

Broads Authority

23 July 2021

Agenda item number 17

Code of Conduct and declaration of interests

Report by Monitoring Officer

Purpose

This report notes the external legal advice provided to the Broads Authority on Disclosable Pecuniary Interests in relation to the setting of navigation charges.

The report also presents a draft revised Member Code of Conduct, based on the Local Government Association's new Model Code of Councillor Conduct, together with a revised Register of Interests form, for members' consideration.

Recommended decisions

- (i) To note the external legal advice provided by Mr Jonathan Goolden on Disclosable Pecuniary Interests in relation to the setting of navigation charges and that his advice will be followed in future years;
 - (ii) To adopt the following documents, subject to any further amendments agreed by the Authority:
 - (a) Member Code of Conduct for Authority members, based on LGA's new Model Code of Councillor Conduct (as amended to retain paragraph 3.10 of the existing Code) (Appendix 1)
 - (b) Register of Interests' form for members (Appendix 3)
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1. Introduction

- 1.1. A question was raised at the Broads Authority meeting on 20 November 2020 regarding disclosable pecuniary interests (DPIs) when the Authority was considering the proposed navigation charges for 2021/22. The Monitoring Officer (MO) advised that three members had a DPI in the setting of those charges as directors and operators of private hire and leisure boats companies, and therefore should not participate in that item. One of the three members requested a second opinion on this matter, and the MO took external legal advice from Mr Jonathan Goolden, whose advice is summarised in section 2 of this report.
- 1.2. The matter of DPIs is included within the Authority's 'Code of Conduct for Members'. The Code was last updated in November 2018 and it is recommended it be replaced by

a revised Code, based on the new LGA Model Code of Councillor Conduct. If adopted, consequential amendments can be made to the 'Code of Conduct for members on Planning Committee and officers' (updated July 2017).

2. External legal advice on DPIs in relation to setting of navigation charges

- 2.1. Mr Jonathan Goolden is a Senior Partner in Wilkin Chapman LLP Solicitors. He is a highly experienced regulatory, public sector lawyer and former senior manager, has been a Monitoring Officer and is an Independent Person for two authorities. Mr Goolden is aware of the statutory basis within which the BA works and the extent of its role and purposes, and of the roles and responsibilities of its Navigation Committee.
- 2.2. The MO sought Mr Goolden's advice on the matter of the three members who had a DPI in the setting of navigation charges as directors and operators of private hire and leisure boats companies, and whether such a DPI was sufficiently direct also to apply to other matters that might impact on their businesses. Mr Goolden's advice in full was forwarded to all members on 19 April 2021 and is summarised in paragraphs 2.3 to 2.16 below.

Mr Goolden's advice (summary)

- 2.3. Under the Localism Act 2011, the Broads Authority (BA) must promote and maintain high standards of conduct by members and co-opted members, and adopt a code of conduct. It must also maintain a register of interests of members, and a member must notify the MO of any DPIs. A member may not participate in a matter at a meeting if they have a DPI in that matter unless granted a dispensation under section 33 of the 2011 Act. The statute requires that the DPI be "in" the matter, not related to or about it. This implies a very direct relationship between the registered interest and the matter under consideration by the BA.
- 2.4. In addition to the requirement on members to register and act on DPIs, the Authority's own Code of Conduct provides for personal interests and prejudicial interests. Under paragraph 3.7 of the Code, a personal interest is one where a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial position of a member or their family or any person with whom they have a close relationship to a greater extent than the majority of other toll payers or inhabitants of the BA's area. Under paragraph 3.8, a personal interest is also a prejudicial interest if a member of the public with knowledge of the facts would reasonably regard that interest as so significant that it would prejudice the member's judgment.
- 2.5. Under paragraph 3.6 of the Code, a personal interest must be declared at the meeting. Under paragraph 3.9 of the Code, a member with a prejudicial interest must not only declare it but also not participate in the discussion or voting but that a member may apply for a dispensation (which may be subject to restrictions).

- 2.6. Under paragraph 3.10 of the existing Code, however, a member may declare, attend and vote on a number of matters including the setting of tolls where the extent of the interest is limited to owning a boat and thereby paying a toll. Owning a boat and paying a toll will in itself will not be a DPI unless that ownership was as part of a business, though were it not for this paragraph of the Code it might otherwise have amounted to a personal and or prejudicial interest.
- 2.7. The three members who list in the register of DPOs that they are directors and operators of private hire and leisure boats companies (and any other member who holds a paid position in or owns a business which pays navigation tolls) would have a DPI in any item of business for the setting of navigation tolls. By virtue of the Relevant Authorities (Disclosable Interests) Regulations 2012, they are required to register any employment, office, trade, profession, or vocation carried on for profit or gain and that includes a remunerated directorship in a business providing vessels for hire where either the business will be liable to pay tolls as an operator or it will be liable to pay tolls as a vessel owner or both.
- 2.8. Though there is a need for there to be a very direct connection between the DPI held and the item of business for the DPI to be “in” that item, the setting of tolls is so directly connected to the ownership and operation of vessels for hire that those members will have a DPI.
- 2.9. Even though an owner of a private vessel will also be affected by a decision on the setting of navigation tolls, that interest is not a DPI unless it is within one of the categories in the 2012 Regulations. The payment of a toll is not a contract with the Authority and no other categories are relevant. Therefore, the owner of a private vessel is in a fundamentally different position to a commercial boat hire operator when it comes to interests in navigation toll setting. A private vessel owner has a personal and or prejudicial interest by virtue of the Code (but not by the 2012 Regulations). As long as the member who owns a private vessel declares that interest they may, under paragraph 3.10 of the Code, participate and vote on the item of business.
- 2.10. It is very clear that but for a dispensation, the three members would not be able to participate in any way in the item of business. Even though a member may have some personal knowledge that might be of benefit to the Authority, if they have a DPI then they must withdraw completely from participation in the item, including making a statement, unless they have applied for and been granted a dispensation.
- 2.11. Under section 33 of the Localism Act 2011, a dispensation may be granted if the granting of it is in the interest of persons living in the Authority’s area or that it is otherwise appropriate to grant one. Section 33(1) of the Act provides specifically that a dispensation may be granted to relieve a member of either or both of the restrictions in section 31(4). Those restrictions are that a member with a DPI may not (a) participate, or participate further, in any discussion if the matter at the meeting and (b) participate in any vote, or further vote taken on the matter at the meeting. It is clear that a dispensation can permit participation only, or participation and voting. In theory it

would be possible to grant a dispensation allowing a member with a DPI to vote, though it would be impossible to vote in a meeting without joining it either physically in the room or so far as permitted by remote meeting rules, online, without that also being participation.

- 2.12. Critically, making a statement of representation to a meeting is participating in that meeting. The three members could be granted a dispensation to participate in the meeting if they wished to make statements, but it is not considered that the participation could then be limited to just making statements. A member is either in the room and participating or not.

This then leads on to the question as to whether granting the three members dispensations is in the interest of persons living in the Authority's area or that it is otherwise appropriate to grant them. This is a question of judgement for the MO as proper officer, but it is doubted that it is really necessary or appropriate, because:

- (a) it is the function of the Navigation Committee to represent the interests of toll payers generally and the BA will have regard to its views;
 - (b) participation by three operators in the consideration of toll setting and not other operators appears to place those three operators at an advantage to others and be unfair;
 - (c) participation by the three members does not sit easily with the Nolan principles of selflessness, integrity and propriety, and honesty. This is not to suggest that the three members are in any way not acting with personal integrity, just that their actions could be perceived to not be in accordance with those principles;
 - (d) regardless of the Code, those three members are at risk of being perceived to exhibit apparent bias which could render the decision taken liable to legal challenge.
- 2.13. As to other situations where DPIs might arise for private hire boat operators, for example reports about marine safety or decisions that will incur costs for their businesses if higher safety standards are agreed, or changes in planning policy, there must be a direct connection between the item of business and the registered interest for a DPI to arise. The starting point is what is contained in the member's register.

(In his advice, Mr Goolden references two examples:

- One member has registered his directorship of a hire boat company as a paid employment, or office, and also registered that he owns the boatyard and moorings of the company and land adjacent, garden and moorings. That member would have a DPI in a planning application for that land. He would not have a DPI in a planning application for premises next door not owned by him, but might have a personal interest in a planning application for the next-door premises if a decision on that application might reasonably be regarded as affecting his wellbeing or financial position, but that would not be a DPI.

- In the case of a second member, a proposal by the BA to require all commercial hire boat operators to provide a one hour on the water training session for all hirers of craft over 13 metres in length would be sufficiently connected to his registered business as a number of such craft are in his hire fleet. He would have a DPI in the proposal as it will have a financial impact on the registered interest (it is pecuniary) and the interest is “in” the proposal in that it has a direct connection to his business. A proposal to undertake a general review of the provision of safety instructions to Broads’ users would not be sufficiently specific to have a direct connection to a particular hire boat business.)
- 2.14. Each case needs to be considered on its own facts, and only the member concerned can be fully aware of the nature of their own interests. Nonetheless, bearing in mind that to participate or vote on a matter with a DPI is a criminal offence, it is wise for members to err on the side of caution in acting on interests and to apply for a dispensation in plenty of time before a meeting if there are reasons why having a DPI might unreasonably prevent their participation.
- 2.15. Where a matter does not have a direct connection to a registered interest, it may still give rise to a personal and/or prejudicial interest. The test for a personal interest is whether the matter would affect the member’s wellbeing or financial position (or that of specified others). “Affect” is a wider definition than “in” for DPIs and includes measures which will have a causal relationship.

MO’s summary of legal advice

- 2.16. Mr Goolden’s advice concurs with the MO’s view as to the existence of DPIs on the part of the three members concerned. It suggests that the granting of dispensations would not have been “otherwise appropriate” under s33 of the Localism Act 2011, for the reasons set out above. Indeed, at the Authority’s meeting on 20 November 2020, the MO was not willing to grant dispensations that might have allowed the three members to speak or vote in the debate on the setting of the charges. The extent of the DPIs is considered and explained in Mr Goolden’s advice. Therefore, the position is clear for the future for these three members in terms of any reports about the setting of navigation charges and also, in terms of the extent of their DPIs, in other matters coming before the BA.

3. DPIs and ‘local’ interests

- 3.1. As noted above, if a member has a DPI “in” any item of business, they cannot speak or vote in the debate, unless they have first applied for a dispensation in writing and this has been granted by the MO. As explained above, DPIs are statutory in nature, being set out in Regulations made in 2012, under the Localism Act 2011. This Act also requires certain authorities, including the Broads Authority, to adopt a code of conduct to regulate the behaviour of its members.
- 3.2. It is often the case that authorities will set out other ‘local’ interests under whatever code of conduct they have adopted. These local interests are usually things like

membership of outside bodies, to which the member is appointed by their authority; membership of charities, lobby groups, or other groups whose purpose is to influence public policy; or membership of other local authorities. These local interests are then declared in Part 2 of the register of interests, Part 1 being for the declaration of DPIs. With a local interest, a member can still speak and vote in any debate that concerns or is related to their interest, having declared the interest verbally, at the meeting. The rationale for this is so that the member can impart their local knowledge and expertise, gleaned from their membership of a local charity, or other local authority, for example.

- 3.3. In the register of interests form currently used by the Broads Authority, members declare their DPIs as specified in law. They also must declare 'clubs and societies' of which they are members. The register of interests' form does not differentiate between those interests which are DPIs and those which are not.
- 3.4. Aside from DPIs, the Code adopted by the Authority refers, in paragraphs 3.6-3.10, to personal and personal/prejudicial interests (also see Mr Goolden's commentary above on this part of the Code). Personal interests and personal/prejudicial interests, as set out in the Code, were types of declarable interests under the former National Model Code of Conduct. This was revoked by the Localism Act 2011.
- 3.5. Under the Code, if a member has a personal/prejudicial interest, as defined, in an item of business, they are also unable to speak or vote in the debate, unless they first obtain a dispensation that enables them to do so. Therefore, membership of clubs, societies or outside bodies could give rise to personal/prejudicial interests which preclude a member from taking part in an item of business. (Note that a member could be precluded from taking part if they are biased by virtue of their membership of an outside body, etc, or if there is the appearance of bias. However, bias and predetermination are common law concepts, separate from the Code and the Localism Act 2011).
- 3.6. The inclusion of personal and personal/prejudicial interests, as defined in the Authority's current Code, casts the reader back to previous types of interest. The implications of having a personal and personal/prejudicial interest under the Code is tantamount to having a DPI. For that reason, the Code is not as straightforward as it might be, if the interests were simply DPIs and other 'local' interests, as agreed and defined by the Authority. Also, the register of interests' form does not reference these personal and personal/ prejudicial interests, nor differentiate between them, specifically.

4. Code of Conduct – proposed revision

- 4.1. As noted in the introduction to this report, the Authority's Code of Conduct for Members (adopted November 2018) is under review, together with the Code of Conduct for members on Planning Committee and officers (adopted July 2017), and the Register of Interests' form.

- 4.2. The Local Government Association (LGA) has produced a new [National Model Councillor Code of Conduct](#) ('the model Code'). The draft model Code was subject to extensive national consultation and drafting changes, and has now been finalised (latest update 17 May 2021), with [accompanying guidance on the model code](#) published on 8 July 2021. The Authority's Audit and Risk Committee considered the evolving draft model code at its meeting on 21 July 2020 and contributed to the consultation.
- 4.3. For the purposes of this model code, a 'councillor' means a member or co-opted member of a local authority or a directly elected mayor. 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 is a member of any committee or sub-committee of the authority, or 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'. 'Local authority' includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.
- 4.4. The model code is intended to provide a comprehensive and consistent model for all local authorities to use, and it is therefore recommended that the Authority adopts a new Member Code of Conduct, based on the model code. Using the model code and explanatory guidance will give the Authority greater clarity on interests and other code of conduct matters, including the distinction between those interests that are DPIs defined in the Localism Act 2011 and other 'local' interests that the Authority may wish to include as declarable interests. It is also recommended that the Authority updates its Register of Interests form to this effect.
- 4.5. The new model code uses the terminology of 'disclosable pecuniary interests' (see table 1 within the model code), 'other registerable interests' (see table 2 within the model code) and 'non-registerable' interests (see paras 7-10 within the model code). If adopted, members will be expected to use this terminology when registering and disclosing interests.
- 'Disclosable pecuniary interests': The model code reiterates the legal duty to register and disclose 'disclosable pecuniary interests' and lists what these are (see table 1 within the model code).
 - 'Other registerable interests': It also confirms that councillors 'must' register a specific set of 'other registerable interests' (see table 2 within the model code).
 - 'Non-registerable interests': The model code also covers the need to disclose interests, when a matter arises at a meeting, that do not fall into either of the above categories but which directly relate to a councillor's 'financial interest or wellbeing'. The code is clear that councillors 'must' disclose this type of interest when it arises (para 7). The code sets out when this type of interest will be deemed

to have arisen (para 8) and the two tests councillors should apply when considering whether or not they should participate and vote (para 9).

- 4.6. Officers have prepared a draft new Code of Conduct for Authority members to reflect the new LGA model Code of Conduct, but incorporating paragraph 3.10 of the existing Code to enable a member owning a boat and paying a toll (outside of a business) to attend and vote on matters concerning the setting of tolls. Some terminology has also been changed to reflect the Authority's status (e.g. referring to 'member' rather than 'councillor', and 'Broads Authority executive area' rather than 'council area').
- 4.7. For members' consideration, the draft Code is at Appendix 1, with an explanatory note at Appendix 2 and a draft new Register of Interests form at Appendix 3. For reference, the Authority's current Code is at Appendix 4.
- 4.8. This report seeks the views of members on these draft documents, with a recommendation that they are adopted by the Authority subject to any agreed amendments. The documents were considered by the Audit and Risk Committee on 20 July and that committee's feedback will be presented verbally at today's meeting.

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Date of report: 12 July 2021

Appendix 1 – Revised Member Code of Conduct (based on [National LGA model code](#))

Appendix 2 – LGA model code – explanatory note (17 Dec 2020)

Appendix 3 – Revised Register of Interests form

Appendix 4 – Current Code of Conduct for Members (Nov 2018) – for reference

Broads Authority

Member Code of Conduct (draft)

July 2021

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Introduction

This Member Code of Conduct ('the Code') applies to all members and co-opted members (known collectively in this document as 'members') of the Broads Authority.

The Code is based on the Local Government Association's Model Member Code of Conduct (updated 17 May 2021) and is supported by guidance produced by the LGA. The Authority will review the Code regularly, taking note of the LGA's annual review of the model code.

Purpose

The purpose of this Code is to assist you, as a member, 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 members, Authority officers and the reputation of the Broads Authority. It sets out general principles of conduct expected of all members and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of members and in the Authority.

The Code is not an exhaustive list of all legal obligations that fall upon members, and related protocols and guidance are referenced in the Members Handbook. These include:

- Protocol on Member and Officer Relations in the Broads Authority
- Standing Orders for the regulation of Authority proceedings
- Social Media Policy

General principles

The Code promote the highest standards of ethics and conduct, and draws upon the [Seven Principles of Public Life](#), also known as the Nolan Principles. The following general principles have been developed specifically for the role of member.

In accordance with the public trust placed in me, on all occasions:

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

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with the Authority's requirements and in the public interest.

Application of the Code of Conduct

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

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

- you misuse your position as a member;
- 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 member;

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
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a member.

The Authority's Monitoring Officer has statutory responsibility for the implementation of this Code. You are encouraged to seek their advice on any matters that may relate to the Code.

Standards of member conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

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

General conduct

1. Respect

As a member:

- **I treat other members and members of the public with respect.**
- **I treat Broads Authority officers and volunteers, and representatives of partner organisations, 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 member, 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 members.

In return, you have a right to expect respectful behaviour from the public. 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 Broads Authority, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Code, and Authority staff, where concerns should be raised in line with the Authority's protocol on member and officer relations.

2. Bullying, harassment and discrimination

As a member:

- **I do not bully any person.**
- **I do not harass any person.**
- **I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying 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.

Unlawful 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.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of Authority officers

As a member, I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Authority.

Officers working for the Broads Authority must be politically neutral. They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can 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, you 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.

4. Confidentiality and access to information

As a member:

- **I do not disclose information:**
 - a. **given to me in confidence by anyone**
 - b. **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. **I have received the consent of a person authorised to give it;**
 - ii. **I am required by law to do so;**
 - 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:**
 - 1. **reasonable and in the public interest; and**
 - 2. **made in good faith and in compliance with the reasonable requirements of the Authority; and**
 - 3. **I have consulted the Monitoring Officer prior to its release.**
- **I do not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.**

- **I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Broads Authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a member:

I do not bring my role or the Broads Authority into disrepute.

As a member, you are trusted to make decisions on behalf of the Broads and its stakeholder interests, 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 members and/or the Authority and may lower the public's confidence in you or the Authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Authority into disrepute.

You are able to hold the Authority and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Authority, while continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a member, I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the Authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of Authority resources and facilities

As a member:

- **I do not misuse Authority resources.**
- **I will, when using the resources of the Authority or authorising their use by others:**
 - a. act in accordance with the Authority's requirements; and**
 - b. 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 Authority or of the office to which I have been appointed.**

You may be provided with resources and facilities by the Authority to help you carry out your duties as a member. Examples include office support and access to Authority buildings and rooms. These are to be used only in carrying out your role as a member effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a member:

- I undertake Code of Conduct training provided by the Broads Authority.
- I cooperate with any Code of Conduct investigation and/or determination.
- I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting your reputation and the reputation of the Broads Authority

9. Interests as a member:

As a member, I register and disclose my interests.

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 need to register your interests so that the public, Authority officers and fellow members 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 members 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.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

10. Gifts and hospitality

As a member:

- **I do 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 on my part to show favour from persons seeking to acquire, develop or do business with the Broads Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage.**
- **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- **I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the Authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, 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. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a member. If you are unsure, contact the Monitoring Officer for guidance.

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 – Registering interests

You must, within 28 days of your appointment as a member or co-opted member of the Authority, register with the Authority's Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

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.

"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 Table 1 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.

A **'sensitive interest'** is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation.

Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate 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, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Disclosure of Other Registerable Interests

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 **Table 2**), 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.

Disclosure of Non-Registerable Interests

Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being 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. 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 a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

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 (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- d. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- e. 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.

There are some subjects in relation to the Authority that, once you have declared an interest, you may nonetheless attend a meeting and vote. These include:

- Setting of tolls, where the extend of the interest is limited to owning a boat and thereby paying a toll;
- Matters relating to schools, when you are a parent, guardian or governor of a child at a different school in the area.
- An allowance, payment or indemnity given to members.

Other subject matters may apply in local government, but these are unlikely in practice to apply to members of the Authority. Please ask the Monitoring Officer for information.

To be appended:

Complaints procedure

Code of Practice for Planning Committee members and officers

Table 1: Disclosable Pecuniary Interests

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	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the member or his/her spouse or civil partner or the person with whom the member 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 relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the executive area of the Authority.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>

Subject	Description
Licenses	Any licence (alone or jointly with others) to occupy land in the executive area of the Authority for a month or longer
Corporate tenancies	<p>Any tenancy where (to the member's knowledge)—</p> <p>(a) the landlord is the Authority; and</p> <p>(b) the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member 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.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the member's knowledge) has a place of business or land in the executive area of the Authority; and</p> <p>(b) either—</p> <ul style="list-style-type: none"> 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 member, or his/ her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued 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.

Table 2: Other Registerable Interests

You must register as an 'Other Registerable 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 the 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

(end of document)



LGA Model Member Code of Conduct

Explanatory Note

1. Introduction

- 1.1 The LGA have published their Model Code of Conduct following consultation with the sector. At the time of writing this explanatory note, the LGA have temporarily withdrawn the publication. A revised LLG note will be produced with a live link to the code of conduct once it is re-published.

2. Consultation

- 2.2 An online questionnaire was available for 10 weeks between Monday 8 June until Monday 17 August. A total of 1,463 responses were received by the LGA including members, officers, councils, stakeholder organisations and individuals.

3. Key Results from the Consultation

The LGA have published the following key results from the consultation responses they received.

- Almost all survey respondents (97 per cent) supported the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media.
- Just over half of the survey respondents (55 per cent), thought that the code was sufficiently clear about which parts of the code are legal requirements, which are obligations, and which are guidance. A third (36 per cent) thought it was not clear while nine per cent did not know.
- Respondents were generally evenly split regarding their preference for the tense of the wording used in the code, however, there was slightly more support for the personal tense ("I will") which was chosen by 45 per cent over the passive tense ("Councillors should") (40 per cent).
- Almost all survey respondents supported each of the 12 specific obligations to either a great or a moderate extent. However, there was slightly less support for the obligation to register any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt than the others – 96 per cent compared to 99 to 100 per cent.
- Four in five survey respondents (80 per cent) thought that the concept of 'acting with civility' is sufficiently clear to a great or moderate extent. A further 12 per cent thought it was clear to a small extent while just seven per cent did not think it was clear.
- A combined total of 85 per cent of survey respondents thought the concept of 'bringing the council into disrepute' is sufficiently clear to a great or moderate extent. Nine per cent thought it was clear to a small extent while five per cent did not think it was clear.
- Most survey respondents (93 per cent) supported the definition of bullying and harassment used in the code in a local government context to a great or moderate degree while four per cent did so to a small extent.



- Respondents were evenly split about whether there was sufficient reference to the use of social media in the code, however, a slightly higher proportion of respondents (43 per cent) said no, than those who answered yes (41 per cent).
- Over four in five survey respondents (81 per cent) were in support of the code going beyond the current requirement to declare interests of the councillor and their partner to a great or moderate degree. A further eight per cent supported it to a small degree and another eight per cent did not support it at all.
- Almost all survey respondents (97 per cent) supported the proposed requirement that councillors do not accept significant gifts to a great or moderate degree. Two per cent supported it to a small degree while less than one per cent did not support it at all.
- Most survey respondents (72 per cent) supported £25 as the threshold for registering gifts and hospitality, although almost four in ten (39 per cent), felt that the amount should be reviewed annually with the code's review. Nine per cent of respondents thought that the threshold should be lower than £25 while 16 per cent felt that it should be higher.
- Respondents most commonly ranked explanatory guidance on the code as the most useful type of accompanying guidance, followed by supplementary guidance that focuses on specific areas, e.g., social media and case studies and examples of good practice.

4. Key Points from the Final Member Code of Conduct

(Numbers in brackets refer to pagination in the code of conduct)

4.1 Definitions

- 4.1.1 Councillor is defined as 'a member or co-opted member of a local authority or a directly elected mayor'.
- 4.1.2 A "co-opted member" is defined pursuant to the [Localism Act 2011 Section 27\(4\)](#)
- 4.1.3 Local Authority includes 'county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities'.

4.2 Tense

- 4.2.1 First person direct to Councillors.

4.3 Nolan Principles

- 4.3.1 Encompasses the Nolan principles. Also includes that 'public resources are used prudently in accordance with a local authority's requirements and in the public interest'.

4.3 Application of the Code

- 4.3.1 The Code applies to councillors when they are: -



- Acting in that capacity
- Representing the Council
- Claiming to act or represent
- Give the impression they are claiming to act or represent
- Refer publicly to their role
- Use knowledge obtained from their role

4.3.2 The Code specifically applies 'in electronic and social media communication, posts, statements and comments'.

4.4 Standards

4.4.1 The word **Respect** (1.1) has replaced Civility (which was originally suggested in the draft code).

4.5 Bullying, harassment and discrimination

4.5.1 There is a specific obligation to promote equalities and not to discriminate unlawfully against any person (2.3.1) with reference to the Equalities Act.

4.6 Impartiality

4.6.1 Councillors must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority (3.1)

4.7 Confidentiality

4.7.1 Councillors must not disclose information they have received which they believe or ought reasonably to be aware is of a confidential nature (4.1a&b).

4.7.2 Disclosure in the public interest and in good faith is allowed provided the councillor has consulted the Monitoring Officer prior to its release (4.1iv1,2&3)

4.8 Disrepute

4.8.1 Councillors must not bring their role or authority into disrepute ((5.1).

4.9 Use of Position

4.9.1 Councillors must not use their position improperly to their advantage or disadvantage (6.1).

4.10 Use of Council Resources

4.10.1 Councillors must ensure that 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 their office (7.2b).

4.11 Compliance

4.11.1 Councillors must commit to undertaking code of conduct training (8.1), cooperate with investigations (8.2) and comply with sanctions (8.4).



4.12 Reputation

4.12.1 Declarations of interest must be registered and declared (9.1). Detailed provisions are contained within Appendix B. The code states 'If in doubt, you should always seek advice from your Monitoring Officer'.

4.13 Appendix B

4.13.1 Registration of interests required are those which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests) of the code.

4.13.2 Declaring Interests and Meeting Participation

- Disclosable Pecuniary Interests: -
Councillors must declare, not participate, or vote and leave the room (subject to dispensation)
- Other Registrable Interests: -
Councillors must declare, only speak if the public are allowed to speak, not participate in the discussion or vote and leave the room (subject to dispensation).
- Non-Disclosable Pecuniary Interest Directly Relating to Finance or Well-Being of Councillors or Relative or Close Associate: -
Councillors must declare, only speak if the public are allowed to speak, not participate in the discussion or vote and leave the room (subject to dispensation).

4.13.3 Table 1- Pecuniary Interests

Sets out an explanation of Pecuniary Interests and includes: -

- Employment or Trade
- Sponsorship
- Contracts (including partners lived with)
- Land or Property (including partners lived with)
- Licences
- Corporate Tenancies (including partners lived with)
- Securities (including partners lived with)

(Note a director includes a member of the committee of management of an industrial and provident society).

4.13.4 Table 2- Other Registerable Interests

Sets out an explanation of Other Registrable Interests in respect of bodies to which councillors are appointed or nominated to by the council and includes: -

- exercising functions of a public nature



- directed to charitable purposes; or
- 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.

4.14 Gifts & Hospitality

4.14.1 Councillors receiving gifts or hospitality with a value of £50 or more must register these with the Monitoring Officer within 28 days (10.2). Any significant gift or hospitality refused must also be registered with the Monitoring Officer (10.3) (*note no timescale is placed against refused gifts*).

4.15 The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

5. **Committee on Standards In Public Life (CSPL) Recommendations**

5.2 It is accepted that many of the recommendations made by the CSPL would require changes to the law. However, the following is noted: -

- Despite the Draft Member Code of Conduct including a bar on attending committees for up to 2 months as a sanction, the published code **contains no reference to a sanction of any kind**.
- Therefore, there is no power to suspend councillors, without allowances, for up to six months
- There is no reference to a role for the Local Government Ombudsman
- There is no discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes
- There is no mention of an independent person.
- The code does not reference section 31 Localism Act 2011 (but it gives a nod towards it)
- Gifts and Hospitality has risen from the proposed £25 to £50 recommended by the CSPL
- There is some support evidenced for a change to the authorities for Disclosable Pecuniary Interests but only where a member is nominated or appointed by the council
- Broadly the Code encompasses the CSPL recommendation when a member is acting in an official capacity which includes reference to social media but this does require a change of legislation to engage presumption ((s27)(2) Localism Act 2011)

Register of Interests form

Member: **type name here**

As a member of the Broads Authority, these are the interests which you are required to register with the Authority by section 30 of the [Localism Act 2011](#).

Register of interests must be declared:

- **within 28 days of becoming a member; and**
- **within 28 days of becoming aware of any new interest, or of any change to a registered interest.**

Failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

Where you have a **‘sensitive interest’** you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation.

‘Disclosable Pecuniary Interest’ means an interest of yourself or of your partner if you are aware of your partner’s interest.

‘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.

Please see the Broads Authority Member Code of Conduct and guidance notes for further information.

In accordance with Chapter 7 of Part 1 of the Localism Act 2011

Subject	Description	Details of member's interest
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 Authority) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, 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 member or his/her spouse or civil partner or the person with whom the member 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 Authority (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 Authority.	

Subject	Description	Details of member's interest
	'Land' excludes an easement, servitude, interest or right in or over land which does not give the member or his/her partner a right to occupy or to receive income.	
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.	
Corporate tenancies	Any tenancy where (to the member's knowledge) (a) The landlord is the Authority; and (b) The tenant is a body that the member, or his/her partner 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 member's knowledge) has a place of business or land in the area of the Authority; 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 member, or his/her partner have a beneficial interest	

Subject	Description	Details of member's interest
	exceeds one hundredth of the total issued share capital of that class.	
Any other interests	<p>You must register as an 'Other Registerable Interest':</p> <ul style="list-style-type: none"> (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 <ul style="list-style-type: none"> a. exercising functions of a public nature b. directed to charitable purposes or c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) <p>of which you are a member or in a position of general control or management.</p>	
Gifts and hospitality I have received a gift or hospitality worth £50 or over from the following persons or bodies or other organisations	<p>This section only applies to gifts or hospitality received in your capacity as a member of the Authority.</p> <p>You do not have to specify the nature or value of the gift or hospitality but you may do so if you wish.</p> <p>If you are not sure of the value of the gift or hospitality, please estimate it.</p> <p>Also, you should register an accumulation of small gifts from the same source over a short period which add up to £25 or over.</p>	

Subject	Description	Details of member's interest
Toll paying	Annotate if you are a toll payer.	

Member signature:

Date:

Received by the Broads Authority:

Date:



Code of Conduct for Members and Complaints Procedure

November 2018

Version 2.2

Updated 23.11.18

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Introduction and Overview

- 1.1 This revised Code of Conduct for Members (“the Code”) adopted on 30th September 2016 sets out the conduct which is expected of members and co-opted members (“Members”) of the Broads Authority (“the Authority”) when they are acting in that capacity, as required by section 27 of the Localism Act 2011.
- 1.2 The Nolan Report set out the seven Principles of Public Life, which are incorporated into the Code as required by section 28 Localism Act 2011. The Authority also has a statutory duty under section 27 of the Act to promote and maintain high standards of ethics and conduct by its Members.
- 1.3 Members will be offered training on the Code whether by the Monitoring Officer or from a representative body and the Authority expects all Members to take advantage of such training, including refresher courses, to ensure that they are fully aware of the provisions of the Code and the standards expected of them in public.
- 1.4 Members are also urged to avail themselves of the Local Resolution Procedure under the Code for dealing with Member versus Member complaints and other disagreements and to ensure the effective use of the Authority’s resources. The aim of Local Resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the Authority and the Authority’s reputation.
- 1.5 The following pages set out the Code and guidance and it is intended to be consistent with the seven principles. It is also not an exhaustive list of all legal obligations, which fall upon Members and does not discharge members from their duty to ensure that at all times they act within the seven principles attached to the Code. The Authority also has its core values, which Members are asked to observe and follow. These are set out in section 2.
- 1.6 Members must ensure that they take appropriate action in relation to any Disclosable Pecuniary Interest. Failure to do so may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.
- 1.7 Members should comply with the Code whenever they are acting in their official capacity as a Member including at full meetings, committee meetings and sub-committee meetings. The Code also applies to Members’ dealings with each other, with outside bodies, briefing meetings with officers, site visits, use of social media and in communication with the Authority, other than in a private capacity.
- 1.8 Freedom of expression is a right, which applies to all Members of the Authority. A Member’s freedom of expression attracts enhanced protection where the comments are political in nature. The criticism of opposing ideas

and opinion is considered to be part of democratic debate and it is unlikely that such comments would amount to a breach of the Code. Comments that breach the principle in paragraph 2.8 below may, in contrast, be a potential breach of the Code.

- 1.9 Members' attention is drawn to the Protocol on Member and Officer Relations in the Broads Authority, which sets out expectations of Members' conduct towards staff. The Authority has a Staff Code of Conduct for its staff which includes guidance on staff relations with Members, including on social media.
- 1.10 Members' attention is also drawn to the Authority's Standing Orders, which includes guidance on conduct within meetings of the Authority and its committees, including sanctions for disorderly conduct by Members within such meetings.
- 1.11 The Authority adopted in July 2017 Social Media Guidance for Members and Officers ¹.

2 Principles of Conduct and Core Values

Principles of Conduct

- 2.1 The Code promotes the highest standards of ethics and conduct and draws upon the Nolan principles of conduct as follows:

2.2 **Selflessness**

Members must act solely in the public interest. They must never use their position as Members improperly to confer an advantage on, or to avoid a disadvantage for, themselves or improperly to confer an advantage or disadvantage on others.

2.3 **Integrity and propriety**

Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. Members should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends. Members must declare and resolve any interests and relationships.

Note: Members should avoid putting Authority staff in breach of their own Code of Conduct, such as adding them as friends on social media platforms such as “Facebook”. Members should familiarise themselves with the Protocol on Member and Officer Relations in the Authority.

2.4 **Objectivity in decision making**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards or benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, it is their responsibility to decide what view to take and, if appropriate how to vote on any issue.

2.5 **Accountability**

Members are accountable to the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such public scrutiny as is appropriate to their responsibilities.

2.6 **Openness**

Members must be as open as possible about all their actions and those of the Authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law. Members should be transparent through being prepared to give reasons for their decisions and actions.

2.7 **Honesty**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest. Interests must be registered and declared in a manner which conforms to the procedures set out below.

2.8 Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the Authority. They must respect the impartiality and integrity of the Authority's statutory officers and its other employees. Members should be willing to support the Code and willing to challenge poor behaviour whenever it occurs.

Note: The Protocol on Member and Officer Relations section 3 provides that officers can expect from Members leadership and that they take responsibilities for decisions made by the Authority and for defending them publicly.

2.9 Stewardship

In discharging their duties and responsibilities, Members must ensure that the Authority's resources are used both lawfully and prudently. They must ensure that the Authority's resources are not used improperly for political purposes (which include any party political purposes). Expenses must be claimed in accordance with the Authority's guidance and supported by receipts, and claimed reasonably promptly.

2.10 Confidentiality

Members must not disclose any information given to them which should reasonably be regarded to be of a confidential nature, including items discussed in the confidential sections of meetings. This duty of non-disclosure may no longer apply where either the consent of the person authorised to give it has been obtained, or there is a legal requirement to disclose. If in doubt, Members are encouraged to seek the views of the Monitoring Officer.

Note: The Protocol on Member and Officer Relations in the Broads Authority section 8 on Disclosure of Information by Members sets out the procedure in relation to disclosure of confidential information, which involves 72 hours prior notification in advance to the Chief Executive or Monitoring Officer. The Information Commissioner has issued helpful guidance on the Freedom of Information Act and General Data Protection Act which is available on the ICO website www.ico.gov.uk or by calling 0303 123 1113.

2.11 Equality and respect

Members must treat others with respect and promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. Members should respect the impartiality and integrity of the Authority's statutory officers and its other employees.

Note: The Protocol on Member and Officer Relations sets out in detail the roles and responsibilities and the working relationships between Members and officers. Section 3 sets out expectations that each can expect from the other respect and courtesy and the highest standards of integrity.

Core Values

- 2.12 In addition to the principles of conduct, Members should, so far as possible, reflect the Authority's Core Values, which have been drawn up by the Authority's staff and adopted by the Authority:
- 2.13 **Commitment** – We are committed to making a difference to the Broads for the benefit of all and we will have the courage of our convictions when faced with difficult decisions.
- 2.14 **Caring** – We are considerate and respectful of each other, working together to provide the best service we can.
- 2.15 **Open and honest** – We are open, honest and inclusive in our communication and in making decisions. We are approachable and available, reaching out to all groups.
- 2.16 **Sustainable** – We take the long-term view, are passionate about our environment and its ability to provide for a vibrant local economy and the well-being of local people.
- 2.17 **Exemplary** – We strive for excellence in all we do. We are ambitious, innovative and lead by example

3 Registering and declaring disclosable pecuniary and other non-pecuniary registrable interests and gifts

- 3.1 A Member must within 28 days of taking office as a Member notify the Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State. This applies whether that interest is their own, their spouse's or civil partner's, or is the interest of someone with whom they are living with as a husband or wife, or as if they were civil partners. The interest will be included in the Authority's register of interests (a copy of which is available for public inspection and published on its web site).
- 3.2 In addition to 3.1, Members must within 28 days of taking office as a Member notify the Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which the Authority has decided should be included in the register.
- 3.3 If an interest above has not been notified or entered in the register, then the Member must disclose the interest to any meeting of the Authority at which they are present, where they have disclosable interest in any matter being considered and where the matter is not a "sensitive interest" as described in the Localism Act 2011. In relation to sensitive interests, which include any concern that disclosure might lead to the Member being subject to violence or intimidation, Members should speak to the Monitoring Officer, who may agree to exclude details from any publicly available version of the register of interests.
- 3.4 Following disclosure of an interest not on the Authority's register or the subject of pending notification, Members must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 3.5 Unless dispensation has been granted, a Member may not participate in any discussion of, vote on, or discharge any function related to any matter in which they have a pecuniary interest as set out in 3.1 above. In addition a Member must observe the restrictions the Authority places on their involvement in matters where they have a pecuniary or non-pecuniary interest as defined by the Authority.

Disclosure of interests at meetings

- 3.6 Where an interest described above or in the following paragraph in any business of the Authority has been declared and, where a Member is aware or ought reasonably to be aware of the existence of that interest and they attend a meeting of the Authority at which the business is considered, the Member must disclose to that meeting the existence and nature of that interest at the commencement of its consideration. If not apparent in advance from any agenda, as soon as the interest becomes apparent as being relevant to the business under consideration a Member must immediately declare it.
- 3.7 Members have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting their well-being or financial position or the well-being or financial position of a

member of their family or any person with whom they have a close relationship to a greater extent than the majority of other Toll payers or inhabitants of the Authority's geographical area or "National Park area", as the case may be, affected by the decision.

Non-participation in the case of other prejudicial interest

- 3.8 Where Members have a personal interest (as set out in 3.7 above) they will also have a prejudicial interest, if the following also applies. That is, on an objective analysis, Members' judgement of the public interest would be affected through their financial position or that of a person or body which has been, or should have been, notified in the register of interest by the Member. The test to be applied is whether a member of the public with knowledge of the facts would reasonably regard the pecuniary interest as so significant that it would prejudice the Member's judgment.
- 3.9 Where there is such a prejudicial interest, the Member must not participate in any discussion of, vote on or discharge any function related to such prejudicial interest. An application may be made for special dispensation from the Authority in relation to this and the Member must observe any restrictions placed by the Authority in such circumstances.
- 3.10 There are some subject areas in relation to the Authority which, once an interest has been disclosed, a Member may nonetheless attend a meeting and vote. These include:
- Setting of Tolls, where the extent of the interest is limited to owning a boat and thereby paying a Toll.
 - Matters relating to schools, when the Member is a parent, guardian or governor of a child at a different school in the area. These include school meals, school transport and expenses.
 - An allowance, payment or indemnity given to Members
- 3.11 There are other subject areas which may apply in local government, but it is considered that these are unlikely in practice to apply to Members of the Authority. Please ask your Monitoring Officer for further information.

Gifts and hospitality

- 3.12 Members must declare all gifts, benefits or hospitality with a value of over £25. Members may also, if they wish declare those with a value below this level. The Monitoring officer will enter details of the gift on a public register of gifts and hospitality.

4 Complaints Procedure

- 4.1 The Localism Act provides that, where there are complaints of misconduct, the Authority must have in place arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made. The following procedure applies to complaints made against a Member by another Member, or by officers or any other person.
- 4.2 In relation to officers, a complaint should be after consultation with their Director and may be made in relation to a breach of the Protocol on Member and Officer Relations.

Making a complaint

- 4.3 The complaint should be made to the Monitoring Officer in writing or by e-mail. The address is:

Monitoring Officer, Broads Authority, Yare House, 62-64 Thorpe Road,
Norwich NR1 1RY

E-mail address: monitoring.officer@broads-authority.gov.uk

- 4.4 A copy of the complaint form, which should be used for all complaints, is attached at Appendix 1. This form should also be used for making a complaint under the Local Resolution Procedure. Completion of a Complaint Monitoring Form at Appendix 1a is also requested, but is not compulsory. Complaints should be made within 3 calendar months of the matter complained of, unless the complainant can provide a good reason for not having done so.
- 4.5 In order to make a complaint, a Member will need to have reasonable belief that there has been a breach of the Code. In order to have a reasonable belief that a breach has occurred, there will need to be direct evidence which supports the complaint. Members should consult the Monitoring Officer for advice if they are in doubt. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred, the Monitoring Officer may advise Member of the likely threshold and suggest that the matter might be more appropriately dealt with through the Authority's Local Resolution Process.
- 4.6 Once received a complaint will be acknowledged by the Monitoring Officer within five working days.

Confidentiality

- 4.7 As a matter of fairness and natural justice the subject Member should usually be told who has complained about them and received details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks

(supported by medical evidence) associated with the complainant's identity being disclosed.

- 4.8 If a request for confidentiality is refused, the Monitoring Officer will explain the reason and give the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed.
- 4.9 The complaint will be acknowledged and the subject Member will be informed that a complaint has been made about him or her. Such notification will state that the complaint has been made; the name of the complainant (unless the complainant has requested confidentiality and this is being upheld, brief details of the complaint and the paragraphs of the Code which may have been breached. In very limited situations, the subject of the complaint may not be notified, in which case the Monitoring Officer will record his reason. Such situations may be where it is not reasonably possible to identify who the subject of the complaint might be.
- 4.10 Where specific details of complaints are passed to the local press and media, or posted on social media, this may prejudice an investigation and may also be a breach of the Code. Well-founded breaches of the Code should be reported to the Monitoring Officer and Members making allegations should not generate publicity in advance of the outcome of the complaint.

Initial Assessment

- 4.11 In determining whether to investigate a complaint, the Monitoring Officer will adopt a three-stage process, all in consultation with an Independent Person. At each stage the Monitoring Officer may request further clarification or documentation from the complainant, without this forming part of any investigation.

Stage 1 – The Monitoring Officer will decide whether the complaint is within the Authority's jurisdiction or "capacity", which will include consideration of the paragraphs of the Code to which the complaint might relate. If there is no jurisdiction then the complainant will be informed that the complaint will not be considered further.

Stage 2 - The Monitoring Officer will decide whether there is direct evidence that a breach took place. The level of proof will be on the balance of probabilities, that is to say, whether it is more likely than not. If there is no direct evidence, or if the complaint is considered to be vexatious (see paragraphs 4.20 and 4.21 below), or the matters complained of took place more than 3 months ago and there is no satisfactory explanation for the delay provided, then the complaint will be dismissed.

Stage 3 – The Monitoring Officer will decide whether the complaint is suitable to be dealt with within the Local Resolution Procedure, or whether it should be the subject of a full investigation. The criteria which will be used for this analysis are set out in Appendix 2.

Local Resolution Procedure

- 4.12 The Local Resolution Procedure is a process for low-level complaints including those made by one Member against another.
- 4.13 If the Monitoring Officer, in consultation with the Independent Person, decides to refer the matter to local resolution, then the complainant will be informed within 5 working days and the Local Resolution Procedure shall then apply (see section 5 below).
- 4.14 The criteria for referring the matter to the Local Resolution Procedure will include the following:
- Complaints that one member has failed to show respect and consideration for others
 - Complaints that one Member has made vexatious, malicious or frivolous complaints towards another.
 - Other low-level complaints which in the opinion of the Monitoring Officer, following consultation with an Independent Person, are suitable for informal resolution.

Formal Investigation

- 4.15 If the matter is to be fully investigated, as opposed to being dismissed or referred to the Local Resolution procedure, the Monitoring Officer will appoint an Investigating Officer who will prepare an initial report and recommendation. An Investigating Officer may be an officer or solicitor of another authority or a person independent of local government. When appointing the Investigating Officer, the Monitoring Officer will write to the relevant parties informing them that the matter is to be fully investigated and informing them who will be responsible for conducting the investigation. The Monitoring Officer should give an indication as to likely timescale for the completion of the investigation, which should be within 28 days. Referring a matter for investigation does not mean that there have been any findings of fact. It simply means that the alleged conduct, if proved, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.
- 4.16 A draft report will be sent by the Investigating Officer to the parties for them to comment on prior to the Monitoring Officer receiving the final version.
- 4.17 The Monitoring Officer will consider the recommendation of the Investigating Officer's report. If the recommendation is that there has been no breach of the Code, the Monitoring Officer will consult the Independent Person. If having taken into account the views of the Independent Person the Monitoring Officer approves the recommendation of the report then the Monitoring Officer will write to the complainant and the Member concerned to inform them that there will be no further action. This will normally be undertaken within 10 working days of the receipt of the report. The Monitoring Officer will give reasons for the decision. There is no appeal or review of that decision by the Authority or any other person.

- 4.18 If the investigation concludes that there is evidence of a breach of the Code then the Monitoring Officer will consult the Independent Person and make a decision either to:
- (a) resolve the matter without the need for a hearing. That may include the application of those sanctions limited to those set out in paragraph 4.30 below. The Monitoring Officer will write to the complainant and the member concerned to inform them of the decision. The Monitoring Officer will give reasons for the decision. There is no appeal or review of that decision by the Authority or any other person; or
 - (b) convene a meeting of the Authority's Hearings Committee, to hear the matter.
- 4.19 In exceptional circumstances it may be considered by the Monitoring Officer and Independent Person that the Chair of the Authority should be invited to consider whether the member should be asked to withdraw from Authority duties pending the outcome of the Hearings Committee. There will need to be reasonable grounds for the belief that such a step is in the interests of the subject Member or the Authority.

Frivolous and Vexatious Complaints

- 4.20 Complaints made against other Members or officers or people working on behalf of the Authority must be based upon fact and not motivated by malice or by political rivalry. Members should avoid making complaints which have little or no substance or where the evidence of any breach is weak or non-existent. Such complaints may be dismissed at the initial assessment stage. In the case of doubt as to whether a threshold has been met, advice should be sought from the Monitoring Officer. The making of frivolous or vexatious complaints may be conduct which will be considered a breach of the Code and dealt with under the Local Resolution Procedure.
- 4.21 Guidance on what circumstances may lead to a determination that a complaint is frivolous or vexatious are set out in Appendix 3. 3.

Local Resolution Procedure

- 4.22 The Authority has adopted this Local Resolution Procedure in order to promote and maintain high standards of conduct amongst members. It is intended to assist in the swift resolution of issues, so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the Authority and the Authority's reputation. This procedure is also intended to resolve matters on an informal basis, where this is appropriate.
- 4.23 For informal resolution of a problem involving a member identified or reported to the Chair, Chief Executive or Monitoring Officer (where a formal complaint has not been made) the request will be passed on to the Chair and Vice-Chair (in the event they are not the original recipient). Confidential meetings will then be arranged between relevant parties with the Chair and Vice-Chair to engage in the process and seek a resolution to the issues raised. Any meetings may take place at the Authority's offices or other locations as is convenient. The process will be confidential and without prejudice to the parties involved to bring a formal complaint if the matter is not resolved. In the event that the matter is not resolved the content of the discussions shall not be referred to in any subsequent complaint. There is no power for any matter referred under the informal process to be subject to any sanction under the Code of Conduct. 3.
- 4.24 Complaints may be dealt with under this procedure as follows. Anyone who wishes to submit an allegation under this procedure should send the complaint (in the case of an officer following consultation with their Director) to the Monitoring Officer. Additionally, the Monitoring Officer may have referred a complaint to this procedure following consultation with an Independent Person. Following receipt of the complaint, or referral, the Monitoring Officer will act as follows:

Stage 1

- 4.25 The Monitoring Officer will undertake a brief preliminary investigation to establish the facts and the areas of dispute. Possible resolutions will be canvassed with the complainant and then the Member about whom the complaint has been made.
- 4.26 Then Monitoring Officer will also consider, following this, whether another course of action or more formal investigation, is more appropriate.

Stage2

- 4.27 A mediation meeting will be held between the person making the complaint, the Member against whom the complaint is made, the Monitoring Officer and (if considered appropriate) other persons invited by the Monitoring Officer. Such persons may include an Independent Person, the Chief Executive, Chair of the Authority, political group leader, or in the case of a complaint being made by an officer a companion or Director. The meeting may commence

with the parties in separate rooms and the Monitoring Officer acting as a mediator. The purpose of the meeting will be to try and resolve the matter without it going further.

Stage 3

- 4.28 If the matter is not resolved at stage two and the complainant wishes to proceed with it, the matter will be referred to a local resolution hearing before the Hearings Committee (see section 6 below in relation to the constitution of the Hearings Committee). The person making the complaint will be asked to submit a statement in writing within 14 days and the member complained against will respond within 14 days. Either party may submit a statement from a witness.
- 4.29 Within 28 days of the written evidence a hearing will be set before the Hearings Committee. Any party may have at their own expense a companion or representative, provided that in the case of representation the Monitoring Officer and other party have been given 21 days' notice to this effect. Evidence will be limited to the contents of the statements. If any party does not attend, the hearing will proceed in their absence. The Monitoring officer will be available to advise the committee. After hearing oral evidence, the Hearings Committee will come to a conclusion on the allegation, which will be notified to the parties.
- 4.30 The possible outcomes to a hearing under the Local Resolution Procedure are:
- A finding that the matter does not warrant any further action to be taken
 - A recommendation to the Monitoring Officer that there be a change to procedures or that more formal investigation action be taken
 - A finding that the complaint be recorded by the Monitoring Officer as vexatious
 - A finding that the complaint is upheld, but no further action is required
 - A finding that the complaint is upheld and that the Member should be censured
- 4.31 Unless the complaint has been upheld, publicity will not be given to the names of the parties. The hearing before the Hearings Committee will be confidential.

3. Paragraph inserted 12.07.18

5 Hearings Procedure

- 5.1 If a hearing is required, the Monitoring Officer will write to the subject Member proposing a date for the hearing. This date will normally be within six weeks of the investigation report and will be before the Hearings Committee. The Hearings Committee shall be constituted in accordance with Part B of the Authority's Standing Orders and shall have a quorum of three Members.
- 5.2 The Monitoring Officer will outline the hearing procedure, the Member's rights and ask for a written response from the Member within a set time to establish whether:
- the Member wishes to attend the hearing
 - the Member disagrees with any of the findings of fact in the investigation report and if so which findings and the reason for disagreement
 - the Member wishes to give oral evidence, or rely on written submissions
 - witnesses will be called by the Member to give evidence (there is no power on the part of the Authority to compel attendance by a witness)
 - they wish any part of the hearing to be in private
 - they wish any part of the investigation report or other documents to be withheld from the public
- 5.3 In complex cases, if the Monitoring Officer considers that a preliminary hearing is necessary to consider the matters in 5.2, they shall convene one.
- 5.4 Any party may have at their own expense a companion or representative, provided that in the case of representation the Monitoring Officer and other party have been given 21 days' notice to this effect.
- 5.5 The parties and the Hearing Committee will be sent a full bundle of documents for the hearing at least 5 days prior to the hearing.

Procedure at hearing

- 5.6 The procedure at the hearing will be in accordance with a procedure to be determined by the Monitoring Officer. It will usually adopt the following procedure
- The Investigating Officer will present his/her report to the Hearing Committee
 - The Investigating Officer will be questioned on the report by any party and by the Hearings Committee
 - Evidence will be given with questions being asked by any party and by the Hearings Committee. The order will be the complainant first, then the Member the subject of the complaint and then any witnesses in such order as the Hearings Committee decides appropriate
 - The Hearings Committee will withdraw to consider their decision, with the outcome notified by the Chair. The decision will be confirmed in a

Decision Notice which will be sent to the parties within 5 working days of the hearing.

- 5.7 If the Hearings Committee concludes that there has been no breach of the Code, there will be no further action. There is no appeal or review of that decision by the Authority or any other person. The Hearings Committee will give reasons for its decision.
- 5.8 If the Hearings Committee concludes that the Member the subject of the complaint has failed to comply with the Code, then the Authority has delegated its powers to make such sanction as it considers it to be appropriate and proportionate in order to promote and maintain high standards.

Sanctions

- 5.9 These sanctions may include any of the following:
- A request that the Member submit a written apology in a form specified by the Hearings Committee
 - A request that the Member undertake specified training
 - A request that the Member participates in such conciliation as may be specified
 - A requirement that the Member deals with Authority business through one specified point of contact
 - Placing such restrictions on Members access to staff which may be reasonable in the circumstances and in accordance with the Protocol on Member and Officer relations, providing that such restrictions do not prevent the Member from carrying out their duties
 - A requirement that the Member does not attend at the Authority's offices, unless attending statutory meetings
 - Reporting the Member to his/her County or District Council, Secretary of State as appropriate and reporting the matter to a full meeting of the Authority
 - Reporting the matter to a full meeting of the Authority with a recommendation that the Member has any privileges to which they are entitled removed or that they be removed from any appointment made by the Authority to any external body
 - Reporting the matter to a full meeting of the Authority with a recommendation that the Member be removed from any committee to which they are currently appointed.
 - No sanction

Publication of findings

- 5.10 A summary of the complaint and findings will be reported to a full meeting of the Authority, for their information.



Members' Code of Conduct Complaint Form

To be used if you wish to make a complaint that a Member or co-opted Member of the Authority, has failed to comply with the Members' Code of Conduct.

If English is not your first language, please contact us if you require help to complete this form.

Your details

1. Please provide us with your name and contact details

Title:	
First Name:	
Last Name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

We will only use the information you provide to us for the purposes of processing your complaint. Your information, including any personal information you provide to us (such as name and contact details) may be shared with the people referred to below, or with other relevant authorities as required, only for the purposes of processing your complaint.

All comments and complaints are treated confidentially and will not disadvantage you in any future dealings with Broads Authority. It may not always be possible to keep your details confidential, such as where your complaint is about a third party or where particular legislation applies to your complaint.

We will tell the following people about this complaint:

- The Member(s) you are complaining about
- The Monitoring Officer to the Authority
- The Authority's Independent Person
- The Chair of the Authority
- The Chief Executive of the Authority

If you have serious concerns about your name and details of your complaint being released, please complete **section 6** of this form.

2. Please tell us which complainant type best describes you:

<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	A Member or co-opted Member of an authority
<input type="checkbox"/>	Member of Parliament
<input type="checkbox"/>	Local authority monitoring officer
<input type="checkbox"/>	Broads Authority employee or volunteer
<input type="checkbox"/>	Other (please provide details)

Making your complaint

- 3.** Once you have submitted your complaint, it will be considered by the Monitoring Officer of the Authority and after reasonable consultation with the Authority's Independent Person, who will assess, on the basis of your written submission and any additional relevant material, whether the alleged conduct might amount to a failure to comply with the Members' Code of Conduct.

The Monitoring Officer has the following range of options available to him/her: Formal Investigation (which will involve an investigation of the complaint), referral to the Authority's Local Resolution Procedure or no further action, for instance if it is considered that any failure to comply with the Code of Conduct is of a trivial nature.

- 4.** Please provide us with the name of the Member(s) you believe have breached the Broads Authority Members' Code of Conduct and, where the Member is also a Councillor, the name of their authority.

Title	First Name	Last Name	Authority Name

5. Please explain in this section (or on separate sheets) what the Member has done that you believe breached the Members' Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breached the Code of Conduct.

A copy of the Authority's Members' Code of Conduct can be found on the Broads Authority website at <http://www.broads-authority.gov.uk/>

Alternatively, a paper copy can be obtained from the Monitoring Officer to the Authority by writing to:

Monitoring Officer, Broads Authority, Yare House, 62-64 Thorpe Road,
Norwich, Norfolk. NR11RY

- You should be specific, wherever possible; about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.
- You should tick the box to confirm that the facts set out are true

Please provide us with the details of your complaint and the outcome from this complaints process that you would like to see happen. Continue on a separate sheet if there is not enough space on this form.

Do you wish your complaint to be dealt with under the Authority's Local Resolution Procedure?

Yes/No

If you answered No, please briefly explain your reason:

☐ I confirm by ticking this box and sending this form that the facts I have set out in my complaint are true

Date:

Only complete this next section if you are requesting that your identity is kept confidential.

6. In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or details of your complaint unless you have good reason to justify the Authority doing so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer to the Authority, in consultation with the Authority's Independent Person, will consider the request alongside the substance of your complaint. We will then

contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

7. Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of equalities legislation, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need support in completing this form, please let us know as soon as possible.

This complaint should be submitted to the Monitoring Officer to the Authority, by sending to the following contact addresses:

By post to: Monitoring Officer, Broads Authority, Yare House, 62-64 Thorpe Road, Norwich, Norfolk. NR11RY

Or by e-mail to: monitoring.officer@broads-authority.gov.uk

Privacy and Data processing ⁵.

8. The Authority will process any personal information in line with the Data Protection Act 2018 and the EU General Data Protection Regulation.

Information you provide to us on this form will be shared with certain individuals who undertake roles within the complaints process, including the subject Member, Independent Person, Investigating Officer (who may be external to the Authority) and members of the Hearings Committee.

You also acknowledge by making your complaint that personal information which you give us may be placed in the public domain should the matter proceed to a hearing.

The basis of processing will be that of public task i.e. tasks carried out by the Authority in the public interest or power vested in the Authority.

Your information will be retained for 7 years following the outcome of your complaint or last action taken in relation to it. We will process your data in accordance with Data Protection Principles using appropriate technical and organisational measures.

Broads Authority is the Data Controller in relation to your data. It has a Data Protection Officer (DPO) who can be contacted at the postal address on this form or at dpo@broads-authority.gov.uk. Our DPO is currently our Monitoring Officer.

You have the right to see any personal information that we hold about you. Such requests are called subject access requests. If you would like to make a subject access request please contact the Authority's Data Protection Officer. We will respond to such requests within one month. There is no fee to make a request.

You may ask us to rectify any personal information which is incomplete or inaccurate. You may also ask us to erase such data once processing is no longer necessary or if you object to processing or consider that we are processing it unlawfully. We will consider such requests and if we refuse, we will give reasons.

5. Section 8 added 12.0718



Private and Confidential

Code of Conduct Complaint Monitoring Form

The Broads Authority is committed to the provision of equal opportunity and specifically to conducting its affairs in a manner which will not discriminate against, either directly or indirectly, any person on the grounds of: disability; gender; transgender; race; ethnic or national origin; religion or belief; age or sexual orientation.

To help us meet this commitment, it would be helpful if you would complete this form. This monitoring form will be separated from your complaint on receipt and will be used solely for the purposes of monitoring the process.

Section 1 (please tick the boxes which apply)

My age is:	Under 21	<input type="checkbox"/>
	21-30	<input type="checkbox"/>
	31-40	<input type="checkbox"/>
	41-50	<input type="checkbox"/>
	51-60	<input type="checkbox"/>
	61-64	<input type="checkbox"/>
	65 or over	<input type="checkbox"/>

My gender is:	Female	<input type="checkbox"/>
	Male	<input type="checkbox"/>

Section 2 (please tick one box only)

I would describe myself as:	White:	British	<input type="checkbox"/>
		Irish	<input type="checkbox"/>
		Any other	<input type="checkbox"/> please write in

Mixed:	White and Black Caribbean	<input type="checkbox"/>
	White and Black African	<input type="checkbox"/>
	White and Asian	<input type="checkbox"/>
	Any other	<input type="checkbox"/> please write in

Asian or Asian British:	Indian	<input type="checkbox"/>
	Pakistani	<input type="checkbox"/>
		<input type="checkbox"/>

	Bangladeshi Any other	<input type="checkbox"/> please write in
Black or Black British:	Caribbean African Any other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> please write in
Chinese or other ethnic group:	Chinese Any other	<input type="checkbox"/> <input type="checkbox"/> please write in

Section 3		
Do you consider yourself to have a disability*?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Thank you for your co-operation. Please return this form with your complaint.

*The Equality Act 2010 defines disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities'.

Criteria for consideration of a complaint by Monitoring Officer

In deciding whether to accept or reject a complaint of breach of the Code, or to refer it to the Local Resolution Procedure, the Monitoring Officer has a wide discretion. He or she will take into account the following criteria, where relevant.

- Public interest factors including the seriousness of the alleged breach, whether there has been any breach of trust, the extent of any harm caused and whether there has been any discrimination.
- Proportionality by balancing the seriousness of the allegation against the resources required to investigate the allegation
- Whether there are any aggravating factors or significant mitigating factors
- Whether a prompt acknowledgment and apology has been offered
- Whether the complaint is one of a pattern by or against a Member
- Whether the complaint appears to be malicious, frivolous or vexatious
- Whether the complaint suggests that there is a wider problem as affects the Authority
- Whether training or conciliation would be the appropriate response
- Whether either the complainant or subject Member has indicated a preference for Local Dispute resolution

Criteria for determination as to whether a complaint is frivolous or vexatious

At the Initial Assessment Stage, the following criteria shall be used in determining whether a complaint is frivolous or vexatious:

- Whether the matters complained of occurred more than 3 calendar months earlier and if so whether any reason given for a delay in making the complaint is sufficient.
- Whether the complaint appears to be of “tit for tat” nature in that for example, the complainant has themselves been the subject of a complaint by the subject member.
- Whether in less-serious cases, the matter has already been the subject of reasonable and sufficient attempts by the subject member to apologise and make amends for any behaviour complained of.
- Whether the complainant has made other complaints under the Members’ Code of Conduct. If so, the number, nature and subject matter of those complaints will also be considered.
- Whether the subject matter of the complaint is a trivial matter out of proportion to its significance.
- Whether the complainant has adopted a “scattergun” approach: pursuing a complaint with the Authority and at the same time, with any number of the following such as a Member of Parliament, the Authority’s independent auditor, National Audit office, Government department, local police, solicitors, media and on social media.
- Whether the complaint arises from facts which have been the subject of a prior determination by a decision-making body.
- Whether the content of the complaint includes gratuitous comments about the subject Member or other third parties which could be considered insulting, abusive or defamatory in nature.