

Committee: FULL COUNCIL

Date: 16 May 2023

Title: Code of Conduct

Purpose of Report

For Members to review the Code of Conduct

Recommendation:

Members resolve to readopt the current Ilminster Town Council Code of Conduct for Ilminster Town Council.

Background

1. The Town Council's existing Code of Conduct was introduced in May 2022. The report was submitted to Members of the council detailing the reasons behind the revised Code of Conduct that they were being asked to adopt. This report can be made available to any Members should they require a further copy.
2. The Localism Act of 2011 introduced arrangements to regulate the conduct of members of local councils, the registration and disclosure of certain interests and how complaints about how their conduct are handled.¹
3. There was a requirement that all councils should adopt its own Code of Conduct which members should adhere to when discharging their duties in an official capacity. Members are required to promote and maintain high standards of conduct.²
4. It was required that the Code should be consistent with the 7 Nolan Principles of standards in public life. These principles being;
 - Selflessness,
 - Integrity,
 - Objectivity,
 - Accountability,
 - Openness,
 - Honesty
 - Leadership

¹ The statutory provisions are contained in sections 26-34 of the 2011 Act and Schedule 4.

² S.27(1), s.27(2)

5. It was also advised that any code should also contain provisions which the authority considers appropriate in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests.³
6. There were to be no statutory sanctions such as suspension or disqualification that could be applied to elected councillors. As a result of this there have been numerous documented cases of councillors around the country falling short of the expected required standards, but it did mean that there were no suitable sanctions to apply when they have been found guilty of breaches of their own council's codes of conduct.
7. One of the by-products of this has been a failure of councils to attract quality candidates when vacancies have arisen.
8. The Local Government Association (LGA) created an updated model Code of Conduct and this was published in December 2020.
9. Within the 2011 Act it states that a relevant authority's function of adopting, revising, or replacing a code of conduct may be discharged only by the authority, not by a committee or officer.⁴ A relevant authority must publicise its adoption, revision, or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision, or replacement of the code of conduct to the attention of persons who live in its area.⁵
10. Subject to the provisions referred to in paragraphs 3 and 4 above, Ilminster Town Council was free to decide the form and content of the new code of conduct that it adopted.
11. The Act provided that a parish council may adopt the same code of conduct adopted by its principal authority in Ilminster Town Council's case this is now Somerset Council.
12. The principal authority is exclusively responsible for receiving, investigating and deciding code of conduct complaints which relate to the members of parish councils in their area.
13. If Somerset Council decides that a member(s) of Ilminster Town Council has breached its code of conduct, it cannot take action directly against that/those member(s) of the parish council.⁶
14. Somerset Council's powers are limited to censuring them subject to making recommendations that Ilminster Town Council takes a course of action in respect

³ Sections 28 (1) and (2)

⁴ s.28(13)

⁵ s.28(12)

⁶ Section.28 (11)

of the member. Although any such recommendation is not binding, Somerset may recommend, for example, that the Town Council removes the member(s) from a committee or that it asks its member(s) to attend training or to apologise.

15. It should be noted that any Ilminster Town Council decision would not be invalidated because 'something that occurred in the process of making the decision involved a failure to comply with the code.'⁷

REPORT

16. The current Code of Conduct is attached to this report as **Appendix 14A**. References to SSDC have been removed to take into account the new Somerset Council's role in determining breaches of the Code of Conduct.
17. The model code that has been put forward by the LGA is similar to the proposed Ilminster code in many ways, but there are also differences, the main being outlined below:
 - Introduction – the model code is more generic and references the LGA, whereas our code would be more specific to the council and the relevant legislation
 - Interests – information about registering interests, participating in a meeting where a member has an interest, and disclosure of interests is included as an appendix and should be incorporated as such
 - Dispensations – practical guidance about how members should apply for a dispensation is in our existing code and should be added into the model
 - Sanctions and voluntary code – sanctions are available if a councillor breaches the code but are not mentioned in the model and should be included. This would allow the council to adopt a voluntary code. As stated, the statutory sanctions are very limited introducing voluntary ones does send a strong message of agreement and alignment to the Nolan Principles.
 - Corruption – this is not in the model and should be included
 - Use of financial resources – this is not in the model and should be included
 - Relationships – this is not in the model and should be included
 - Employment matters – this is not in the model and should be included

⁷ Section 28 (4)

18. When considering the Model Code that is provided by the principal authorities there are aspects that whilst not enforceable under any statutory provision do require members to act in a manner that reflects the Nolan Principles with outcomes that are punitive
19. The proposed code does provide additional clarity and information over what is acceptable and what is not acceptable
20. The investigative process into breaches of the Code of Conduct is not altered. The findings as to whether a breach has occurred will be judged by the Monitoring Officer or an independently appointed individual. They will still report to the council their findings and issue the sanctions that they can. It would then be for this council to decide if it wishes to apply further sanctions based on the voluntary ones proposed.
21. One can argue that because they are not enforceable legally that there is no point having voluntary sanctions. The counter argument to this is that a member who has been judged to be in breach of the Code of Conduct and who then fails to accept the sanction that is applied by his/her own peers will be judged accordingly at the ballot box.
22. In combination with the Civility and Respect project that Ilminster has signed up to alongside the current Code of Conduct sends a strong message that it will not accept inappropriate behaviour.
23. It is proposed Members readopt the new the current Code of Conduct.

**Mark Tredwin
Town Clerk
May 2023**