different legislation to England. If this paragraph is added to the Code, it will purport to extend the Code to situations where members could potentially be in breach of the Code for something done in their private life.

- 2.15 The former section title of “Principles” has been changed to “General Obligations” because the draft appended to the Council motion intended that the Nolan Principles should now be included as obligations, a failure to comply with these principles could in itself now be a breach of the Code. Previously they were specifically excluded.
- 2.16 There is no legal reason why the Nolan Principles should not be included in this way, indeed some council’s codes are merely a re-statement of the Nolan Principles with no other detail. However, they are principles and are potentially very wide in application and interpretation. As the CPSL put it, “*the intention was not that the Seven Principles could be treated as if a self-contained code, but instead that the principles should be used to underpin a well-drafted, practical and locally-relevant guide to behaviour*”². It went on to say that a “...code of conduct is not a values or vision statement for an organisation. It therefore needs to state clearly what is required of councillors rather than an aspiration or aim. **Often this will mean phrasing requirements in terms of what councillors ‘must not’ do**”³ [Emphasis added].
- 2.17 It is likely that the inclusion of the Nolan Principles will significantly widen the scope of the Code, will be very difficult to administer and will probably lead to an increase in complaints which will in turn require additional resources.
- 2.18 Part 3 of the Code has been renumbered to reflect particular categories of behaviour / requirements. Paragraph 3.1 (c) (iii) has been added to govern the use of the authority’s resources which is reflected in the LGA draft model code (though the wording here has been taken from the Manchester City Code⁴). This is an important omission in the existing Code as members must be made aware of the limitations imposed by the Local Government Act 1986 relating to local authority publicity.
- 2.19 Paragraph 3.3 was added by Council in its motion with the intention that the Public Sector Equality Duty (PSED) should be included within the Code. There have been slight amendments suggested in yellow to match the wording in the Code and to provide for the fact that members can only do their best to comply with the PSED, they do not have the ability to control the Council’s application of it. If definitive wording such as “will” is included, members will be potentially in breach of the Code when they have absolutely no control over a situation. In legal speak, the ‘mischief’ that this is sought to address relates to the potential for members to make comments on social media which may be, or perceived to be, in breach of equality requirements. The wording will enable a more proportionate application of this requirement and provide more certainty for members.
- 2.20 Paragraph 3.4 reflects the LGA draft model code requirements in terms of civility.

² CSPL report p.30

³ CPSL report p.42

⁴ https://secure.manchester.gov.uk/info/997/committee_membership/2846/standards_committee/3

- 2.21 The Monitoring Officer has added wording to 3.5 to reflect the fact that members should not become involved in any investigation under the Code. The specific requirement not to intimidate has been removed as it is covered by the definitions of bullying and harassment which reflects the CSPL best practice requirement #1.
- 2.22 In paragraph 3.6, the wording “or the member” has been added to reflect the fact that members are data controllers in their own right. The previous wording only included information acquired by the Council which was too narrow in scope. Sub paragraph (iii) has been added to provide members with more clarity around this provision and sub paragraph (b) has been added to cover GDPR.
- 2.23 Paragraph 3.7 has been added as it is included in the LGA draft model code.
- 2.24 Paragraph 3.8 complies with CPSL best practice recommendation #2.
- 2.25 Paragraph 3.9 has been included to make reasonably necessary training mandatory. This will cover for example training on the Code of Conduct and ethical standards, Information Governance and all training for new councillors.
- 2.26 The general requirement regarding interests has been deleted because it duplicates paragraph 3.1(a). Other than that and some consequential numbering changes, no suggestions have been made to make changes to the interest requirements given that they are provided for by statute and that the LGA draft model code will provide a template that can be considered at a later date.

3. Arrangements

As stated above, Section 28 (6) of the Localism Act 2011 provides that *a relevant authority other than a parish council must have in place—*

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made

- 3.1 The Council adopted arrangements which were updated in November 2016. A recent complaint exposed a flaw in the arrangements which will be mentioned below. In addition, the CSPL best practice recommendations impacted greatly on the arrangements. As such the Monitoring Officer has prepared a new set of arrangements which are intended to replace the current arrangements in their entirety.
- 3.2 Section 28 (7) of the Localism Act state that the authority must ensure the appointment of at least one independent person:
 - (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and*
 - (b) whose views may be sought—*
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a)*

- 3.3 The primary purpose of the Independent Person is to provide a check and balance to the arrangements adopted by a Council to determine complaints under the Code of Conduct to ensure that members have an independent view before making decisions on breach and sanctions. This is primarily a safeguard to the rights of individual members in the absence of a body which oversees standards with the abolition of the Standards Board for England and is reinforced in the recent Committee on Standards in Public Life review of the ethical standards regime in England.
- 3.4 The authority must seek the views of the Independent Person before it makes a decision when there has been an investigation– i.e. the Standards Panel. The authority **may** seek the views of the Independent Person in relation to allegation before a decision has been made to investigate. This has normally manifested in the involvement of the Independent Person at the point when the Monitoring Officer is making a preliminary decision who will seek the view – not be bound by – the Independent Person.
- 3.5 The issue exposed in a recent complaint relates to paragraphs 1.8 and 1.9. The process as worded is capable of creating an expectation amongst complainants that the Independent Persons will make the decision as a result of a request for a review and not the Monitoring Officer. On a literal interpretation, the process is unlawful because the Council can only delegate functions to a committee, sub-committee or an officer - the Independent Person is not an officer (Section 101 LGA 1972). Furthermore, in providing that the Independent Person must consult with the Monitoring Officer, it creates a conflict because the Monitoring Officer is involved in reviewing his or her own decision.
- 3.6 Therefore the arrangements will be changed so that the view of the Independent Person will be sought by the Monitoring Officer before a decision is made and at other appropriate points in the procedure. If a complainant is unhappy with an outcome – and members will see that there is a lot more consultation with complainants in the new arrangements – then they can refer the matter to the Local Government and Social Care Ombudsman.
- 3.7 It is not intended to provide a commentary on the proposed arrangements, suffice to say that they are intended to be a guide to complainants and members and set out the process in a logical way. They incorporate the CSPL best practice recommendations which are referenced in footnotes in the document.

4. Consultation on LGA draft model Code of Conduct

- 4.1 The aim of the Localism Act was to place matters such as the code of conduct within the hands of individual councils, but in doing so there are understandably considerable variations in approach and content. The CSPL heard evidence that the variation between codes, even where the codes do not differ in quality, is problematic as it creates confusion among councillors who may be serving at multiple tiers of local government (i.e. twin or triple hatted). It also found that the current situation creates confusion among members of the public over what is required of different councillors.
- 4.2 Consequently, the CSPL came to the conclusion that there should be a national model code of conduct, but that this should not be mandatory, and should be able to be adapted by individual authorities. It was recommended that the model code should be drafted by the Local Government Association, given their significant leadership role in the sector, in

consultation with representative bodies of councillors and officers of all tiers of local government.

- 4.3 The model Code incorporates the CSPL recommendations on Local Government Ethical Standards and representations from its membership. Part of the CSPL recommendations related to the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is outside the scope of the LGA consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. It is suggested that a model code would create consistency across England and reflect the common expectations of the public regardless of geography or tier of authority.
- 4.4 The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the CSPL recommendations. In the meantime, the consultation was expected to focus on key areas upon which the LGA would welcome views to help finalise the draft code and is aimed at councillors and officers from all tiers of local government. The consultation on the draft member code of conduct ran until Monday 17th August 2020.
- 4.5 Unfortunately, due to the current circumstances, it was not possible for the Monitoring Officer to take a report to Audit & Standards earlier and as such a note was circulated to members of the committee with a request that if they had any comments, they should provide them to the Monitoring Officer who would respond on behalf of the Council. Any representations were submitted as part of the consultation in consultation with Group Leaders.

5. Outstanding best practice recommendations

Almost all of the best practice recommendations have been picked up in the draft Code and Arrangements, but there are two outstanding which need to be actioned and these are:

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 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.

- 5.1 It is recommended that the committee considers whether it could demonstrate compliance with these best practice recommendation 5 by instructing the Monitoring Officer to update and publish the gifts and hospitality register quarterly. Best practice recommendation 14 could be satisfied by inclusion in the Annual Governance Statement as suggested.

6. IMPLICATIONS

6.1 Financial Implications

There are no financial implications arising from this report.

Andrew Cummings, Strategic Director of Resources

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6.2 Legal Implications

Any legal implications are set out in the report.

Patrick Arran, Interim Head of Legal Services & Monitoring Officer

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6.3 Equality Implications

There are no equality implications arising from this report.

6.4 Environmental Implications

There are no environmental implications arising from this report.

CODE OF CONDUCT FOR MEMBERS

(Adopted by Council on 5 July 2012, updated on 10 April 2014, 2016 & 2020)

Purpose

The Council has a legal duty to promote and maintain high standards of conduct by members of the authority and is determined to provide excellent local government for the people of the District. It has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

The purpose of this Code of Conduct is to assist member in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken.

It is also to protect members, the public, fellow members, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

NB: It is the individual responsibility of each member to comply with this Code. Failure to do so may result in a sanction being applied by the Council.

Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and an unlimited fine and /or disqualification from office for a period of up to 5 years.

Part One - Application of the Code

1. This Code applies to all members of the Council including co-opted members and appointed members (hereinafter referred to as Members).

1.1 Members must comply with this Code whenever they:-

(a) conduct business of Stroud District Council; or

- (b) act, claim to act or give the impression they are acting as a representative of Stroud District Council; or
- (c) act as a representative of Stroud District Council and references to their official capacity are construed accordingly.
- (d) In addition to having effect in relation to conduct in an official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which they have been convicted or received a Police Caution.

1.2 **Interpretation:** If members refer to themselves as councillor, the Code will apply to them. The Code applies to all forms of member communication and interaction and applies in conversation, in writing, or in use of electronic media, including the use of Facebook, blogs and Twitter for example. If they refer to their role as councillor in any way or any comments they make are clearly related to their official role then the Code will apply to those comments.

1.3 Even if a member does not refer to their role as councillor, their comments may have the effect of bringing their office or authority into disrepute and could therefore breach paragraph 3.2 of the Code.

Part Two - General Obligations

2. Members must behave according to the highest standards of personal conduct in everything they do in their capacity as a member. In particular they must observe the following principles of conduct, some of which are set out in law. All members of the Council shall aspire to uphold and promote the following principles:

Selflessness - members should act only in the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions impartially and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when there are clear and lawful reasons for doing so.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers and its other employees.

It is important that Members uphold and promote these principles, a failure to do so may, be a breach of this Code. Those matters which may be specific breaches of the Code are set out in the next section.

Part Three - Requirements of the Code

3.1 Members must

- (a) Not use their position as a member to influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest (an interest is defined in sections 4.2, 4.3 and 4.4 of Part 4 below) and they shall comply with the requirements of this Code in relation to interests;
- (b) Not use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- (c) When using or authorising the use by others of the resources of their authority:
 - (i) act in accordance with the Council’s reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (iii) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3.2 Not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute;

3.3 Carry out all their duties and responsibilities paying due regard to the Public Sector Equality Duty and will seek to:

- (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(iii) Not do anything which may cause the Council to breach the Equality Act 2010

3.4 Show respect and consideration for others;

3.5 Not use bullying behaviour or harass any person; and not intimidate or attempt to intimidate any person or any person who is likely to be;

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with the Code;

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

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.¹

3.6 (a) Not disclose information given to the Council in confidence by anyone, or information acquired by the Council or the member which the member believes, or ought reasonably to be aware, is of a confidential nature, except where -

(i) the member has the consent of a person authorised to give consent;

¹ **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.

- (ii) they are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Council

(b) Prevent another person from gaining access to information to which that person is entitled by law.

3.7 Not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.8 Comply with any formal investigation under the Code and not seek to misuse the Code process, for example, by making allegations against another member for the purposes of political gain or on a trivial or malicious basis.²

3.9 Undertake any training considered by the Council to be reasonably necessary to enable the member to undertake their duties.

3.10 (a) When reaching decisions on any matter have regard to any relevant advice provided to them by -

- (i) the Council's chief finance officer; or
- (ii) the Council's Monitoring Officer,

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

(b) Give reasons for all decisions they make in the course of their work as a member in accordance with any reasonable requirements of the Council.

Part Four - Interests

4.1 General Requirement Regarding Interests

4.1 Definition

- (a) An interest to which this Code applies is either a disclosable pecuniary interest (DPI) or if not, an "Other Interest". These are defined at sections 4.2 and 4.3 below. ~~One~~ A member should first ascertain if the interest is a DPI. If it is not then ~~one goes~~ the member should look at to section 4.3 to see if it is any other interest.

² **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.

- (b) Members will not be considered to have an interest where it arises from an interest of a body or person other than themselves and they were not aware of that body's or person's interest.

4.2 Definition of a Disclosable Pecuniary Interest (DPI)

- (a) A DPI is any of the interests described below whether it is the Member's or the interest of their spouse, civil partner, or person who they live with as if they were their spouse or civil partner (referred to as "Partner" below).
- (i) **Employment:** any employment or office held, or trade, profession or vocation carried on, by the member or their Partner for profit or gain.
 - (ii) **Sponsorship:** any payment or financial benefit towards the Member's election expenses or expenses as a member received within the last 12 months, excluding any from the Council.
 - (iii) **Contracts:** any current contract between the Council and them, or their Partner, or anybody in which they or their Partner are a business partner, director, or shareholder.
 - (iv) **Land:** any land which is in the Council's area which they or their Partner have a right to occupy or receive the income from, including a licence to occupy land for more than a month.
 - (v) **Corporate tenancies:** any tenancy between the Council and a body in which the member or their Partner are a business partner, director, or shareholder.
 - (vi) **Securities:**
 - any beneficial interest in any shares or other securities of any description in a body, held by the member or their Partner, if the body has a place of business or land in the Council's area, and:
 - the total value of the securities held is over £25,000, or
 - the member or their Partner hold more than one hundredth of the total issued share capital of the body, or
 - if the body has more than one class of shares, the member or their Partner hold more one hundredth of the issued share capital of that class

Note: the descriptions of DPI's above are summaries of the definitions in the regulations.

- (b) A failure to disclose a DPI, providing information regarding a DPI which is false or misleading, or taking part in the business of the Council when one has such an interest, are criminal offences in most circumstances, as set out in the Localism Act 2011. They will also be breaches of this Code.

4.3 Definition of “Other Interest”

- (a) A member has an “Other Interest” where a decision on the matter might reasonably be regarded as significantly advantaging or disadvantaging them or, their Partner to a greater extent than the majority of other council tax, business rate payers or inhabitants of your ward. In interpreting and applying this part of the Code, it is imperative that members always act in a manner which is consistent with the key principles set out in the Code at Part 2: Principles General Obligations.
- (b) Exceptions – members do not have any Other Interest in respect of any business of the Council concerning:
 - (i) Housing, where they are a tenant of the Council provided that those functions do not relate particularly to their own tenancy or lease;
 - (ii) School meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) An allowance, payment or indemnity given to members;
 - (v) Any ceremonial honour given to members; or
 - (vi) Setting council tax or a precept under the Local Government Finance Act 1992.

4.4 Disclosure of interests at meetings

- (a) Where the member attends a meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council which considers any business in which they or their Partner have an interest, the member must disclose to that meeting the existence and nature of that interest either
 - (i) when invited to do so at or near the commencement of the meeting; or
 - (ii) at the commencement of the consideration of that business; or (if later)
 - (iii) as soon as the interest becomes apparent.
- (b) Where a member has an interest but, by virtue of paragraph 4.6 it is a Sensitive Interest, they must indicate to the meeting that they have an interest, but need not disclose the sensitive information to the meeting.

4.5 Other Actions to be Undertaken by Members with an Interest

- (a) Subject to paragraph 4.5 (b), in support of the general requirement of this Code that a member shall not influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest there are the following additional requirements:
 - (i) The member must not participate in any discussion or consideration of that matter at any meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council;
 - (ii) The Member shall withdraw from the meeting for the whole time there is a discussion or consideration of the matter; and
 - (iii) The Member shall not vote on the matter.
- (b) Exceptions – if the interest is solely an Other Interest (as defined in paragraph 4.3) which arises:
 - (i) Only in connection with the Member's appointment as a representative of the Council on an outside body; or
 - (ii) As a result of the member's or their Partner's membership of any other body in which the member or their Partner do not hold a position of general control or management

the member may speak on the matter and stay in the meeting room but is prohibited from voting on the matter.

4.6 Sensitive Interests

- (a) A Sensitive Interest is an interest that the member with the interest, and the Council's Monitoring Officer, consider that disclosure of the details of which could lead to that member or a person connected with that member being subject to violence or intimidation.
- (b) Copies of the Council's Register of Members' Interests that are made available for inspection and any published version of the Register, must not include details of the interest but will state that the Member has an interest the details of which are withheld under the Localism Act 2011.
- (c) A member with a Sensitive Interest, when declaring such an interest at a meeting, need not disclose details of the interest but merely the fact that they have a Sensitive Interest in the matter concerned.
- (d) A member with a Sensitive Interest is subject to all the other provisions of this Code in relation to that interest, including those which prevent members with an interest influencing, or attempting or purporting to influence, any decision or business of the Council in which they have an interest.

4.7 Dispensations

- (a) The Monitoring Officer may grant a dispensation allowing a Member with an interest to
 - (i) participate, or participate further, in any discussion of the matter, or
 - (ii) participate in any vote, or further vote, taken on the matter at a meeting where the discussion or meeting are in the course of the Council's business.
- (b) The Monitoring Officer may only grant a dispensation if, after having had regard to all relevant circumstances they
 - (i) consider that without the dispensation the number of persons prohibited from participating by section 31(4) of the Localism Act or this Code in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or
 - (ii) consider 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, or
 - (iii) consider that granting the dispensation is in the interests of persons living in the authority's area, or
 - (iv) consider that it is otherwise appropriate to grant a dispensation.
- (c) A dispensation under this Code must specify the period and matters for which it has effect, and the period specified may not exceed four years.

4.8 Registration of members' DPI's

- (a) Members must, within 28 days of either this Code being adopted by Council; or their election or appointment to office (whichever is later) register in the Council's Register of Members' Interests details of their disclosable pecuniary interests (DPI's) as defined in section 4.2.
- (b) Registration shall be **satisfied** by providing to the Monitoring Officer a fully completed form provided by the Council for this purpose.
- (c) Members must, within 28 days of becoming aware of any new DPI or change to any such interest already registered, register details of that new interest or change by providing written notification with sufficient details of the change to the Monitoring Officer to properly update the Register.
- (d) Where a member has declared a DPI at a meeting which is not in the Council's Register of Member's Interests, and in respect of which no notice has already been given to the Monitoring Officer, the member shall, within 28 days of making the declaration, provide sufficient details of the interest for the Monitoring Officer to properly update the Register.

CODE OF CONDUCT FOR MEMBERS

(Adopted by Council on 5 July 2012, updated on 10 April 2014, 2016 & 2020)

Purpose

The Council has a legal duty to promote and maintain high standards of conduct by members of the authority and is determined to provide excellent local government for the people of the District. It has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

The purpose of this Code of Conduct is to assist member in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken.

It is also to protect members, the public, fellow members, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

NB: It is the individual responsibility of each member to comply with this Code. Failure to do so may result in a sanction being applied by the Council.

Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and an unlimited fine and /or disqualification from office for a period of up to 5 years.

Part One - Application of the Code

1. This Code applies to all members of the Council including co-opted members and appointed members (hereinafter referred to as Members).
- 1.1 Members must comply with this Code whenever they:-
 - (a) conduct business of Stroud District Council; or

- (b) act, claim to act or give the impression they are acting as a representative of Stroud District Council; or
- (c) act as a representative of Stroud District Council and references to their official capacity are construed accordingly.
- (d) In addition to having effect in relation to conduct in an official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which they have been convicted or received a Police Caution.

1.2 **Interpretation:** If members refer to themselves as councillor, the Code will apply to them. The Code applies to all forms of member communication and interaction and applies in conversation, in writing, or in use of electronic media, including the use of Facebook, blogs and Twitter for example. If they refer to their role as councillor in any way or any comments they make are clearly related to their official role then the Code will apply to those comments.

1.3 Even if a member does not refer to their role as councillor, their comments may have the effect of bringing their office or authority into disrepute and could therefore breach paragraph 3.2 of the Code.

Part Two - General Obligations

2. Members must behave according to the highest standards of personal conduct in everything they do in their capacity as a member. In particular they must observe the following principles of conduct, some of which are set out in law. All members of the Council shall aspire to uphold and promote the following principles:

Selflessness - members should act only in the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – members should make decisions impartially and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when there are clear and lawful reasons for doing so.

Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers and its other employees.

It is important that Members uphold and promote these principles, a failure to do so may, be a breach of this Code. Those matters which may be specific breaches of the Code are set out in the next section.

Part Three - Requirements of the Code

3.1 Members must

- (a) Not use their position as a member to influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest (an interest is defined in sections 4.2, 4.3 and 4.4 of Part 4 below) and they shall comply with the requirements of this Code in relation to interests;
- (b) Not use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- (c) When using or authorising the use by others of the resources of their authority:
 - (i) act in accordance with the Council’s reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (iii) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3.2 Not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute;

3.3 Carry out all their duties and responsibilities paying due regard to the Public Sector Equality Duty and will seek to:

- (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

- (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (iii) Not do anything which may cause the Council to breach the Equality Act 2010

3.4 Show respect and consideration for others;

3.5 Not use bullying behaviour or harass any person; and not intimidate or attempt to intimidate any person or any person who is likely to be;

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with the Code;

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

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

3.6 (a) Not disclose information given to the Council in confidence by anyone, or information acquired by the Council or the member which the member believes, or ought reasonably to be aware, is of a confidential nature, except where -

- (i) the member has the consent of a person authorised to give consent;
- (ii) they are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Council

 - (b) Prevent another person from gaining access to information to which that person is entitled by law.
- 3.7 Not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 3.8 Comply with any formal investigation under the Code and not seek to misuse the Code process, for example, by making allegations against another member for the purposes of political gain or on a trivial or malicious basis.¹
- 3.9 Undertake any training considered by the Council to be reasonably necessary to enable the member to undertake their duties.
- 3.10 (a) When reaching decisions on any matter have regard to any relevant advice provided to them by -
- (i) the Council's chief finance officer; or
 - (ii) the Council's Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties and
- (b) Give reasons for all decisions they make in the course of their work as a member in accordance with any reasonable requirements of the Council.

Part Four - Interests

4.1 Definition

- (a) An interest to which this Code applies is either a disclosable pecuniary interest (DPI) or if not, an "Other Interest". These are defined at sections 4.2 and 4.3 below. A member should first ascertain if the interest is a DPI. If it is not then the member should look at section 4.3 to see if it is any other interest.

- (b) Members will not be considered to have an interest where it arises from an interest of a body or person other than themselves and they were not aware of that body's or person's interest.

4.2 Definition of a Disclosable Pecuniary Interest (DPI)

¹ **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.

- (a) A DPI is any of the interests described below whether it is the Member's or the interest of their spouse, civil partner, or person who they live with as if they were their spouse or civil partner (referred to as "Partner" below).
- (i) **Employment:** any employment or office held, or trade, profession or vocation carried on, by the member or their Partner for profit or gain.
 - (ii) **Sponsorship:** any payment or financial benefit towards the Member's election expenses or expenses as a member received within the last 12 months, excluding any from the Council.
 - (iii) **Contracts:** any current contract between the Council and them, or their Partner, or anybody in which they or their Partner are a business partner, director, or shareholder.
 - (iv) **Land:** any land which is in the Council's area which they or their Partner have a right to occupy or receive the income from, including a licence to occupy land for more than a month.
 - (v) **Corporate tenancies:** any tenancy between the Council and a body in which the member or their Partner are a business partner, director, or shareholder.
 - (vi) **Securities:**
 - any beneficial interest in any shares or other securities of any description in a body, held by the member or their Partner, if the body has a place of business or land in the Council's area, and:
 - the total value of the securities held is over £25,000, or
 - the member or their Partner hold more than one hundredth of the total issued share capital of the body, or
 - if the body has more than one class of shares, the member or their Partner hold more one hundredth of the issued share capital of that class

Note: the descriptions of DPI's above are summaries of the definitions in the regulations.

- (b) A failure to disclose a DPI, providing information regarding a DPI which is false or misleading, or taking part in the business of the Council when one has such an interest, are criminal offences in most circumstances, as set out in the Localism Act 2011. They will also be breaches of this Code.

4.3 Definition of “Other Interest”

- (a) A member has an “Other Interest” where a decision on the matter might reasonably be regarded as significantly advantaging or disadvantaging them or, their Partner to a greater extent than the majority of other council tax, business rate payers or inhabitants of your ward. In interpreting and applying this part of the Code, it is imperative that members always act in a manner which is consistent with the key principles set out in the Code at Part 2: Principles General Obligations.
- (b) Exceptions – members do not have any Other Interest in respect of any business of the Council concerning:
 - (i) Housing, where they are a tenant of the Council provided that those functions do not relate particularly to their own tenancy or lease;
 - (ii) School meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) An allowance, payment or indemnity given to members;
 - (v) Any ceremonial honour given to members; or
 - (vi) Setting council tax or a precept under the Local Government Finance Act 1992.

4.4 Disclosure of interests at meetings

- (a) Where the member attends a meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council which considers any business in which they or their Partner have an interest, the member must disclose to that meeting the existence and nature of that interest either
 - (i) when invited to do so at or near the commencement of the meeting; or
 - (ii) at the commencement of the consideration of that business; or (if later)
 - (iii) as soon as the interest becomes apparent.
- (b) Where a member has an interest but, by virtue of paragraph 4.6 it is a Sensitive Interest, they must indicate to the meeting that they have an interest, but need not disclose the sensitive information to the meeting.

4.5 Other Actions to be Undertaken by Members with an Interest

- (a) Subject to paragraph 4.5 (b), in support of the general requirement of this Code that a member shall not influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest there are the following additional requirements:
 - (i) The member must not participate in any discussion or consideration of that matter at any meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council;
 - (ii) The Member shall withdraw from the meeting for the whole time there is a discussion or consideration of the matter; and
 - (iii) The Member shall not vote on the matter.
- (b) Exceptions – if the interest is solely an Other Interest (as defined in paragraph 4.3) which arises:
 - (i) Only in connection with the Member's appointment as a representative of the Council on an outside body; or
 - (ii) As a result of the member's or their Partner's membership of any other body in which the member or their Partner do not hold a position of general control or management

the member may speak on the matter and stay in the meeting room but is prohibited from voting on the matter.

4.6 Sensitive Interests

- (a) A Sensitive Interest is an interest that the member with the interest, and the Council's Monitoring Officer, consider that disclosure of the details of which could lead to that member or a person connected with that member being subject to violence or intimidation.
- (b) Copies of the Council's Register of Members' Interests that are made available for inspection and any published version of the Register, must not include details of the interest but will state that the Member has an interest the details of which are withheld under the Localism Act 2011.
- (c) A member with a Sensitive Interest, when declaring such an interest at a meeting, need not disclose details of the interest but merely the fact that they have a Sensitive Interest in the matter concerned.
- (d) A member with a Sensitive Interest is subject to all the other provisions of this Code in relation to that interest, including those which prevent members with an interest influencing, or attempting or purporting to influence, any decision or business of the Council in which they have an interest.

4.7 Dispensations

- (a) The Monitoring Officer may grant a dispensation allowing a Member with an interest to
 - (i) participate, or participate further, in any discussion of the matter, or
 - (ii) participate in any vote, or further vote, taken on the matter at a meeting where the discussion or meeting are in the course of the Council's business.
- (b) The Monitoring Officer may only grant a dispensation if, after having had regard to all relevant circumstances they
 - (i) consider that without the dispensation the number of persons prohibited from participating by section 31(4) of the Localism Act or this Code in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or
 - (ii) consider 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, or
 - (iii) consider that granting the dispensation is in the interests of persons living in the authority's area, or
 - (iv) consider that it is otherwise appropriate to grant a dispensation.
- (c) A dispensation under this Code must specify the period and matters for which it has effect, and the period specified may not exceed four years.

4.8 Registration of members' DPI's

- (a) Members must, within 28 days of either this Code being adopted by Council; or their election or appointment to office (whichever is later) register in the Council's Register of Members' Interests details of their disclosable pecuniary interests (DPI's) as defined in section 4.2.
- (b) Registration shall be satisfied by providing to the Monitoring Officer a fully completed form provided by the Council for this purpose.
- (c) Members must, within 28 days of becoming aware of any new DPI or change to any such interest already registered, register details of that new interest or change by providing written notification with sufficient details of the change to the Monitoring Officer to properly update the Register.
- (d) Where a member has declared a DPI at a meeting which is not in the Council's Register of Member's Interests, and in respect of which no notice has already been given to the Monitoring Officer, the member shall, within 28 days of making the declaration, provide sufficient details of the interest for the Monitoring Officer to properly update the Register.

ARRANGEMENTS FOR DEALING WITH COMPLAINTS UNDER THE CODE OF CONDUCT ABOUT DISTRICT AND TOWN & PARISH COUNCILLORS¹

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

The Localism Act places a general duty on the Council to ensure that high standards of conduct are maintained and demonstrated to the public. An authority must have an effective, fair, impartial, and transparent complaints and investigation procedure to enable it to make decisions on allegations which both councillors and the public can have confidence. Sanctions should be imposed in a consistent way and only where there is a genuine breach.

This procedure applies when a complaint is received that a member of Stroud District Council or a town / parish councillor has or may have failed to comply with the Code of Conduct for Members ('the Code'). The District Council will review its Code each year and regularly seek, where possible, the views of the public, community organisations and the town and parish councils.² The Code will be readily accessible to both councillors and the public and will be placed in a prominent position on the District Councils website and available in its premises.³

1. General

The person making the complaint will be referred to as "the complainant" and the person against whom the complaint is made will be referred to as the "subject member".

- 1.2 The Monitoring Officer is the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

¹ References to best practices recommendations throughout this document refer to the recommendations made by the Committee for Standards in Public Life report

² **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.

³ **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.

- 1.2.1 The Monitoring Officer will provide advice, support and management of investigations and adjudications on alleged breaches to town and parish councils within Stroud District.⁴ However, the Monitoring Officer cannot provide advice to town and parish councils in relation to matters outside of the Code, e.g. decision making not involving a breach of the Code and meeting procedure and etiquette.
- 1.2.2 The Monitoring Officer will usually appoint a deputy to act when he or she is unavailable or has an actual or potential conflict of interest. If there is no deputy or the deputy is unavailable, he or she may ask a monitoring officer from a different authority to undertake the investigation.⁵
- 1.3 The Council appoints Independent Persons from outside the council to assist the Monitoring Officer and Standards Panel in considering complaints. The Independent Persons currently appointed by the District Council are John Acton and Phyllida Pyper.⁶
- 1.4 No member or officer of Stroud District Council or any town or parish council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2. Making a complaint⁷

Complaints should be made in writing either by post or e-mail monitoring.officer@stroud.gov.uk or:

The Monitoring Officer,
Stroud District Council
Ebley Mill
Stroud
GL5 4LH

⁴ **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.

⁵ **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.

⁶ **Best practice 7:** Local authorities should have access to at least two Independent Persons.

⁷ **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.

- 2.1 Complaints about councillors may be made by anyone, but complaints about the conduct of a town or parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.⁸ The Monitoring Officer may require the town or parish council to seek to resolve the complaint itself in the first instance.
- 2.2 An oral complaint will be accepted where the complainant is unable to write due to a physical or mental disability or there is a language barrier. Where an oral complaint is received it will be transcribed and sent to the complainant for their approval.
- 2.3 Anonymous complaints will only be accepted in exceptional circumstances. Further information regarding confidentiality and anonymous complaints is set out below.
- 2.4 A complaint must provide substantiated information and should outline what form of resolution the complainant is seeking. Further information regarding the range of sanctions available is set out in paragraph 9 below.
- 2.5 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct the complaint may be held in abeyance pending the outcome of any criminal investigation to ensure that no criminal investigation is prejudiced.
- 2.6 If a complainant wishes their identity to be withheld, they should state this and provide full reasons why they believe their request is justified when submitting the complaint. Any request for confidentiality will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his/her decision the Monitoring Officer may also consult with the Independent Person.
- 2.7 As a matter of fairness and natural justice the subject member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be

⁸ **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 as a whole, rather than the clerk in all but exceptional circumstances.

at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

- 2.8 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject member.
- 2.9 The Monitoring Officer may discontinue a complaint if they consider it appropriate to do so where the subject member ceases to be a councillor for any reason. Where a complaint is discontinued the Monitoring Officer will write to the complainant setting out the reasons for their decision.
- 2.10 If an anonymous complaint is received it will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his / her decision the Monitoring Officer may also consult with the Independent Person.
- 2.11 The principles of fairness and natural justice referred to in paragraph 2.7 will also be applied to anonymous complaints and such complaints will only be accepted if they include documentary or photographic evidence indicating an exceptionally serious or significant matter.
- 2.12 The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of all required information being provided. The complainant will be given details about how the complaint will be dealt with and provided with a copy of these Arrangements. At the same time, the Monitoring Officer will write to the subject member and copy in their Group Leader and / or Whip if applicable (and in the case of a complaint about a town or parish council member to the Clerk) with a copy of the complaint and the name of the complainant, (if anonymity has not been requested and accepted as valid by the Monitoring Officer).
- 2.13 The subject member may, within 10 working days of being provided with a copy of the complaint, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account at the

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discretion of the Monitoring Officer but will not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

- 2.14 A decision regarding whether the complaint merits formal investigation or another course of action will normally be taken within a maximum of 20 working days of either receipt of representations from the subject member or where no representations are submitted 20 working days of the expiry of the period mentioned in paragraph 2.12 above. The complainant and the subject member will be informed should there be a delay in completing any stage of the process.

3. Stage 1 – Procedure for Initial Assessment of Complaint

- 3.1 The complaint will be automatically rejected if:
- The complaint is not against one or more named member of Stroud District Council or any town or parish council within Stroud District; or
 - The complaint is against a current member of Stroud District Council or any town or Parish Council within Stroud District but the subject member was not acting in their capacity as a member of that council at the time of the alleged failure to comply with the Code. (The Monitoring Officer will consider all of the circumstances before reaching a conclusion as to the status of the member at the time of the alleged breach of the Code)
- 3.1.1 Where a complaint is rejected on any of the above grounds, the Monitoring Officer will write to the complainant explaining why their complaint cannot be dealt with under this procedure.
- 3.2 The Monitoring Officer may request further information from either the complainant, the subject member or any other persons the Monitoring Officer considers appropriate before reaching a decision.
- 3.3 The Monitoring Officer will consider the complaint and, consult with the Council's Independent Person before reaching a decision⁹ (initial assessment) as to whether the complaint merits investigation, or another course of action. Where the complaint relates to a town or parish council member, the Monitoring

⁹ **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.

Officer may also seek the views of the clerk of the town or parish council before deciding whether the complaint merits formal investigation or other action.

3.4 If the complaint has not been rejected on either of the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria¹⁰ in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- A substantially similar allegation has previously been made by the complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
- The complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- The allegation is anonymous
- The complaint is of an interpersonal nature that would more properly be dealt with by referring the matter to the members Group Leader for informal resolution
- The allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
- The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or
- In all the circumstances there is no overriding public benefit in carrying out an investigation.
- The complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- The complaint suggests that there is a wider problem throughout the Authority;

3.5 After consulting with the Independent Person the Monitoring Officer will then give his/her decision on how the complaint will be dealt with. The Monitoring

¹⁰ **Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Officer may in exceptional circumstances refer the question of how to proceed to the Chairperson of the Audit and Standards Committee.

- 3.6 If the Monitoring Officer decides that no further action is appropriate a decision notice will be sent to the complainant and the subject member. The decision notice will summarise the allegation, give the decision of the Monitoring Officer and the reasons for their decision.

4. Stage 2 - Informal Resolution

- 4.1 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Informal resolution may be appropriate for example where: -

- There is a breach of the Code but this is minor, trivial or technical in nature
- It is apparent that the Subject member is relatively inexperienced as a member
- The member has admitted making an error which would not warrant a more serious sanction and has taken action to address this e.g. withdrawing comments.
- The member has apologised
- Training or conciliation would be a more appropriate response.

- 4.2 Types of informal resolution might include:

- An explanation by the subject member to the complainant of the circumstances surrounding the complaint;
- An apology from the subject member;
- An agreement from the subject member to attend relevant training or to take part in a mentoring process;
- Offering to engage in a process of mediation or conciliation between the subject member and the complainant; or
- Any other action capable of resolving the complaint.

- 4.3 Where the Monitoring Officer seeks to resolve the complaint informally he or she will provide the subject member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 10 working days) and provide the subject member with the contact details for an Independent Person who will be available to the subject member to give them advice on the severity

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of the complaint and what form of resolution they would consider appropriate. (Providing such guidance will not prevent the Independent Person from giving a view to the Standards Panel.)

- 4.4 Before deciding upon a course of action the subject member may seek guidance from a Group Whip, Leader of the Group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.
- 4.5 At the end of the 10 working day period referred to at paragraph 4.3 above the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the subject member has resolved the complaint to the Complainant's satisfaction.
- 4.6 Where it has been possible to agree a form of resolution between the subject member and the complainant there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject member of this decision.
- 4.7 Where it has not been possible to agree a form of resolution between the subject member and the complainant, the Monitoring Officer will decide if the complaint merits formal investigation. Where the subject member makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in his or her decision.

5. Stage 3 – Formal Investigation

- 5.1 Where the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits investigation he/she will appoint an Investigating Officer who may be a Council officer, an officer from another Council, or an external investigator. However, if the facts and evident are self-sufficient, the Monitoring Officer may dispense with a formal investigation and present the facts him / herself.
- 5.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of council resources and shall be interpreted in line with these principles. The Investigating Officer should aim to complete their investigation within a maximum of 1 month of their appointment.

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- 5.3 At the end of their investigation, the Investigating Officer may produce a draft report and send copies to the complainant and subject member for comments on matters of fact. The Investigating Officer will take any such comments received during a period to be specified by the Investigating Officer into account before issuing their final report to the Monitoring Officer.

6. Investigating Officer finding of no failure to comply with the Code of Conduct

- 6.1 Where the Investigating Officer's report finds that the subject member has not failed to comply with the Code, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code.
- 6.2 The Monitoring Officer will write to the complainant and the subject member (and to the clerk of the town or parish council, where the complaint relates to a town or parish council member), with a copy of the decision and the Investigating Officer's report.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

7 Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

- 7.1 Where the Investigating Officer's report finds that the Subject member has failed to comply with the Code, the Monitoring Officer will review the Investigating Officer's report and will then, having consulted the Independent Person, either send the matter for hearing before the Standards Panel or seek informal resolution in accordance with paragraph 7.2 below.
- 7.2 Informal Resolution - If the Monitoring Officer believes that the matter can reasonably be resolved without the need for a hearing, for example because informal resolution has not yet been considered, they will consult with the Independent Person and the complainant and seek to agree a fair resolution. The types of resolution available are as set out in paragraph 4.2 of these Arrangements.
- 7.2 If the subject member and the complainant accept the suggested resolution, the Monitoring Officer will report the outcome to the Standards Panel and the clerk to the town or parish Council (if appropriate) for information but will take no further action.

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- 7.3 If the complainant or the subject member refuses informal resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a hearing without further reference to the complainant or the subject member.

8. Stage 4 - Hearing

Where, in the opinion of the Monitoring Officer, informal resolution is not appropriate or the complainant and/or subject member refuses to accept informal resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Standards Panel which will conduct a hearing before deciding whether the Member has failed to comply with the Code and, if so, what action (if any) to take in respect of the Member. The Standards Panel will be constituted in accordance with council Standing Orders and will adopt whatever process it considers appropriate.

9. Action available to the Standards Panel

Where the Standards Panel finds that a subject member has failed to comply with the Code, it will publish a decision notice on its website (in the case of a town or parish council the Standards Panel will provide a decision notice to be published on its website) of its findings in respect of the Subject member's conduct¹¹ setting out the following:

- 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
- Any sanction applied.

and it may -

- Recommend to the relevant council that the member should be censured;
- Require the member to provide an apology
- Request the member remove any social media content which led to the complaint
- Recommend to the subject member's Group Leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;

¹¹ **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.

- Instruct the Monitoring Officer (or recommend to the town or parish council) to arrange training for the Member;
- Recommend to Council (or recommend to the town or parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the town or parish council);
- Withdraw (or recommend to the town or parish council that it withdraws) facilities provided to the subject member by the council such as a computer, website and/or e-mail and internet access; or
- Place such restrictions on the Subject member's access to staff, buildings or parts of buildings which may be reasonable in the circumstances.

10. Appeals

There is no right of appeal against the substantive decision of the Monitoring Officer or of the Standards Panel

11. Withdrawal of a Complaint

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by the Standards Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint.

- 11.1 In taking such a decision the Monitoring Officer will take into account whether there has been any intimidation or attempt to intimidate any person who is or is likely to be:
- a complainant,
 - a witness, or
 - involved in the administration of any investigation or proceedings, in relation to the allegation that the subject member has failed to comply with the Council's Code.

12. Revision of these Arrangements

In individual cases the Monitoring Officer may, in consultation with the Chairperson of Audit & Standards Committee, revise these Arrangements, as he or she considers appropriate, to enable the process to be dealt with efficiently. Any such revisions are to be reported to the next meeting of the Audit & Standards Committee.

13. Review of these Arrangements

These Arrangements were last reviewed in 2020 and shall be reviewed every 3 years thereafter or earlier where there is a change in law or where circumstances

warrant an earlier review. The Monitoring Officer will seek to meet regularly with political group leaders or group whips to discuss standards issues.¹²

¹² **Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.