

**URGENT BUSINESS AND SUPPLEMENTARY INFORMATION****The Standards Committee****17 March 2022**

Agenda Item Number	Page	Title	Officer Responsible	Reason Not Included with Original Agenda
7.	(Pages 3 - 26)	Adoption of Revised Councillors' Code of Conduct	Monitoring Officer	Report being updated and finalised
8.	(Pages 27 - 32)	Standards Arrangements - Appointment of Independent Person	Monitoring Officer	Report being updated and finalised

If you need any further information about the meeting please contact Lesley Farrell, Democratic and Elections democracy@cherwell-dc.gov.uk, 01295 221534

This page is intentionally left blank

Cherwell District Council

Standards Committee

17 March 2022

Adoption of Revised Councillors' Code of Conduct

Report of Interim Monitoring Officer

This report is public

Purpose of report

To introduce a proposed revised Councillors' Code of Conduct for the Committee to recommend to Full Council to agree adoption and implementation from May 2022.

1.0 Recommendations

The meeting is recommended:

- 1.1 To recommend to Full Council to adopt the revised Councillors' Code of Conduct.
- 1.2 To recommend to Full Council to agree that:
 - Subject to the adoption of the revised Code of Conduct, it be mandatory for all Councillors to complete Code of Conduct training within 6 months of the adoption of the revised code (i.e. by mid-November).
 - It be mandatory for all Councillors to undertake Code of Conduct training within 6 months of their election (newly or re-elected) and attend a refresher at least once during their term of office.
- 1.3 To recommend to Full Council to endorse the revised Councillors' Code of Conduct for adoption by the Town and Parish Councils in the Cherwell District.

2.0 Introduction

- 2.1 Section 27(2) of the Localism Act 2011 sets out that a local authority must adopt "a code dealing with the conduct that is expected of Members and co-opted Members of the authority when they are acting in that capacity."
- 2.2 Cherwell District Council adopted the current Councillors' Code of Conduct in July 2012. It is Part 13 of the Constitution.
- 2.3 All Oxfordshire local authorities are covered by a single, jointly-agreed Code of Conduct which ensures that councillors who are members of multiple authorities

within the area are covered by a single code, providing clarity and consistency. The same Members' Code of Conduct has been adopted by the majority of parish councils in the Cherwell district.

- 2.4 Following a review and consultation exercise, the Local Government Association(LGA) published a Model Member Code of Conduct in December 2020 which was updated in January and May 2021. The LGA issued accompanying guidance in July 2021.
- 2.5 The Oxfordshire principal authorities have worked collaboratively to consider whether to adopt the model code from the LGA, to keep the current Members' Code of Conduct or to adopt an amended Members' Code of Conduct. An amended Councillors' Code of Conduct is attached at Appendix 1 which will be considered by each of the Oxfordshire principal authorities for approval.
- 2.6 The Standards Committee is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code. The Committee is asked to consider the amended Code and asked to recommend to full Council for adoption.

3.0 Report Details

- 3.1 As set out in the introduction, Cherwell District Council adopted its current Councillors' Code of Conduct in July 2012. This Code is consistent across districts, Oxford City and Oxfordshire County Council. It has also been adopted by the majority of parish councils in the Cherwell district.
- 3.2 In 2018 the Committee on Standards in Public Life undertook a review of local government ethical standards. The Committee on Standards in Public Life considered that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. A consultation period ran from 29 January to 18 May 2018.
- 3.3 The terms of reference for the review were to:
 - i. examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
 - ii. assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - iii. make any recommendations for how they can be improved
 - iv. note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation
- 3.4 The Committee on Standards in Public Life (CSPL) published the [Local Government Ethical Standards report](#) on 30 January 2019. The Local Government

Association (LGA) then released a draft Model Member Code of Conduct on 8 June 2020 and sought views on it.

- 3.5 The LGA published a [Model Member Code of Conduct](#) in December 2020 which was updated in January and May 2021. The LGA issued some accompanying [guidance](#) in July 2021.

LGA Model Code of Conduct

- 3.6. The LGA Model Code is said to:

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

- 3.7 The LGA Model Code does not differ significantly in content from the local code already in operation in Oxfordshire, although some of the language used is different. The Oxfordshire Monitoring Officers have worked collaboratively to consider whether to adopt the model code from the LGA, to keep the current Members' Code of Conduct or to adopt an amended Members' Code of Conduct.
- 3.8 On behalf of the Districts City and County Councils, the Oxford City Head of Law & Governance drafted an amended Councillors' Code of Conduct which was reviewed and endorsed by all Oxfordshire Monitoring Officers to be considered by each Authority for approval.
- 3.9 The proposed draft is attached at Appendix 1. It is intended that all of the Oxfordshire Authorities adopt the Code for implementation from May 2022.

Draft Councillors' Code of Conduct

- 3.10 The draft Code sets out general principles of conduct expected of all Councillors as well as specific obligations in relation to standards of conduct. The fundamental aim of the draft Code is to create and maintain public confidence in the role of the Councillor and in Local Government.
- 3.11 The Code of Conduct will apply to each Councillor as soon as they sign the declaration of acceptance of the office of Councillor or attend their first meeting as a co-opted member and continues to apply until the role as a Councillor ceases.
- 3.12 The draft Code:
- a) Applies to members acting in their capacity as a Councillor which may include when:
 - the position as a Councillor is misused; or when

- the impression is given to a reasonable member of the public with knowledge of all the facts that an individual is acting as a Councillor.

Members are expected to uphold high standards of conduct and show leadership at all times.

- b) Applies to all forms of communication and interaction, including at face-to-face meetings, at online or telephone meetings, in written communication, in verbal communication, in non-verbal communication and in electronic and social media communication, posts, statements and comments;
- c) Includes the following standards/obligations, with guidance given for each obligation to help explain the reasons for the obligations and how they should be followed:
 - i. Respect - A Councillor:
 - Shall treat everyone, including other Councillors and members of the public with respect and shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.
 - Respect means politeness and courtesy in behaviour, speech, and in the written word.
 - ii. Bullying, Harassment and Discrimination – A Councillor:
 - Shall not bully or harass any person and shall promote equalities and not discriminate against any person.
 - Bullying is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.
 - The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
 - Discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
 - iii. Impartiality of Officers of the Council – A Councillor:

- Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.
- iv. Confidentiality and access to information – A Councillor:
- Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - they have received the consent of a person authorised to give it; or
 - they are required by law to do so; or
 - the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - the disclosure is reasonable and in the public interest; and also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.
 - Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.
 - Shall not prevent anyone from getting information that they are entitled to by law.
 - When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.
- v. Disrepute – A Councillor:
- Shall not bring their role or local authority into disrepute.
- vi. Use of position – A Councillor:
- Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.
- vii. Local Authority Resources and Facilities – A Councillor:
- Shall not misuse council resources.
 - Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.
- viii. Compliance with the Code of Conduct – A Councillor:
- Shall undertake Code of Conduct training as required by the local authority.
 - Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination.

- Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
 - Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.
- ix. Gifts and Hospitality – A Councillor:
- Shall not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
 - Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
 - Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.
- d) Sets out the obligations for councillors in relation to the registration / declaration of interests including Disclosable Pecuniary Interests (DPI) and other registrable interests.

It also contains guidance on the steps that must be taken if a councillor has an interest in a matter that is under consideration by the Council, including when it relates to a non-registrable interest.

Where a matter arises at a meeting which directly relates to a Councillor's financial interest or wellbeing (and does not fall within the definition of disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, it is a non-registrable interest

Code of Conduct Training

- 3.13 As set out at “viii” above, Councillors should undertake Code of Conduct training as required by their authority.
- 3.14 At CDC, Code of Conduct training forms part of the Member Induction programme each year, however there is no requirement for Members to attend Code of Conduct training.
- 3.15 Having regard to the importance of the Code, the Committee is asked to consider making Code of Conduct training mandatory for all Councillors:
- All Councillors to undertake training within 6 months of the adoption of the revised Code of Conduct, i.e. by 18 November 2020
 - All Councillors (newly or re-elected) to undertake Code of Conduct training within 6 months of their election and to undertake a refresher at least once during their term of office

- 3.16 To ensure that Code of Conduct training is as accessible as possible to fulfil the proposed mandatory requirement, it is anticipated that multiple sessions will be offered to Members. The training session will be recorded and available for Councillors to view at their convenience via the Members' Portal with a requirement to notify the Monitoring Officer once viewed.

Code of Conduct and Town/Parish Councils

- 3.17 The Monitoring Officers for all principal authorities in Oxfordshire have been keen to ensure as far as is possible that the revised Code of Conduct apply to Councillors at all three tiers of local authority in the County (County, District and Town/Parish) both in the interests of general consistency but also to assist those many members who are twin and in some cases triple hatted.
- 3.18 Whilst it is for each Town and Parish Council to adopt its own Code of Conduct, the majority have adopted the same current Code of Conduct as adopted by CDC.
- 3.19 To continue this consistency, the Committee is asked to recommend to Full Council to endorse the Councillors' Code of Conduct for adoption by the Town and Parish Councils in the Cherwell District. Subject to the agreement of Full Council, the Monitoring Officer would liaise with Town and Parish Clerks regarding the adoption of the revised Code.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The Standards Committee is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code.
- 4.2 The recommendation to Council to adopt the revised Code of Conduct will support Councillors in maintaining high standards of conduct and provide consistency with all Oxfordshire principal authorities.

5.0 Consultation

None in relation to the preparation of this report.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to recommend the adoption of the revised Councillors' Code of Conduct. This is not recommended as it would result in a different Code applying in Cherwell District to the other Oxfordshire principal authorities.

Option 2: To recommend an amended version of the revised Councillors' Code of Conduct to Council for adoption. This is not recommended as the Oxfordshire Monitoring Officers have worked collaboratively on the proposed Draft Code of

Conduct to retain a consistent Code of Conduct across the Oxfordshire principal authorities.

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by:

Michael Furness, Assistant Director of Finance & Section 151 Officer,
01295 221845, Michael.Furness@cherwell-dc.gov.uk

Legal Implications

7.2 Under the Localism Act 2011, each local authority has a duty to adopt a Code of Conduct dealing with the conduct that is expected of members and co-opted members, when they are acting in that capacity.

7.3 The code must be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councils must also ensure that their codes include appropriate provisions about declaring pecuniary and other interests.

7.4 There is no national prescribed version of a code in England and no obligation to adopt a particular model. The LGA Model Code is suggested national good practice, and Councils can adopt this revised code, or adopt their own local code.

7.5 As set out in the body of this report, the Monitoring Officers across Oxfordshire have worked together to review the LGA Model Code and have suggested some changes to the format and style, with the aim of producing a Code that could be adopted on a county-wide basis.

Comments checked by:

Sukdave Ghuman, Head of Legal Services,
07551 680591, sukdave.ghuman@cherwell-dc.gov.uk

Risk Implications

7.3 Without effective standards arrangements in place there is a risk to the council's reputation and the preferred recommendation outlined in the report mitigates reputational and legal risks.

Comments checked by:

Celia Prado-Teeling, Performance Team Leader,
01295 221556, Celia.prado-teeling@cherwell-dc.gov.uk

Equalities and Inclusion Implications

7.4 The Code of Conduct addresses discrimination and inequality and will see a commitment from Councillors not to discriminate against any person or community and act as advocates in promoting equality. This is in line with the Council's

commitment to Equality, Diversity and Inclusion and it's Including Everyone framework.

Comments checked by:

Emily Schofield, Acting Head of Strategy,

07881 311707, Emily.Schofield@cherwell-dc.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

None, this report is pursuant to a statutory requirement

Lead Councillor

None

Document Information

Appendix number and title

- Appendix 1 – Draft Councillors' Code of Conduct

Background papers

None

Report Author and contact details

Natasha Clark, Governance and Elections Manager

Tel: 01295 221534, Email: democracy@cherwell-dc.gov.uk

This page is intentionally left blank

Oxfordshire Councils' Councillor Code of Conduct 2022

Draft

Version 4: 8th February 2022

1.0 Introduction

The Council has duty to promote and maintain high standards of conduct by members and co-opted members of the Council, and formally adopt a code of conduct, in accordance with the *Localism Act 2011*.

2.0 Purpose of the Code of Conduct

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

3.0 Definitions

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of the local authority. A "co-opted member" is defined in the *Localism Act 2011 Section 27(4)* as "a person who is not a member of the authority but who

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

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

4.0 General Principles of Councillor Conduct

Everyone in public office and all who serve the public or deliver public services, including Councillors and local authority officers, should uphold the Seven Principles of Public Life, also known as the Nolan Principles, (see Appendix A).

Building on these principles of selflessness, objectivity, accountability, openness, honesty and integrity and leadership, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in Councillors, on all occasions a Councillor shall:

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

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

These general principles have been incorporated into the obligations of the Code of Conduct as set out below.

5.0 Application of the Code of Conduct

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

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

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

The Code applies to all forms of communication and interaction, including at face-to-face meetings, at online or telephone meetings, in written communication, in verbal communication, in non-verbal communication and in electronic and social media communication, posts, statements and comments.

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

6.0 Standards of Councillor Conduct

This section sets out the obligations (in bold below), which are the minimum standards of conduct required of a Councillor. Should a Councillor's conduct fall short of these standards, a complaint may be made against them, which may result in action being taken.

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

6.1 Respect

A Councillor:

- 6.1.1 Shall treat everyone, including other Councillors and members of the public with respect.**
- 6.1.2 Shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

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

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

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

6.2 Bullying, Harassment and Discrimination

A Councillor:

6.2.1 Shall not bully any person.

6.2.2 Shall not harass any person.

6.2.3 Shall promote equalities and not discriminate against any person.

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

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

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

6.3 Impartiality of Officers of the Council

A Councillor:

6.3.1 Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the

Page 3 of 16

local authority.

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

6.4 Confidentiality and access to information

A Councillor:

- 6.4.1 Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless**
- i. They have received the consent of a person authorised to give it; or**
 - ii. They are required by law to do so; or**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is reasonable and in the public interest; and also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.**
- 6.4.2 Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.**
- 6.4.3 Shall not prevent anyone from getting information that they are entitled to by law.**
- 6.4.4 When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.**

6.5 Disrepute

A Councillor:

- 6.5.1 Shall not bring their role or local authority into disrepute.**

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

6.6 Use of position

A Councillor:

6.6.1 Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.

A Councillor should not take advantage of opportunities, responsibilities and privileges to further their own or others' private interests or to disadvantage anyone unfairly.

6.7 Local authority Resources and Facilities

A Councillor:

6.7.1 Shall not misuse council resources.

6.7.2 Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.

A Councillor may be provided with resources and facilities by the local authority to assist them in carrying out their duties as a Councillor. Examples may include office support, stationery, equipment such as phones, computers and transport and access and use of local authority buildings and rooms.

6.8 Compliance with the Code of Conduct

A Councillor:

6.8.1 Shall undertake Code of Conduct training as required by the local authority.

6.8.2 Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination.

6.8.3 Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

6.8.4 Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.

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

7.0 Registering and Declaring Interests

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know

early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

7.1 Disclosable Pecuniary Interests

A Councillor must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see Appendix B), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You must disclose the interest at any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'. If it is a 'sensitive interest', you must disclose the fact that you have an interest but do not have to disclose the nature of it. (A sensitive interest is an interest which, in the opinion of the Monitoring Officer, if disclosed, could lead to the Councillor, or a person connected with them, being subjected to violence or intimidation.) You are personally responsible for deciding whether or not you should disclose an interest in a meeting.

Following any disclosure of an interest not on the Council's register, or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, by the Monitoring Officer, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

Where you have a disclosable pecuniary interest on a matter to be considered or being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

You must ensure that your register of interests is kept up to date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

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

7.2 Other Registerable Interests

You must also register your other registerable interests with the Monitoring Officer within 28 days of taking office and ensure these are kept up to date by notifying any changes within 28 days.

Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Appendix C), you must

disclose the interest. Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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

7.3 Non-Registerable Interests

Where a matter arises at a meeting which **directly relates** to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests at 7.1 above), or the financial interest or wellbeing of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a sensitive interest you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which **affects** your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under Other Registrable Interests as set out at 7.2 above and appendix C you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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

8.0 Gifts and Hospitality

A Councillor:

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

- 8.2 Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 8.3 Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.**

The presumption should always be not to accept significant gifts or hospitality but there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

You do not need to register gifts and hospitality which are not related to your role as a Councillor.

It is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B: Discloseable Pecuniary Interests

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

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

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issues share capital of that class.

* 'Director' includes a member of the committee of management of an industrial and provident society.

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

Appendix C: Disclosure of Other Registrable Interests

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any Body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any Body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

This page is intentionally left blank

Cherwell District Council

Standards Committee

17 March 2022

Standards Arrangements – Appointment of Independent Person

Report of Interim Monitoring Officer

This report is public

Purpose of report

To consider the arrangements for the appointment of an Independent Person in light of the resignation of a current Independent Person.

1.0 Recommendations

The meeting is recommended:

- 1.1 to delegate authority to the Interim Monitoring Officer, in consultation with the Chairman of the Standards Committee, to liaise with the candidates who applied for the Independent Person vacancy in the autumn 2021 and agree a preferred candidate to recommend to Council to be appointed for a term expiring on the date of the December Council meeting in 2025.
- 1.2 to thank Mr Graham Matthews for his service and diligence as an Independent Person for Cherwell District Council.

2.0 Introduction

- 2.1 The Localism Act 2011 (“the Act”) (Section 28, subsections (7) and (8)) requires the standards arrangements adopted by the Council to include provision for the appointment of at least one independent person to assist the Monitoring Officer in dealing with complaints about councillors’ standards of behaviour and alleged breaches of the Members’ Code of Conduct.
- 2.2 The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 (“The Regulations”) require the Council to invite relevant Independent Persons to a Panel (being a committee appointed by the authority under section 102(4) of the Local Government Act 1972) for the purposes of advising the authority on matters relating to dismissal of relevant officers of the authority. Such invitation must be issued to all relevant Independent Persons with a view to appointing at least two

Independent Persons to the Panel. The relevant officers to which these provisions apply by legislation are the council's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

- 2.3 Following a robust recruitment process, at the 13 December 2021 Council meeting, Mr Graham Matthews and Mr Tom Edwards were appointed Independent Persons for a term of four years expiring on the date of the December meeting of Council in 2025.
- 2.4 Due to personal reasons, Mr Graham Matthews has tendered his resignation as an Independent Person with immediate effect.
- 2.5 it is therefore necessary to consider the approach to appointing a second Independent Person.

3.0 Report Details

- 3.1 In light of the resignation of Mr Graham Matthews, the Council currently has one Independent Person. Whilst the Council is still complying with the requirements of the Localism Act 2011 (section 28(7)), to have at least one Independent Person, the Standards Committee and Council agreed that two Independent Persons should it be necessary to set up a Panel in compliance with The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015. Having two Independent Persons also provides for resilience and
- 3.2 The report to the 13 December 2021 Council meeting ([Minute 55 refers](#)) sets out the robust recruitment process for the two Independent Persons appointed at that meeting, which had regard to the Act:
 - The recruitment exercise to include advertisement, application and interview.
 - The interview panel to consist of the Monitoring Officer, the Chairman of the Standards Committee and two members of the Standards Committee, one of whom to be an opposition member.
 - Interviews will be carried out virtually via video conference in November 2021 (exact date(s) to be agreed by the interview panel)
 - The appointments to be confirmed at the 13 December 2021 Council meeting with a positive vote by a majority of councillors
 - The appointments to be for 4 years (to December 2025)
 - The Independent Person "job description" and "role profile" to be approved by the Monitoring Officer, in consultation with the Chairman of the Standards Committee
 - The statutory restrictions whereby an Independent Person must not be a Member, co-opted Member or officer of Cherwell District Council or a Member, co-opted Member or officer of a parish council that falls within the area of Cherwell District Council

- Any application from an existing Independent Person to be considered on its merits

- 3.3 As part of the recruitment process, six applications were received and all candidates interviewed. The Panel had been extremely impressed with all candidates and considered all were appointable.
- 3.4 Given the robustness of the recent recruitment process, it is considered that it would be appropriate to delegate authority to the Interim Monitoring Officer to approach the candidates who were not appointed in the first instance to ascertain if they are still interested in the role.
- 3.5 The Interim Monitoring Officer would consult with the Chairman of the Standards Committee with a view to recommending an appointment to the 18 May 2022 Council meeting.
- 3.6 There is no prescribed time limit on the terms of office of Independent Persons and these are therefore within the discretion of the Council. To ensure consistency with the term of the current remaining Independent Person, it is recommended the appointment also be until the date of the December meeting of Council in 2025.
- 3.7 Mr Graham Matthews has been a diligent and valued Independent Person since he was first appointed as an Independent Person in 2013. The Chairman of the Standards Committee has written to Mr Matthews on behalf of the Council thanking him for his service to the Council and support to the Monitoring Officer.

4.0 Conclusion and Reasons for Recommendations

- 4.1 To comply with the statutory requirements the Council must appoint at least one Independent Person. Due to the resignation of one Independent Person, the Committee

5.0 Consultation

None in the preparation of this report

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to recommend to Council the appointment of a second Independent Person.

Option 2: To undertake a full recruitment process. This is considered unnecessary as a full recruitment process was undertaken in autumn 2021 and all candidates were considered suitable for appointment.

7.0 Implications

Financial and Resource Implications

- 7.1 Each independent person receives an annual allowance of £768 and can claim travel expenses for attending meetings in person. This is provided for in the Members' Allowances budget. The law is clear that the payment of an allowance does not negate independence.

Comments checked by:

Michael Furness, Assistant Director of Finance & Section 151 Officer,
01295 221845, Michael.Furness@cherwell-dc.gov.uk

Legal Implications

- 7.2 To comply with the requirements of the Localism Act 2011 (section 28(7)), the Council should appoint at least one Independent Person. However, should it be necessary to set up a Panel in compliance with The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 referred to in paragraph 2.2 above it is recommended that the Council appoints two Independent Persons.

Comments checked by:

Sukdave Ghuman, Head of Legal Services,
07551 680591, sukdave.ghuman@cherwell-dc.gov.uk

Risk Implications

- 7.3 Failing to appoint an Independent Person would place the Council in breach of its statutory duty under the Act and prevent the Monitoring Officer from dealing with complaints in accordance with the Council's code of conduct complaints procedure.
- 7.4 In addition in the event of there being a need to consider dismissal of a relevant officer and the Council not having appointed at least two Independent Persons the Council would be required to approach another local authority to seek to invite their appointed Independent Persons to form part of a Panel.

Comments checked by:

Celia Prado-Teeling, Performance Team Leader,
01295 221556, Celia.prado-teeling@cherwell-dc.gov.uk

Equalities and Inclusion Implications

- 7.5 The recent recruitment process was fair and open therefore this approach to reach out to previous applicants will enable the Independent Persons to be appointed on merit.

Comments checked by:

Emily Schofield, Acting Head of Strategy,
07881 311707, Emily.Schofield@cherwell-dc.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N.A

Wards Affected

All

Links to Corporate Plan and Policy Framework

Not applicable – this report is made pursuant to a statutory requirement.

Lead Councillor

None

Document Information

Appendix number and title

- None

Background papers

None

Report Author and contact details

Natasha Clark, Governance and Elections Manager

Tel: 01295 221534, Email: democracy@cherwell-dc.gov.uk

This page is intentionally left blank