



## **CODE OF CONDUCT UPDATE**

**October 16<sup>th</sup>, 2012**

The Interim Cornwall Code of Conduct for local councils was published in June 2012 and was very well received. I am now able to circulate a full and complete Code of Conduct for City, Community, Parish and Town Councils in Cornwall. There are a number of small changes in the final version which I have described below. These have been made in response to the feedback and comments of local councils.

This briefing is to update you on the work undertaken to introduce the new Standards and Ethics Regime and to give some guidance on the interpretation and practicalities of meeting the new requirements.

Please find enclosed :

- Cornwall Code of Conduct for City, Community, Parish and Town Councils (FINAL VERSION)
- The Cornwall Code - A Guide to Members
- Dispensation Guide for local councils
- Dispensation Application Form for use at meetings

### **AMENDMENTS TO THE INTERIM CODE**

After the publication of the Interim Code, many councils raised a number of issues relating to the format, some definitions and the new restrictions on addressing the council as a member of the public. Since June we have worked with the Monitoring Officer to address these issues and I can now confirm that the following changes have been made.

#### **2.6 – Gifts and hospitality**

Local councils asked for some options under this part of the new code to give a more flexible, transparent approach. It now includes a menu which allow you to tailor the paragraph to your council's needs.

In adopting the Final Version your council must

- a) decide whether there is a defined limit to gifts and hospitality
- AND

b) whether the council will hold its own register of interests

Each option allows your council to set its own threshold, or to be flexible about gifts and hospitality received in the performance of your duties.

### 3.5a – Participation of members who represent the council on outside bodies

There has been significant concern over the loss of the rights which were granted to a Member under paragraph 12(2) of the previous Code where a member with a prejudicial interest was able to address the council and answer questions before leaving the room.

The amendment gives the Chairman the discretion to allow a member (whose sole interest arises from the membership of the outside body) to address the council meeting for information purposes before leaving the room on the instruction of the Chairman.

Whilst this does not completely replace the 12(2) part of the previous code, it does ensure that the new code does not prevent members from giving information to the council and acting as an effective representative on outside groups.

### 5B – Exclusions

A number of exclusions exist in law which confirm the rights of members to vote on the election of Chair and other civic ceremonial posts, setting of council tax, payment of members' allowances. For clarity these have now been inserted in the code at 5B ii.

## **WHAT HAPPENS NEXT?**

Code of Conduct – your council should consider the new, final version and select an option under 2.6 (see below). It will need to resolve to adopt a final version as the previous motion was in the interim.

Having adopted a final code, you should confirm this to the Monitoring Officer at Cornwall Council, advising which option you included at 2.6 and any other amendments made.

Dispensations – the guide will help you understand the role of dispensations. Using the enclosed form will help ensure that the dispensation is legal and a copy must be sent to the Monitoring Officer as well as held at your own council.

Standing Orders – the new code will require a number of changes to standing orders and recommendations will be published shortly.

## **DISPENSATIONS**

The legislation allows Council's to award dispensations to members to take part in discussions and vote on matters where

- a) the council would otherwise be inquorate and unable to make a decision
- b) it is in the interest of the public living in the area of the authority
- c) that it is felt appropriate to do so

Applications for dispensations must be made in writing and the decision can either be delegated to the Clerk or can be made at a council or committee meeting. We have prepared a short guide on granting dispensations and an application form and these are attached to this Update.

## **MEMBER GUIDANCE ON THE CODE OF CONDUCT**

Guidance has been prepared to help members understand their obligations under the new Code. The final publication is specific to local councils and is attached to this Update. The new guidance book is easy to read and is based on the same format as the previous Ethical Guide (orange book). It will be available to download and a hard copy will be sent to every Council.

## **REGISTER OF INTERESTS**

The majority of queries about the new code refer to the Register of Interest Forms. Unfortunately the content of the forms and the nature of the information required were set down in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, published in June.

The key points are :

- i) Every member has a statutory obligation to complete a register of interests detailing those held by themselves and their spouse/civil partner (where required).
- ii) Failure to complete and return the form is potentially a criminal offence
- iii) Cornwall Council has a statutory duty to run the register which must be made available on line
- iv) Local Councils also have a statutory duty to publish the register on line if they have a website. Cornwall Council will be providing a link to its website which can be used to meet this obligation.
- v) Members have a duty to update their register within 28 days of any changes.

## **FAQs**

Do I have to declare interests for anyone else living at my address?

*No – you only have to give information about your spouse/partner. You are not required to give information about anyone else living at your address.*

Do I have to register information about my spouse/partner's interests?

*Yes – you have a statutory duty to declare any interests requested on the form if you know the information. There is no requirement to show interests separately – it is sufficient to list the information for you and your spouse/partner.*

I am concerned about listing shares and capital for my spouse/partner and myself  
*The regulations only require you to register shares/capital in any body/organisation which has a place of business or land in the area of the authority. i.e. if you hold sufficient shares in Tesco to exceed the threshold, you would only be required to register them if there is a store/outlet in your parish/town.*

How long will my information stay on the internet?  
*If you resign from the Council you should notify the Monitoring Officer as soon as possible and Cornwall Council will remove the information immediately.*

I live outside the parish boundary – am I required to register my home?  
*You are only required to register land owned within the parish. If you qualify as a member of your council by living within the 3 mile limit, you do not have to register your home on the register.*

Do I have to include my allotment or burial plot on the register?  
*If you have a parish/town council run allotment, you are required to register this as a tenancy on your register. If your council runs the burial ground, you are required to register any burial plot as a licence on the register.*

We have co opted some members of the public to our committees – does it apply to them?  
*For the purposes of the code, members of the public who serve on your council's committees are 'co opted' members. The Act confirms that where a co opted member has a vote, he/she must complete a Register of Interests Form which will include spouse/partner information and published on line. (Note : public, co opted to council committees, can only vote on management of land, harbours, tourism and festivals.)*

## **STANDING ORDERS AND COUNCIL POLICIES**

As a result of the changes to the Code of Conduct, councils will need to consider a number of changes to their standing orders to cover the following points :

- i) Declarations of Interest including the requirement for members to leave the room when the item is being discussed.
- ii) Administering dispensations
- iii) Appointment of substitute members
- iv) To ensure that governance arrangements for committees match those of full council.
- v) Removal of members from committees on the recommendation of a conduct hearing

CALC and NALC are working on some suggested wording which will be made available shortly, together with a review of council policies in support of these arrangements.

## **FUTURE TRAINING ARRANGEMENTS**

Cornwall Council will be holding five training events in December and January. They will be centred on five clusters of Community Network Areas and will be available free of charge to all

parish and town councillors and Clerks. Further details will be published in Cornwall Council's Newsletter as soon as the events have been organised.

In the meantime CALC is continuing to deliver free training. Currently places are available at October's events in Newquay and St Stephen in Brannel. We are also hoping to hold a session in Truro. Please contact the office for further details and to book your place.

## **NEW STANDARDS AND ETHICS COMMITTEE FOR CORNWALL**

The Localism Act 2011 made some fundamental changes to the standards and ethics regime including a new format for the Standards Committee. The voting membership is restricted to Cornwall Councillors and at its first meeting Cllr Loveday Jenkin was elected Chairman and Cllr David Hughes Vice Chairman. It has also agreed that the independent members and parish and town council representatives play a vital part in the work of the committee and governance of the code and so these members will remain as non voting members until at least the next elections.

The Committee has approved the new complaints process and details are available from Cornwall Council's website. Follow the link for further information :

<http://www.cornwall.gov.uk/default.aspx?page=21936>

I hope that this update is helpful and that the enclosed documents in support of the final code are helpful. If you have any further questions please do not hesitate to contact the office.

Sarah Mason  
County Executive Officer