

Dear Members –

You may be aware of recent case law found in judicial review of a Code of Conduct complaint at Honiton T C . The ruling confirmed that a council could not apply its own sanctions to a member of the council as a result of a finding of a breach of the Code of Conduct; it can only impose those sanctions recommended in the Decision Notice.

To reflect this new case law, and to clarify a number of managerial issues around the code of conduct and employer responsibilities I have reviewed the national model standing order to make it appropriate for Cornwall's parish and town councils.

Please find attached a new model Standing Order 14 which combines SOs 14 & 15 and now covers the Code of Conduct, complaints under the Code of Conduct and Dispensations. The guidance has been approved by the Monitoring Officer.

I hope that you will find this proposed amendment appropriate and include it in your next review. In the meantime if you wish to simply implement the change, the council can resolve to suspend the relevant standing order permanently and replace it with the new text.

Please do not hesitate to contact us if you have any questions.

Regards

**Sarah Mason**  
**County Executive Officer**

Cornwall Association of Local Councils  
Unit 1/1a Riverside House  
Heron Way  
Newham  
Truro TR1 2XN  
Cornwall

Telephone : 01872 272648

Work Mobile : 07975 704622

email: [enquiries@cornwallalc.org.uk](mailto:enquiries@cornwallalc.org.uk)

## **Model Standing Orders 14 & 15**

### **Code of conduct and dispensations**

The Cornwall Association of Local Councils is recommending an amendment to national Model Standing Orders to ensure consistency of behaviour and process when considering matters relating to declarations of interest and complaints under the Cornwall Code of Conduct.

The amendment also confirms what other action a council must take as an employer when a code of conduct complaint and outcomes relate to and/or affect employees of the council.

It is therefore suggested that model standing orders 14 and 15 are combined as followed :

### **14. Code of Conduct, Complaints and Dispensations**

#### **General**

- a The Council has adopted the Cornwall Code of Conduct for City, Community, Parish and Town Councils which will apply to all councillors and members of the public co-opted to serve on Committees and sub Committees of the Council in respect of the entire meeting.

All interests arising from the Code of Conduct adopted by the Council will be recorded in the minutes giving the existence and nature of the interest.

- b Members must have particular regard to their obligation to record and leave the room for certain matters in which they have an interest as defined by the Code of Conduct or by relevant legislation.
- c The Council shall maintain for public inspection, a Register of Members' interests that is compliant with the Code of Conduct and with relevant legislation.

#### **Members and the Code of Conduct**

- d All councillors and members of the public co-opted to serve on Council committees and sub committees shall observe the Code of Conduct

adopted by the Council.

- e All councillors and members of the public co-opted to serve on Council committees and sub committees shall maintain a Register of Disclosable Pecuniary Interests, and must update their register by notifying the Monitoring Officer and the Clerk of any changes within 28 days.
- f All councillors shall undertake training in the code of conduct within 6 months of the delivery of their declaration of acceptance of office.
- g Unless granted a dispensation, a councillor or non-councillor with voting rights who has registered a Disclosable Pecuniary Interest in relation to any item of business being transacted at a meeting, shall leave the room whenever the item is being discussed, including any part of the meeting where the public are entitled to speak.
- h Unless granted a dispensation, a councillor or non-councillor with voting rights who has registered a non-registerable interest in relation to any item of business being transacted at a meeting, shall leave the room whenever the item is being discussed, including any part of the meeting where the public are entitled to speak.
- i Where a non-registerable interest arises from membership of an outside body as defined in 3.5a of the Council's code of conduct, a councillor remain in the room to address the meeting, provide a short statement and answer questions for no more than three (3) minutes before leaving the room at the request of the Chairman.
- j *Code of Conduct 2.6 – insert the clause in the Council's Code of Conduct relating to gifts and hospitality.*
- k A Member of the Council may, for the purposes of his duty as a member but not otherwise, inspect any document which has been considered by a Committee or by the Council. The Proper Officer or Solicitor to the Council may decline to allow inspection of any document which is protected by other legislation or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client. All Minutes kept for any Committee shall be open for the inspection of any member of the Council during office hours.

### **Allegations of breaches of the Code of Conduct**

- l Notification of any complaint shall remain confidential to the Proper

Officer of the Council until such time as the matter has been concluded, when the outcome of the complaint shall be reported to a meeting of full council.

- m Where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of that fact, who, upon receipt of such notification, shall nominate a person to assume the duties of the Proper Officer set out in this standing order, who shall continue to act in respect of that matter as such until the complaint is resolved.
- n Where a notification relates to a complaint made by an employee (not being the Proper Officer) the Proper Officer shall ensure that the employee in question does not deal with any aspect of the complaint
- o The council may:
  - i. provide information or evidence where such disclosure is necessary to progress an investigation of the complaint or is required by law;
  - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;
- p References to a notification shall be taken to refer to a communication of any kind which relates to a breach or an alleged breach of the code of conduct by a councillor.
- q **Upon notification by the Monitoring Officer of the Unitary Council that a councillor or non-councillor with voting rights has breached the council's code of conduct, the council shall consider any recommendations of the Monitoring Officer and what, if any, action to take against him in accordance with the recommendations. The Council has no ability to impose its own sanctions against a member found in breach of the Code of Conduct.**

**Such action excludes disqualification or suspension from office but may include removal from one or more committees of the Council or restricted access to council premises except to attend meetings.**

## **Dispensations**

- r The Council has adopted a policy for the issuing of dispensations which is in accordance with the Council's Code of Conduct. It is attached to these Standing Orders as an appendix.

- s This policy shall apply to all meetings of the Council, its committees and sub-committees.
- t No dispensation will be awarded for any meeting where there are no minutes of the proceedings.

## SENT ON BEHALF OF SIMON MANSELL

Dear all

We have received several enquiries with regards to which Code is in force and which Register of Interest should be used following the recent elections.

The Localism Act 2011 sets out that each authority is required to adopt its own Code however, with regards to Town and Parish Council it states the following;

*Section 27 (3) A relevant authority that is a parish council—*

*(a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and*

*(b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).*  
[These sections refer to what is to be in the Code]

As a result please find attached the current Code of Conduct for Cornwall Council. In 2013 your Code was based on this however, we are aware that some Councils opted to amend para 2.6 to state a particular sum of money was classed as a gift that should be registered and 2.15 was deleted. If you have further questions on the Code please do not hesitate to contact me.

With regards to the register of interest form; the current form is attached to this email. There is a need for a member who is both a Cornwall Councillor and a Town and Parish Councillor to complete two forms as the interests may be different for both authorities.

As you are aware training dates for the Code have been circulated and this is free to all Town and Parish Councillors and Clerks, who would like to attend. If dates become heavily oversubscribed we will run additional dates in this area.

In considering the matter of training the Standards Committee have reaffirmed their belief that, given the increasing number of ethical standards complaints that are received, it is preferable that standing orders make it mandatory for all Town and Parish Councillors to attend training.

As a result the Standards Committee have asked, if this is not already in your standing orders, for consideration be given to including the following in your standing orders;

*All councillors shall undertake training in the Code of Conduct within six months of the delivery of their Declaration of Acceptance of Office.*

If you have any further questions please let me know.

Regards to all

Simon

Simon JR Mansell MBE

FCILEx

Corporate and Information Governance Manager

Assurance

Cornwall Council

[simon.mansell@cornwall.gov.uk](mailto:simon.mansell@cornwall.gov.uk)

Internal 492704

External 01872 322704

4<sup>th</sup> Floor, North Wing, Council Offices, Treyew Road,

TR1 3AY

[www.cornwall.gov.uk](http://www.cornwall.gov.uk)