

**Review of Councillors' Code of Conduct
Consultation with Councillors**

Councillor	Comment	Officer Response
Cllr Paul Spooner 7 March	Have all the tracked changes been checked and supported by Lawyers who specialise in public service, HR and/or Human rights?	The changes proposed to the Code of Conduct have been seen and approved by the Monitoring Officer
Cllr Fiona White 10 March	I have no problem with any the contents of the proposed Code of Conduct. However, I am not sure what sanctions are open to the council if any councillors breach the Code. I am particularly concerned about the protection given to officers who may be subject to bullying or harassment of any kind. Is there anything the council can do under those circumstances?	The process of reviewing the Code of Conduct will not include a review of sanctions. This has, however, been addressed by the Committee on Standards in Public Life (CSPL) in its report on Local Government Ethical Standards published last year. CSPL has asked the government to look at changing the law to give the standards process "more teeth", for example by giving power to standards committees to suspend a councillor and withdraw their allowances for up to six months.
Cllr Deborah Seabrook 20 April	<p>2 (2) (b) (i) should read '.....distress, the spreading of malicious rumours' Or '.....distress, spreading malicious rumours'</p> <p>2 (2) (b) (ii) Think this should also include damage to someone's business or reputation. Also, I'm concerned that it might be difficult to prove intention so perhaps you need to amend to 'may in the mind of a reasonable observer have the potential effect of inciting harassment or ridicule or having detrimental impact on a person's business or reputation.'</p> <p>2 2 (b) (viii) Perhaps there needs to be a caveat....' other than for grounds of demonstrable lack of competence'</p> <p>24 (4) and (5) Seem to slightly conflict. Under (4) we are prohibited from</p>	<p>2 2 b (i): Delete "the"</p> <p>2 2 b (ii): The test has now been amended to state that the alleged perpetrator 'knows or ought to know'.</p> <p>2 2 b (viii): Recommend no change. There is a separate process for complaining about the actions of officers. If councillors feel that an officer lacks competence the matter should be taken up with their line manager. The code of conduct seeks to prevent undermining by constant criticism.</p>

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	<p>accepting gifts / hospitality valued at £50 or more. And (5) says if we do accept we should tell the monitoring officer. Surely (5) won't arise if we follow (4)?? Or perhaps the value in (5) should be £25 so that you can accept up to £50 but have to declare if between £25 and £50.</p> <p>25 (d) is difficult to read with all the amendments but I think it should say 'Individual gifts with a value of less than £50 and that are not part of a series of gifts from the same donor (or their associates) with a combined value of £50 or more'</p> <p>26 At the end it should say 'charity <u>or</u> raffle'</p>	<p>Fair comment.</p> <p>Fair comment.</p> <p>Agreed</p>
<p>Cllr Tony Rooth 21 May</p>	<p>25b -incidental instead of accidental ?!</p>	
<p>Cllr Catherine Young 21 May</p>	<p>I have already responded to this consultation as part of West Horsley Parish Council.</p>	
<p>Cllr John Redpath 22 May</p>	<p>I have now read the document and it appears very sound and the alterations good.</p> <p>This is only minor, but there is one small contradiction in terms at 24(4) where it states we should 'never accept' gifts of £50 or more. The following paragraphs then mention what to do with gifts of £50 or more?</p> <p>Could I suggest that there is a proviso under 24 that we should never accept gifts of £50 or more other than under conditions mentioned/stated in paras 25 to 28.</p> <p>Or replace the words 'never accept' with something a little less stringent in 24(4)</p>	<p>This section has been re-worded (see Cllr Seabrook's comments above)</p>
<p>Cllr David Bilbe 22 May</p>	<p>I have had another look at this and it all seems fine. That said I cannot remember if there is some wording which places responsibility to exercise</p>	<p>Councillors are currently required to notify the Monitoring Officer if they receive a gift/hospitality</p>

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	<p>sensible discretion as the responsibility of any individual councillor. Generally if people think it feels wrong then it probably is. A bottle of wine worth £49.99 would be a very generous gift and it would be wholly incorrect for a councillor to accept it. A family ticket to the County Show may be more debatable but for me personally I have always refused such. I was offered 4 tickets to the pantomime at YA a couple of years ago and that was dealt with by suggesting that they be given to a deserving family which may not be able to go for financial reasons and that was done via an appropriate charity. A win all round and no-one was offended.</p> <p>I have similar issues in my profession and it is covered by a good ethical code issued by the Bar Council. I am happy to send you a copy if you are short of light reading!! It places the responsibility on me to exercise proper judgment with the backdrop that gifts are not appropriate.</p>	<p>within 28 days of receipt if the value of the gift/hospitality is more than £25; failure to do so would amount to a breach of the Code of Conduct. Acceptance of gifts/hospitality should be avoided altogether if they give the impression of compromising the Nolan Principles.</p> <p>The Nolan Principles refer, amongst others, to integrity, accountability, openness and honesty. The supporting text under 'integrity' in particular places a responsibility on Councillors to avoid placing themselves under any obligation; the implication being that there is a personal responsibility to avoid any accusation of being compromised. There are also criminal offences (such as bribery, as identified by Cllr Bigmore) which place individual responsibility on declaring the receipt of gifts and hospitality on Councillors.</p>
<p>Cllr Joss Bigmore 22 May</p>	<p>I agree with Cllr Bilbe, we have a responsibility to act sensibly and any acceptance of gifts should pass the 'Front Page Test' of Public Opinion, whether we need an arbitrary value cap I'm not so sure.</p> <p>That being said (and I'm well out of my comfort zone here so I may be wrong) following the Financial Crisis there was a new Bribery Act brought in (2010) which alongside making acceptance of bribes a Criminal Act, also made it a Corporate Offence if a company was seen to have failed to prevent Bribery. I'm not sure if this could apply to GBC, if so we may need to detail this in the Code to define this concept of 'sensible acceptance'.</p>	
<p>Cllr David Bilbe 22 May</p>	<p>Joss I will spare you the legal opinion which would not really add much!! You are generally quite correct. There are all sorts of interactive</p>	

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	<p>components of legislation which prevent anything other than honest objectivity in corporate, public and personal life. The interaction of civil and criminal law occupies pages of text. As it happens I am attending an on line seminar on that subject at Middle Temple in June.</p> <p>You comment about the sniff test and public perception is the best guide along with clearly stated policies – which we have.</p>	
<p>Cllr Caroline Reeves 22 May</p>	<p>I don't have anything to add and I have seen the comments made by other councillors. This is certainly much stronger than the version we have been using and clearly covers the bullying and harassment issues.</p>	
<p>Cllr Paul Spooner 22 May</p>	<p>I also agree and thought needs to be applied to a 'number' and context of 'gift'. How do you apply a monetary value (or even classification of 'gift' if you are accepting a breakfast reception, or alternatively a lunch reception, at RHS Chelsea, because you are accompanying the MD (CEO) of the Council along with other LA Leaders and Officers from across the country, for presentations on partnership between an organisation Headquartered in our Borough and LAs. Those presentations are on the RHS Chelsea grounds (albeit clearly not this year) and include access to the showgrounds. The 'perceived' value of that is considerable, is that a 'gift' or a necessary part of leadership of a Council as an Officer or a politician?</p> <p>This requires a common sense approach. It is easy to attack from outside a Council, but not so easy when you are running a Council within a national context and 'grey' areas are everywhere. The 'sniff test' for me is key IMO – a Lead Member accepting a gold watch or pen from a developer is clearly unacceptable IMO, but an invitation to join 25 other Council Leaders, MPs, Lords etc at a meeting that coincides with hospitality – less clear IMO – could be a 'gift' or representing a Council and lobbying for funding?</p> <p>Within reason, representing the Council is part of a Councillors role, but</p>	

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	<p>should certainly not be a way of receiving gifts of any value or form without an acceptable reason that is tied to promotion or activity of the Council for the benefit of the community.</p>	
<p>Cllr Angela Gunning 22 May</p>	<p>David Bilbe’s comments about tickets to YA panto caught my eye. The offer of 6 tickets to the panto had always – until recently – always been worded to make it clear that they were for the Cllr to give away to a family/ies in their ward. And this I have always done, in cooperation with a local school.</p> <p>However recent letters from YA re panto tickets have not made it clear that these were for distribution. And probably new/fairly new cllrs will not be aware of this practice.</p> <p>Whether a ‘gift’ is worth more than £50 I suppose depends on perception.one can hardly ask ‘how much did you pay for this?’.</p> <p>Disclosable Pecuniary interests I think are more important than bottles allegedly worth more than £50,</p> <p>Private Eye is regularly full of revelations on conflicts of interest.</p>	
<p>Cllr Susan Parker 22 May</p>	<p>What about training – is that a benefit, if GBC has sent us on a training day? What about representing the Council at a conference – is that a benefit or work? What about lunch at such an event – is that a benefit in kind?</p> <p>This document appears to be backdated to 2012 – surely rules can only ever apply from the date they are agreed – you can’t make rules retrospectively (anything else must be a breach of our human rights, surely – we can’t have breached a rule last year that wasn’t yet written!??). So the date at the beginning has to be the date the new rules are agreed, and</p>	<p>Reference in para 1 (1) of the code to 2012 has been deleted</p>

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	<p>the existing rules must apply until then.</p> <p>In any case, there are an awful lot of changes here- it's almost doubled in length –and it's not just about benefits in kind. We need to look at this whole document carefully. I am very uncomfortable with some of the phrasing re non-pecuniary interests. If we need to disclose those in future fine – but we can't be in breach if we didn't disclose membership of eg WWF or a local football club last year when we didn't know we needed to do so...</p> <p>There is a lot of muddled drafting here. Quite a lot of clauses contradict each other and there are a number of words defined twice with definitions which don't say the same thing and so contradict each other.</p> <p>I think this document's just not ready to be agreed- it should go back to the Task Force for some re-writing. It can be agreed later when the problems have been resolved. I suggest we flag comments of things we've noticed but postpone ratifying this - it's really not ready. We have an existing code of conduct now which works for now.</p>	
<p>Cllr David Bilbe 23 May 12.14</p>	<p>We need to be clear about non-pecuniary interests. They normally relate to family, friends or other connections such as membership of clubs or societies which can lead to bias because of that connection. Bias and pre-determination are inextricable linked. However just because a person knows who another one is does not lead to a declaration of non-pecuniary interest. All Councillors accept by virtue of their election and office to abide by the good practice of objectivity and open-mindedness – the Localism Act. I have no intention for example of declaring that I know who someone is on every application for planning in my ward in case on non-pecuniary interest. That would be absurd and alert a point of potential conflict when none exists at all. It is about exercising judgment. Out of 2300 voters I probably recognise 500 or more in my village. That is</p>	

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	<p>irrelevant to the issue of declaring a non-pecuniary interest. It really is whether your knowledge of a person or anything else would lead to a Councillor being biased in decision-making. If there is a concern – ask the monitoring officer – then exercise judgment. Fact is it will only ever be a real problem if a person has valid grounds for complaint because something can be shown to have been dealt with inappropriately.</p>	
<p>Cllr Nigel Manning 23 May</p>	<p>Knowing someone is one thing, as you say. However, socializing with someone in a personal capacity would in my opinion create a non-pecuniary interest to be declared. Being a member of the same club would not necessarily require a declaration. It is a common sense issue!! What would the man on the Clapham Omnibus think?</p>	
<p>Cllr Ramsey Nagaty 25 May 10.23</p>	<p>I have read through the document which has very many new additions some of which duplicate themselves but with different wording and very different meaning in some cases as well as many inconsistencies.</p> <p>A lot of the new clauses seem to restrict Councillors from any challenge or query about Officers or Councillors behaviour as that is classed as bullying yet the clause before states all Councillors should show leadership and challenge poor behaviour. The general weight of the document appears skewed in restricting Councillors.</p> <p>The Localism Act 2011 is the Act, in my view we should not be adding to it. There maybe a case for putting clarifications and examples within the Guide to being a Councillor but not necessarily within the Code of Practice.</p> <p>The clause covering legal proceedings attempts to distance GBC but could leave a Councillor open to personal legal challenge over some minor lapse or error and opens up a way to control and limit Councillors.</p> <p>Examples of inconsistencies:</p>	

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	<p>There are at least two different definitions of bullying within the same document.</p> <p>There are two b(ii) clauses.</p> <p>The number of inconsistencies show this draft has been quickly put together and needs scrutiny.</p> <p>Those appointed to represent GBC on outside bodies or other Committees usually accept as they have an interest in that topic or subject / activity. It would seem wrong to restrict them from then being involved in discussions and voting on any matter relating thereto. This would scew the elected proportionality of the Council. This jars with the clause which confirms those associated with campaigning groups can still participate and vote on related matters to that campaign.</p> <p>The document clearly should be dated currently, not as at present with 5th July 2012 !!!, as the date it is voted on and approved by the ? Full Council? Exec? Corp Gov and stds committee?</p> <p>I strongly feel once initial comments received from Councillors a line by line word by word forensic analysis needs to be undertaken by the current Corp Gov & Stds Task force sub committee.</p> <p>The reasons for desired change have not been discussed or debated. It has been stated in current responses that some do not feel the old code is strong enough. Who are they and what is it precisely they want to change and what is the real motive? Even if that is all correct , why the rush to</p>	<p>There is one definition which is followed by examples</p> <p>This has been amended</p> <p>The wording in the draft Code does not restrict councillors with a non pecuniary interest from participation or voting in a meeting: “21. You can participate in any discussion and (where applicable) vote on any matter in which you have a non-pecuniary interest unless you consider, having taken advice from the Monitoring Officer, that the interest is one that would affect your objectivity in relation to that matter, in which case you should withdraw from the room or chamber when it becomes apparent that the matter is being considered at that meeting. “</p> <p>Reference in para 1 (1) of the code to 2012 has been deleted.</p>

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	implement a new code without going through the normal procedures.	
Cllr John Rigg 25 May	A great note Ramsey. Exactly my concerns. So if a councillor queries history, failures, poor practice, waste etc it is bullying. Exactly the things the voters might think we are elected to do.	
Cllr David Bilbe 25 May	It is a good note. However comprehensive the rule book and the eventualities it contemplates, it does not deal with the most important matter and that is individual responsibility to ensure that standards of appropriate behaviour should prevail. That is something which I take full personal responsibility for. If it feels wrong it probably is. The rule book and code of conduct either governs how people should act before they do or how they will be dealt with if they do not. Or both.	
Cllr Ann McShee 26 May	No comments	
Cllr Bob McShee 26 May	No comments	
Cllr James Walsh 29 May	<p>The Task Group will need to look at all the comments received during the consultation and decide what to recommend to the CGSC. I think other councillors have picked up on the definition and examples of bullying and harassment.</p> <p>As far as registration of non-pecuniary interests is concerned, yes I would expect all councillors who are members of a political party to include that on their register of interests, and declare that interest whenever it is appropriate – along the lines you have indicated.</p> <p>In relation to tickets, it is always best to err on the side of caution. I think that the guidance could be clearer and reference to council sponsored events should read “events organised by, or on behalf of, the Council”.</p>	Agreed

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<p>Cllr Fiona White 3 June</p>	<p>I have had a look through the various comments on the code of conduct and it looks as though the concerns fall into two categories. The first seems to be about Declarations of Interest and gifts. I think the Declarations bit was fairly clear. When it comes to gifts, I tend to use the duck test ie if it looks like a duck, walks like a duck and sounds like a duck, it's a duck. Or to be a bit clearer, if a councillor attends on behalf of the council, that seems to me to be normal working practice and therefore is not treating or bribing. If someone offers you a free holiday in Monaco.....</p> <p>Some of the comments relate to the references to "bullying". I find them a bit more difficult to understand. I can't see anything that says we cannot question officers, challenge them or even criticise them just means that we have to do it while still respecting them in their workplace. For comparison, I had a look at the council's local bullying and harassment procedure and it is far more strongly worded than anything in the councillors' code. Surely none of us, as councillors or as people, want to treat people in such a way that we demoralise them or make their working lives miserable. We are expected to deal with each other with respect as councillors, despite our very strong differences of opinion. I have heard some very sharp intakes of breath when a councillor is perceived to have overstepped that line. Surely we owe the same to our professional officers.</p> <p>If we have not been able to resolve issues by the usual processes of discussion, questioning and challenge (and by the way, that doesn't always mean that councillors are right), it is not for us to performance manage officers. Ultimately that is the role of James Whiteman as Head of Paid Service.</p> <p>Personally, I am happy for the Code of Conduct to be adopted as drafted. I can't see any reason for that to stop me from questioning things I disagree</p>	

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	with or challenging where I think officers have got things wrong. I just have to remember how to treat people with respect while I'm doing it.	
Cllr John Redpath 3 June	Really good point with regard to bullying. Respect is the key and officers shouldn't mix up a challenging councillor with a bullying one. If any of us (councillors or officers) make decisions then we should accept the fact that others may have a different view or opinion otherwise what is decision making for? It is the democratic way to have debates and occasionally arguments but we must make sure these remain respectful.	