

5.1 Members' Code of Conduct

INTRODUCTION

Set out below is the Members' Code of Conduct adopted by the Council on the 30 April 2007.

The Code sets out standards of conduct which Members must observe. It also sets out the rules for the declaration of interests at meetings and also provides for the maintenance of a register of Members' interests.

There is a statutory duty on requiring Members, and co-opted Members, to give a written undertaking within two months of the adoption of the Code that in performing their functions they will observe the Code otherwise they will be deemed to vacate their office at the end of that period. In the case of Members elected after the adoption of the Code, then until a Member or co-opted Member has signed the undertaking they may not act in the office of Councillor. The undertaking will normally be signed as part of the Declaration of Acceptance of Office.

There is a wide range of sanctions which can be applied for breach of the Code, the enforcement of which will be under the supervision of the Standards Board for England.

MEMBERS' CODE OF CONDUCT

PART 1

GENERAL PROVISIONS

Introduction and interpretation

1. (1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the
Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
 - "meeting" means any meeting of—
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) any of the authority's or its executive's committees, sub-

committees, joint committees, joint sub-committees, or area committees;

(d) any working group established by Council or an Overview and Scrutiny Meeting of Council

"member" includes a co-opted member and an appointed member.

- (5) In relation to a parish council, references to the authority's monitoring officer and the authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the Borough Council which has functions in relation to parish councils for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs 2 – 5 you must comply with this Code whenever you:-

- (a) conduct the business of the authority (which in this code includes the business of the office to which you are elected or appointed);
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity shall be construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:-
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General Obligations

- 3. (1) You must treat others with respect.
- (2) You must not
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 4. You must not:-
 - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
 - (i) you have the consent of a person authorised to give it,
 - (ii) you are required by law to do so; or
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is
 - (aa) reasonable and in the public interest;
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority;
 - (aa) The Authority requires that information given in confidence or of a confidential nature is not disclosed by you unless and until you have taken legal advice from the Council's Monitoring Officer upon disclosure of the information.

- (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You:-
 - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority:-
 - (i) act in accordance with the authority's requirements;
 - (ii) ensure that such resources are not used for political purposes (including party political purposes); and
 - (iii) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
 - (a) your authority's chief finance officer; and
 - (b) your authority's monitoring officer;where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART 2

INTERESTS

Personal Interests

- 8. (1) You have a personal interest in any business of your authority where either-
 - (a) it relates to or is likely to affect-
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—

(aa) exercising functions of a public nature;
(bb) directed to charitable purposes; or
(cc) 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;

- (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body which has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in paragraph (vi) is the tenant;
 - (xi) any land in the authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers

or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of Personal Interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) When you have a personal interest in an business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only to disclose to the meeting the existence and nature of that interest which you address the meeting on that business.
- (3) Where you have a personal interest of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where, you have a personal interest but, by virtue of paragraph 14, sensitive information relating to a member is not registered in the authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to that meeting.
- (6) Subject to paragraph 12(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interests generally

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8; or
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8;
 - (c) relates to the functions of your authority in respect of-
 - (i) housing where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals, or school transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to Overview and Scrutiny Committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interest on participation

12. (1) Subject to sub-paragraph (2) below, where you have a prejudicial interest in any business of your authority :-
- (a) you must withdraw from the room or chamber where a meeting is being held
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from the authority's standard's committee;
 - (b) you must not exercise executive functions in relation to that matter; and
 - (c) you must not seek improperly to influence a decision about that matter.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or a sub-committee of such a committee), but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART 3

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

13. (1) Subject to paragraph 14, you must, within 28 days of
- (i) this code of conduct being adopted by or applied to your authority or
 - (ii) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a) by providing written notification to your authority's Monitoring Officer;
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change in any personal interest registered under paragraph (1), register details of that new personal

interest or change by providing written notification to your authority's monitoring officer.

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Town Hall
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