

**Audit and Governance Committee**  
**Annual Review of Member Code of Conduct**

Date: 21 January 2022

Agenda Item: 20

<b>Title of Report</b>	Annual Review of Member Code of Conduct
<b>Purpose of Report</b>	To review the statutory arrangements governing the conduct of elected members
<b>Recommendations</b>	That the committee: <ul style="list-style-type: none"><li>• Notes the report and identifies any areas for development.</li><li>• Notes the council's position with regard to the recommendations from the Committee on Standards in Public Life and the next steps being taken.</li><li>• Continues to support the development of a common Member Code of Conduct for Gloucestershire</li></ul>
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<b>Key Risks</b>	Failure in corporate governance which could lead to service, financial or reputational damage to the council

## **Introduction**

1. The Localism Act 2011 significantly amended the statutory arrangements governing the conduct of elected members. The County Council adopted a new regime in 2012.
2. One of the roles of this committee is to monitor the operation of the Code of Conduct and to promote, monitor and assist the achievement of high standards of conduct. This report is intended to assist the committee fulfil this role.

## **Standards Regime**

3. The standards regime remains unchanged since the May 2017 county council elections, but was subject to a review by the Committee on Standards in Public Life in January 2019. This resulted in a number of recommendations for Government, the LGA and for local authorities themselves. A summary is provided at Appendix 1 that sets out this Council's position in relation to those recommendations. Government has yet to formally respond to the recommendations.
4. The only significant outstanding action for Gloucestershire County Council is to incorporate clauses on bullying and harassment within our Code of Conduct. This is awaiting the development of a common Code with Gloucestershire's Districts, as set out in more detail below.

## **Gloucestershire Member Code of Conduct**

5. In March 2021, this committee agreed that we should work with Gloucestershire's District Councils towards the development of a common Code of Conduct for Gloucestershire, based on the Model Code produced by the Local Government Association (LGA).
6. Progress on this has been stalled by a number of factors, most notably, an extremely high level of turnover amongst Monitoring Officers at District level. Only in Tewkesbury is the same Monitoring Officer in post as in January 2021, and in three of our districts, the post is currently being filled with an interim appointment. This inevitably makes it difficult to secure commitment and continuity. Nevertheless, in December, we agreed a way forward and I am optimistic that we will make significant progress towards developing a draft Code by March 2022 which can then form the basis of consultation with our respective Councils and with local Parish and Town Councils.

7. In the meantime, I remain of the view that while a more detailed code would be preferable, our existing Code of Conduct remains sufficiently fit for purpose until such a time as a new code is developed.

### **Induction of new Members and Register of Interests**

8. Following the May elections, all 53 County Councillors have completed their Register of Interests, and these have been published on the Council's website.
9. The induction programme for new members included sessions on Member Standards, the Code of Conduct and the process for dealing with allegations of member misconduct. These were well attended and well received, and a number of members (both new and returning) have since sought my advice on specific issues as they have arisen. In particular, my advice is frequently sought on specific issues relating to the declaration of pecuniary and other interests. This is an area on which the LGA Model Code of Conduct provides more detail than our current code of conduct, and I anticipate that any Gloucestershire code is likely to follow that pattern.
10. Having sought advice and compared Gloucestershire's approach with that of neighbouring authorities, members have been advised to include details of any land in which they have an interest, including their home address, within the register of interests. Previously, these had been withheld in all cases, with the register simply noting "Address provided to the Monitoring Officer". It is recognised that members may justifiably have concerns about their home addresses being publicly available, but this has to be balanced against the need for transparency over potential conflicts of interest. As a result, I concluded that the previous approach was difficult to justify. However, the relevant legislation does allow for sensitive information to be with-held on a case by case basis when there is a genuine concern about the safety or security of an individual member. As a result, I have agreed to individually withhold sensitive information in a number of cases and will consider each case on its merits.
11. The rules allow councils in certain circumstances to grant dispensations to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. This committee has the facility to grant such dispensations but to date no requests have been made.

## **Appointment and Induction of Independent Persons**

12. A recruitment process was undertaken during March 2021 which resulted in the appointment of two new Independent Persons at County Council in May 2021 – Bernard Barton-Ancliffe and Stephen Pearman.
13. Both have been provided with a full induction into the member code of conduct and have already assisted me in advising on complaints received. I am confident that they will fulfil their role diligently and will support me with sound judgement and wisdom.

## **Complaints under the Code of Conduct during 2021**

14. When complaints are received, it is the Monitoring Officer's role to review the substance and decide if it warrants a full investigation. This is done against a set of relevant questions in consultation with one of the Independent Persons.
15. Four complaints were made under the Code of Conduct during 2021: two prior to the May elections and two since.
16. Of these, only one progressed to a full investigation. That investigation concluded that no breach of the Code had occurred.
17. The remaining four complaints did not meet the criteria for full investigation as the substance of the complaint was not a matter that, if substantiated, would amount to a breach of the code.
18. In addition to these formal complaints, I have also responded to one further matter which was able to be resolved informally to the satisfaction of the member of the public concerned.
19. It would be inappropriate to disclose details of individual complaints as none of those received have been found to amount to a breach of the code. However, in terms of the trends, an increasing number of complaints relate to comments made by Councillors on social media, including those made from accounts that identify them as a Councillor and those made from personal accounts.

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**Appendix 1:  
Review of Recommendations by the Committee on Standards in Public Life**

Best Practice Recommendation	Current position	Next steps
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.	Not included explicitly in GCC Code of Conduct but these are covered in the new Model Code created by the Local Government Association.	Continue to work with District Councils towards developing a common Gloucestershire Code which incorporates these elements.
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.		
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.	This report forms our annual review and seeks members views as to how and whether to seek engagement.	No further action, unless members feel that we should pro-actively seek engagement in this review.
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.	Code of conduct on <a href="#">Council Website</a> Searching under "Code of Conduct" or "Complaints" or "Complaints about Councillors" brings up a link	No further action
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.	Provided on website against each councillor's details in PDF format and updated as received from members. Reminders are issued periodically by email and via Members Matter.	No further action
6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Included on <a href="#">Council Website</a>	No further action required
7: Local authorities should have access to at least two Independent Persons.	Two Independent Persons recruited and appointed in May 2021. Term of office ends May 2025.	No further action
8: An Independent Person should be consulted as to whether to undertake a	This process in place	No further action

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.		
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.	This is GCC's process, should it be required	No further action
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.	See <a href="#">Council Website</a>	No further action
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.	Not applicable. In 2-tier areas, complaints about parish councillors are the responsibility of the relevant District Council	No further action
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.		
13: A local authority should	The Council has appointed 2	No further action

<p>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.</p>	<p>Deputies who would deal with any complaints where the MO has a conflict of interests.</p>	
<p>14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement (AGS), 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.</p>	<p>The Council has 2 such bodies:</p> <ul style="list-style-type: none"> <li>- UBICO</li> <li>- Adoption West</li> </ul> <p>UBICO Board does follow the Nolan principles – the new Chair of the Board devoted the first meeting to the Nolan principles. The Annual Report is published on the website but not minutes of board meetings. There is also an Audit and Governance sub Committee and a Remuneration / Policy Sub Committee.</p> <p>Both Ubico and Adoption West provided evidence for this year's Annual Governance Statement</p>	<p>No further action</p>
<p>15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>Quarterly meetings established with MO and group leaders</p>	<p>No further action</p>