

STANDARDS COMMITTEE – SPECIAL MEETING

6 September 2012

LOCALISM ACT 2011 – NEW CODE OF CONDUCT

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

Contact Officer: Stephen Whetnall/Chris Ashcroft Tel No: 01962 848 220 or 848 284

RECENT REFERENCES:

ST91 – Localism Act 2011 (Standards Committee – 30 January 2012)

CAB2302 – Localism Act 2011 (Cabinet – 14 March 2012)

CAB2308 – Localism Act 2011 – Code of Conduct and Related Matters (Cabinet - 11 April 2012)

CAB2368 – Localism Act 2011 – Code of Conduct – Update – 4 July 2012

EXECUTIVE SUMMARY:

The Council adopted interim arrangements for the Code of Conduct and related matters at its meetings on 18 April 2012 and 18 July 2012.

This report gives an update on the current position and recommends a replacement Code of Conduct. This draws on templates produced by the LGA, DCLG and also considers the approach taken by Hampshire County Council on its new Code. Options in respect of possible approaches are outlined.

The report also includes the new Guidance issued by the DCLG on 3 August 2012.

## RECOMMENDATIONS:

1. That the Committee reviews the draft replacement Code of Conduct in Appendix 3, together with the optional issues identified in the report, and considers whether to recommend it, together with any adjustments, for adoption by the Council.
2. That the Register of Interests Form be restricted to the statutory requirements for disclosable pecuniary interests, plus gifts and hospitality of at least £50.
3. That guidance continues to be issued to City Councillors to complete an annual update of the Register of Interests Form.
4. That, in the interests of openness and transparency, the Code continues to make provision for the declaration of personal and prejudicial interests at meetings, in addition to the minimum statutory requirements for disclosable pecuniary interests.
5. That all Town and Parish Councils be advised to adopt the Register of Interests Form and Code adopted by the City Council and that the Corporate Director (Governance) be authorised to make any consequential editing adjustments to provide templates for use by them.
6. That the future training and work programme as outlined in paragraph 9 of the report be noted.
7. That the date Members are required to complete the new Register of Interests Form be extended from 14 September 2012 to 19 October 2012, because of the delay caused by the issue of the DCLG Guidance and to permit the Committee to give guidance on any voluntary elements beyond the statutory requirements.

## STANDARDS COMMITTEE – SPECIAL MEETING

6 September 2012

### LOCALISM ACT 2011 – NEW CODE OF CONDUCT

#### REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

##### DETAIL:

##### 1 Introduction

- 1.1 At its meeting held on 30 January 2012, the Standards Committee gave guidance on its preferred approach to the requirements for a new Code of Conduct, following the changes in the Localism Act 2011 which abolished the existing arrangements from 1 July 2012. There was an aspiration that there should be some consistency across councils to avoid problems where Members who were on more than one authority might need to follow different arrangements. This would also create confusion for the public as to what the appropriate standards should be.
- 1.2 In the absence of such an approach, the Committee expressed the view that any interim arrangements should, as far as the new regulations would allow, follow existing practice. The Committee also recommended that the Council should continue to appoint a Standards Committee.
- 1.3 The Council approved the interim arrangements set out in Report CAB2308 at its meeting on 18 April 2012 and these were substantially confirmed at the Council meeting on 18 July 2012. The Council also appointed the Standards Committee at its Annual Meeting on 16 May 2012.
- 1.4 At one stage, no national guidance was to be issued, as the principle behind the Localism Act was that each council could determine its own code. However, both the Local Government Association (LGA) (Appendix 1) and the Department of Communities and Local Government (DCLG) (Appendix 2) have produced short codes of one page approx. for consideration - despite having previously indicated that they did not intend to do so. The National Association of Parish Councils (NALC) has also produced a code, as has the Association of Council Secretaries and Solicitors. All are different. All the versions required additional content to take account of national requirements in the yet to be issued Regulations and any local measures.
- 1.5 From a practical point of view, it was not possible to make sensible arrangements until the Government issued the Regulations which would affect the additional minimum content required in the new Code. These were only made on 6 June 2012.

- 1.6 At the meeting on 18 July 2012, the Council decided that its interim arrangements would be to continue with the existing Code of Conduct, save to the extent that the new requirements in the Regulations for disclosable pecuniary interests would take precedence. The Standards Committee would then consider proposals for the replacement Code of Conduct. The Council also decided that the Leader, Portfolio Holder for Finance and Administration, Leader of the Opposition and Chairman of The Overview and Scrutiny Committee would also be invited to the meetings of the Standards Committee, to give input when it considers the proposals for a replacement for the Code of Conduct.
- 1.7 The potential for a lack of a consistent approach was raised at the Hampshire and Isle of Wight Association at its meeting on 22 June 2012. In view of the late availability of the guidance and regulations, it was recognised that councils were having to make their own individual arrangements to comply with the 1 July 2012 commencement date. However, the County Council Head of Legal Services offered to look at approaches taken, to see if there was a way of achieving a more common approach at a later stage.
- 2 Development of New Code
- 2.1 Now that the national Model Code of Conduct has been abolished, S27 Localism Act 2011 places a duty on each council to promote and maintain high standards of conduct, by both Members and co-opted members of the City Council and to adopt a Code of Conduct to deal with the expected conduct when those Members are acting in an official capacity.
- 2.2 S28 of the Act requires that a code must, as a whole, be consistent with the following principles:
- (a) selflessness;
  - (b) integrity;
  - (c) objectivity;
  - (d) accountability;
  - (e) openness
  - (f) honesty;
  - (g) leadership.
- 2.3 The principles are derived from the Nolan Report – though interestingly are differently worded and reduced in number from the 10 principles in the former model code.

- 2.4 The Act also requires councils to secure that the new code includes the provisions the Council considers appropriate in respect of the registration and disclosure of pecuniary and non-pecuniary interests. This is important – the Act recognises that additional local measures going beyond the scope of the Regulations are likely to be required on the disclosure of non-pecuniary interests.
- 2.5 Subject to the above, each council is free to adopt its own code.
- 2.6 At its meeting held on 19 July 2012, the County Council adopted its own new Code. This has been used as far as possible as the basis for the City Council's proposed Code. Any material changes from the approach being adopted by the County Council are identified in the relevant sections of the report below.
- 2.7 Appendix 3 contains a suggested draft for the Winchester City Council Code. Parts 1 to 4 substantially follow the County Council version.
- 2.8 For comparison purposes, Appendix 4 is the City Council Model Code of Conduct which applied until 30 June 2012.
- 2.9 The Council will also have to consider any consequential amendments to its Council Procedure Rules regarding declarations of interests at meetings and whether the Member has to leave the room. This will be the subject of a further report taking account of any decisions made here, or it could be progressed via officer delegation if there was general agreement about the overall approach.
- 3 Part 1 – General Provisions and Interpretation
- 3.1 This is largely based on the Hampshire version – which combines elements from the DCLG and LGA versions. It sets out the general principles of conduct expected from Members. This version covers the elements required in a code.
- 4 Parts 2 and 3 - Disclosable Pecuniary Interests
- 4.1 The 2011 Act and Regulations define a new category of “disclosable pecuniary interests”. Such interests:
- (a) have to be included in the Register of Interests Form.
  - (b) must be disclosed at meetings or in relation to any Portfolio Holder decision – and it prevents participation in the meeting or decision.
- 4.2 It is important to note:
- (a) the interests are those of both the Member and any spouse, civil partner or person they are living with in a similar capacity. This is different to the previous Register of Interest Form which only required the details of the

Member to be included. Interests of children in the same household are not included.

(b) the new Register Form will have to be published on the Council's website.

(c) failure to complete the Form or to make the declaration and leave the meeting can constitute a criminal offence and be dealt with by the police/courts rather than under the Council's Standards complaints procedures. On conviction, the Court can impose a fine of up to £5,000 and impose a disqualification from being a councillor for a period of up to five years.

- 4.3 The DCLG on 3 August 2012 issued guidance to councillors on disclosable pecuniary interests and completion of the Register. This is attached as Appendix 5.
- 4.4 At its meeting on 18 July 2012, the Council authorised the Corporate Director (Governance) to produce a form based on the minimum statutory requirements for 2012/13. As the DCLG subsequently announced that guidance on the form would be issued in August 2012, he waited until that was available before sending the form to Members.
- 4.5 The transitional regulations do not make specific provision for when a form has to be completed this year. It is required within 28 days of accepting office – which has already passed. It is also required within 28 days of making a declaration at a meeting or in respect of a Portfolio Holder decision. From a practical perspective and for transparency, Council recommended that all Members complete the new forms by 14 September 2012. However, in view of the delay, this Committee is asked to extend that date to 19 October 2012.
- 4.6 Should the Council wish to make voluntary additions to the Form when it adopts its new Code, then that can be for 2013/14 onwards. Alternatively, this Committee could give instructions on any additions for 2012/13 as it is now planned to send out the form after this meeting. Further detail on the options available is given in Section 5 of the report below.
- 4.7 The County Council version of the Code goes beyond the minimum statutory requirements and requires a person to leave the room after declaring a disclosable personal interest. This is also included in the Winchester version.
- 4.8 However, the County Council version of the Code currently still allows a Member to address a meeting in public participation, if they had a disclosable pecuniary interest in a matter, and then leave the room before debate. This is similar to the position in the last version of the former code. An example would be a member addressing the Planning Committee on his own application. However, it is open to interpretation as to whether the Localism Act 2011 and the regulations specifically authorise this – and so it has been left out of the Winchester draft Code. This accords with the DCLG Guidance issued after the County Code was prepared. The provision for addressing meetings is still

made for non pecuniary interests in Part 8 of the Winchester draft Code – as it is clear this is within the Council's discretion.

## 5 Additional Voluntary Registrations

- 5.1 The former model code contained additional provisions on membership of outside bodies etc and for declarations of gifts and hospitality. The Council could decide whether to include additional items on its Register of Interests Form. Failure to comply would not be subject to potential prosecution as for disclosable pecuniary interests on the statutory part of the form. Instead it would be a potential issue for complaint to the Standards Committee.
- 5.2 With regard to **Outside Bodies etc**, on the form under the previous Code this applied to membership of bodies:
- (i) to which the Council had appointed you or
  - (ii) which exercised functions of a public nature or
  - (iii) which were directed to charitable purposes or
  - (iv) one of whose primary purposes included the influence of public opinion (eg political parties; trades unions).
- 5.3 The County Council decided not to include this information as a requirement on the form, as it was no longer statutorily required and Members could put it on their web pages. They also had an option that Members could add the information to the public register if they so wished. The City Council could also consider this approach.
- 5.4 However, it will be helpful in encouraging Town and Parish Councils to comply with the form if it did not include this element. This would also ease the problems of updating websites, as these elements may change more frequently than other aspects of the form. If Winchester does introduce a voluntary element for its form, this can be taken into account after the Committee meeting, as the forms will need to be sent out before Council on 27 September 2012. Any changes after Council can be addressed in the May 2013 update for City Councillors.
- 5.5 If a voluntary element is added, then this should not be a formal requirement in the Code. An alternative is that the Code requires the additional elements required by the old Register Form and restricts it to Members only, rather than interests of spouses/partners.
- 5.6 However, such wider interests may still be declarable at meetings and affect participation – depending upon the approach the Council adopts to non-pecuniary interests in Section 6 of the report below.

- 5.7 A variation is suggested to the County Council version. The Localism Act does not require any details of a disclosable pecuniary interest to be given when making declarations at meetings, if they have already been put on the Register. However, it would be in the interests of transparency if the nature of the interest was reported at the meeting. As with the interest form itself, this is at a level that would make the link apparent and does not require any specific financial details. The draft Winchester Code makes provision for this.
- 5.8 The County Council version goes beyond the statutory provisions for when a Member has to complete the form and requires all new disclosable pecuniary interests to be registered within 28 days. This is appropriate as it is linked with openness and transparency. It also complies with the new DCLG guidance. The City Council version also contains this requirement. In addition, it is the Council's current practice that all Winchester City Councillors are asked to complete a new form each year, in accordance with the guidance we received from District Audit. This minimises the risk that entries will be left on the register inadvertently. Parishes have been given similar advice in the past, but most only comply with the minimum legal requirements. Annual updating is best practice guidance, rather than a requirement in the Code itself.
- 5.9 With regard to registering **Gifts and Hospitality**, although this was no longer a statutory requirement, the County Council decided that in the interests of transparency this provision should still be included – though set a minimum threshold of £50.
- 5.10 The former model Code had a statutory minimum level of £25 which dated from 2000. Having regard to this, £50 is also a more appropriate registration level in the City Council context and this is suggested in Part 4 of the Draft Code in Appendix 3.

## 6 Other Non-Pecuniary Interests - Personal and Prejudicial

- 6.1 The County Council decided to adopt a short provision which left any declarations of this type to the individual discretion of the Member concerned. Determination of the need for any requirement to leave the meeting in the event of a potential conflict of interest was also left to the discretion of the individual Member.
- 6.2 This does not follow the approach adopted by the City Council in its interim arrangements, which continued with the practice in the current Code of declarations of personal and prejudicial interests, as modified by the need to declare disclosable pecuniary interests under the new Regulations. Continuing with this approach would provide greater guidance and more consistency between Members. The draft Winchester Code in Appendix 3 has been prepared on this basis. Parts 5 to 9 deal with this aspect.
- 6.3 There is a need to have some provisions for disclosure and, in some instances, non-participation in matters where a Member does not have a disclosable pecuniary interest under the Regulations. For example, the Regulations would not prevent a Member from participation in a daughter's



planning application or in making a grant to a voluntary body on which they had a role on the management committee in submitting the application. The Act asks councils to consider whether such additional requirements are necessary in their new Code.

- 6.4 Members still need to consider whether the law of bias and predetermination would prevent participation in meetings – notwithstanding any declarations required by the Code. The two requirements overlap, but were not defined in the Code itself. It is proposed that this still be the case and the Code does not make specific provision for common law bias/predetermination. However, Member training will still cover the issue – taking account of the fact that S25 of the Localism Act 2011 now makes specific provision that, of itself, a prior indication of a view is not to amount to pre-determination. However, that section does not remove all concerns about pre-determination, as a Member cannot have a closed mind to a matter and must not be involved in certain quasi-judicial issues if another role he/she may have would demonstrate potential bias.

## 7 Scrutiny

- 7.1 It is also proposed to continue with the arrangement in the former Code for Portfolio Holders to declare interests in decisions where they had an involvement at scrutiny meetings – and for the Scrutiny Committee to decide whether it was appropriate for them to remain.

## 8 Position of Town and Parish Councils

- 8.1 Originally NALC produced another template for a Code. However, given the current uncertainties arising from the different approaches being taken at national level, parishes in Hampshire have been advised by their local association to follow the Code adopted by their District Council.
- 8.2 It is understood that concern has been expressed in some parishes about the extension of the register form to require interests of spouses/partners, as well as for the Member. There is a fear this may discourage applicants coming forward for the parish councillor role. However, this is beyond the control of the City Council, but it does support the reason for not making the register form go beyond the minimum requirements for outside bodies etc. Parishes can then use the same form as the District Council.
- 8.3 The Council needs to recommend that parishes adopt the same Code as the District Council, so that a consistency of approach can be achieved.

## 9 Future Training and Work Programme

- 9.1 Once the Council has adopted its new code, a training evening will be organised to brief Members in more detail. There will be an option of two dates to gain full attendance. A training session will also be held for parishes.

- 9.2 The remaining work programme for the Standards Committee will be considered during the Autumn, but will include the following:-
- (a) whilst the continuation of the interim arrangements for handling complaints was approved by Council on 18 July 2012 (CAB2368 refers, the arrangements will need to be reviewed to consolidate the documentation.
  - (b) the Council Procedure Rules will need updating to reflect any provisions in the adopted new Code on declarations of interests and requirements to leave the room.
  - (c) the Council's local protocols on conduct will also need to be reviewed and updated where necessary. Examples are the Protocols on Planning, Gifts & Hospitality and Member Participation in Grant-aided applications.

#### OTHER CONSIDERATIONS:

#### 10 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

An Efficient and Effective Council.

#### 11 RESOURCE IMPLICATIONS:

- 11.1 In 2012/13 time spent at senior level in introducing the new arrangements will impact on the amount of time available for other Council priorities. There will be more ongoing administrative work in maintaining the register for the District and the parishes because of the new requirement to place the information on the web.
- 11.1 The Government may consider that giving councils the option to chose its own code content will potentially reduce the amount of resource needed to handle complaints. However, whether this has an impact in practice remains to be seen. Streamlining the complaints process is more likely to be productive in containing the resource requirement. CAB2368 already has made some changes in this regard. The key will be the filtering process to ensure that only serious issues are approved for full investigation. An alternative will be to offer general advice on the issues potentially involved, rather than going to a full investigation/hearing in all but the most serious cases. This is particularly the case as suspension/disqualification are no longer available as sanctions and censure for breach of the code is the most stringent remedy now available to the Standards Committee.
- 11.2 It is not proposed that additional staffing resources are made available, given the current economic situation. This means that there may be an impact from time to time on other Council priorities – or on the time taken to process complaints.

## 12 RISK MANAGEMENT ISSUES

- 12.1 The changes outlined in this report are a prudent risk management measure for the Council to comply with its obligations under the Localism Act 2011 from 1 July 2012. Other changes can be considered later in the Municipal Year as further work is undertaken.
- 12.2 In considering this report, the Council is able to consider additional voluntary measures in the Code beyond the minimum required in the Regulations, if it is considered desirable for transparency and ethical reasons. The minimum requirements of the legislation will be exceeded if the proposals in the report are adopted.

### BACKGROUND DOCUMENTS:

File held in Democratic Services

### APPENDICES:

Appendix 1 – LGA – Suggested template

Appendix 2 - DCLG – Suggested template

Appendix 3 – Draft Code for Winchester City Council

Appendix 4 – Winchester City Council – Model Code which applied until 30/6/12

Appendix 5 – DCLG Guidance – 3 August 2012

## Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## **Appendix 2 DCLG Template**

### **Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

#### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours,

your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

# WINCHESTER CITY COUNCIL

## DRAFT CODE OF CONDUCT FOR MEMBERS

### Part 1: General Provisions and Interpretation

#### 1. Introduction

This Code of Conduct is adopted by the City Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. This Code applies to all Members and Co-opted Members of the Council.

This Code is based on and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership as referred to in the Localism Act 2011.

In the interests of transparency and openness, and in accordance with the requirements of the Localism Act 2011, a copy of the Register of Members' Interests is published on the Council's website, and is available for public inspection at the City Council's offices at all reasonable hours.

#### 2. Scope

This Code applies to all Members and Co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council. References in this Code to "Member" shall also be interpreted to include co-opted Member.

Where a Member is a member of more than one local authority, but acting on behalf of the Council, such Member is, for the avoidance of doubt, bound by this Code of Conduct.

#### 3. General obligations of Members and Co-opted Members

As a Member of Winchester City Council, your conduct will address the principles of the Code of Conduct by:

- 3.1 Representing the needs of residents, and putting their interests first.
- 3.2 Dealing with representations or enquiries from residents, members of communities within the administrative area of Winchester City Council and visitors fairly, appropriately and impartially.



- 3.3 Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Council's area, or the good governance of the Council in a proper manner.
- 3.4 Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- 3.5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 3.6 Being accountable for your decisions and co-operating when scrutinised internally and externally.
- 3.7 Contributing to making the Council's decision-making processes as open and transparent as possible.
- 3.8 Restricting access to information when the wider public interest, the Council's Constitution, or the law requires it.
- 3.9 Behaving in accordance with all the Council's legal obligations, alongside any requirements contained in the Council's policies, protocols and procedures relating to conduct.
- 3.10 Ensuring that when using or authorising the use by others of the resources of the Council that such resources are not used improperly for political purposes.
- 3.11 Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- 3.12 Not knowingly doing anything which might cause the Council to breach any legislation.
- 3.13 Valuing your colleagues and Officers of the Council and engaging with them in an appropriate manner.
- 3.14 Always treating all people and organisations with respect and propriety.
- 3.15 Providing leadership through behaving in accordance with these principles.

## **Part 2: Disclosable Pecuniary Interests**

### **1. Introduction**

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself; or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

### **2. Interpretation**

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- 2.3 'director' includes a member of the committee of management of an industrial and provident society;
- 2.4 'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Winchester City Council of which M is a member;
- 2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification of a disclosable pecuniary interest for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;
- 2.9 '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.

### 3. Schedule of Disclosable Pecuniary Interests

<b>Subject</b>	<b>Prescribed description</b>
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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant 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	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (along or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either:

	<p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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## **Part 3: Registration and Disclosure of Disclosable Pecuniary Interests**

### **1. Obligations**

- 1.1 You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 2 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 1.2 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.
- 1.3 If you have a disclosable pecuniary interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent.
- 1.4 If a disclosable pecuniary interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present where you have such an interest in any matter being considered. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. Following disclosure of a disclosable pecuniary interest not on the Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.

- 1.5 Unless a dispensation has been granted by the Standards Committee, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must as soon as it becomes apparent that you have such an interest withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a portfolio holder you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

#### **Part 4: Registration of Gifts and Hospitality**

1. You must, within 28 days of receipt, notify the Council's Monitoring Officer of any gift or hospitality you receive, if such gift or hospitality has an estimated value of at least £50.

#### **Part 5: Non Pecuniary Interests – Personal and Prejudicial Interests**

1. Without prejudice to requirements contained at Part 3 of this Code in respect of the registration and disclosure of pecuniary interests, this Code requires that other non-pecuniary interests may still need to be declared and may affect participation in the business of the Council.
2. A declaration needs to be made in respect of personal interests for reasons of openness and transparency.
3. If that personal interest is also a prejudicial interest then there may be a conflict of interest which prevents the Member from participating in the decision.
4. For the avoidance of doubt, the statutory requirements in respect of disclosable pecuniary interests, take precedence and apply in place of the Council's additional requirements in the Code for personal and prejudicial interests.

#### **Part 6: Personal interests**

1. You have a personal interest in the business of the Council when it relates to or is likely to affect:
  - 1.1 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 the Council.
  - 1.2 any body
    - (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);

of which you are a member or in a position of general control or management

- 1.3 any employment or business carried on by you other than for profit or gain;
- 1.4 any person or body who employs you, or who has appointed you, other than for profit or gain;
- 1.5 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 in the last three years;
- 2. You also have a personal interest in the business of the Council when 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 (as defined at paragraph 3) below, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward within the administrative area of the Council affected by the decision;
- 3. In Paragraph 2, a “relevant person” is:
  - 3.1 your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest; or
  - 3.2 another member of your family, or any person with whom you have a close association, where you are aware that that other person has the interest; or
  - 3.3 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; or
  - 3.4 any person or body in whom to the Member’s knowledge such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000: or
  - 3.5 any body of a type described in paragraph 1.1 or 1.2 above.

## **Part 7: Disclosure of Personal Interests**

- 1.1 Subject to paragraphs 1.2 to 1.5 below, where you have a personal interest in any business of the Council you must disclose this interest at any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present. Such

interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent.

- 1.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in Part 6 paragraphs 1.1 or 1.2 (a) above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 1.3 The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 1.4 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision (portfolio holder decision notice) records the existence and nature of that interest.
- 1.5 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.

## **Part 8: Prejudicial Interests**

### **1. Definition of Prejudicial Interest.**

Subject to paragraph 2 below, where you have a personal interest in any business of the Council, you also have a prejudicial interest in that business when 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 your judgement of the public interest.

### **2. Limitation on extent of prejudicial interests**

- 2.1 You do not have a prejudicial interest in any business of the Council where that business does not affect your financial position, or the financial position of a body or relevant person as described in Part 6 of this Code; or
- 2.2 does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or a body or relevant person as described in Part 6 of this Code; or
- 2.3 relates to the functions of the Council in respect of
  - (a) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;

- (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of or are entitled to the receipt of such pay;
- (c) an allowance, payment or indemnity given to members;
- (d) any ceremonial honour given to Members; and
- (e) setting council tax or a precept under the Local Government Finance Act 1992.

### **3. Prejudicial interests arising in relation to Overview and Scrutiny Committees**

You also have a prejudicial interest in any business before an Overview and Scrutiny Committee of the Council (or a Sub-Committee of such a Committee) where:

- 3.1 that business relates to a decision made (whether implemented or not) or action taken by the Executive, or another of the Council's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- 3.2 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 as mentioned in paragraph 3.1 above, and you were present when the decision was made or action was taken.

## **Part 9: Effect of Prejudicial Interests on Participation**

- 1.1 Unless a dispensation has been granted by the Council's Standard's Committee, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a prejudicial interest (as set out at Part 7 of this Code), and must as soon as it becomes apparent that you have such an interest (save for in circumstances set out at paragraph 2.2 below) withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a single Executive member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.
- 1.2 Without prejudice to paragraph 2.1 above, where you have a prejudicial interest in any business of the Council (including any meeting of an Overview and Scrutiny Committee of the Council) you may, notwithstanding such prejudicial interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business, provided members of the public are



also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

- 1.3 For the avoidance of doubt the procedure in paragraph 2.2 above cannot be used by the member where the interest comes within the statutory definition of a disclosable pecuniary interest.
- 1.4 In any case where paragraph 2.2 above applies, you must withdraw from the room immediately after making representations, answering questions, or giving evidence, unless in the case of an Overview and Scrutiny Committee, the Committee invites you to remain.

## **Part 9: Sensitive Information**

- 1.1 A sensitive interest is described in the Localism Act 2011 as a member or co-opted member of the Council having an interest, and the nature of the interest being such that the member or co-opted member, and the Council's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with them, being subject to violence and intimidation.
- 1.2 A sensitive disclosable pecuniary interest or a change to such an interest need not be included on the Register of Members' Interests, but you may state that there is an interest the details of which are withheld under S32 Localism Act 2011.
- 1.3 Within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 1.2 is no longer sensitive information, you shall notify the Council's Monitoring Officer asking that the information be included in the Register of Members' Interests.
- 1.4 Any requirements in this Code for the declaration of an interest at meetings shall be met by not giving details of the sensitive interest but by stating that you have a disclosable pecuniary interest or a personal/prejudicial interest in the matter concerned.

# THE MODEL CODE OF CONDUCT FOR WINCHESTER CITY COUNCIL

## 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;  
    "member" includes a co-opted member and an appointed member.  
(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

#### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you  
    (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or  
    (b) act, claim to act or give the impression you are acting as a representative of your authority,  
and references to your official capacity are 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, your authority.
  - (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
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;
    - (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; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (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 your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must 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; or
  - (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 or body, 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 who 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 person or body of the description specified in paragraph (vi) is, the tenant;
    - (xi) any land in the authority's area for 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
    - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
    - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision;

or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(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) Where you have a personal interest in any 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 disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority 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 it is not registered in your 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 the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you 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 Interest 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 your 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;

(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; or

(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 you are a parent or guardian of a child in full time education, or are a parent governor of a school, 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 you are in receipt of, or are entitled to the receipt of, such pay;

(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 Interests on Participation**

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority
- (a) you must withdraw from the room or chamber where a meeting considering the business 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 your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.
- (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 of 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

### Registration of Members' Interests

#### Registration of Members' Interests

13. (1) Subject to paragraph 14, you must, within 28 days of

- (a) this Code being adopted by or applied to your authority; or
- (b) 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 to 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.

#### Sensitive Information

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 be, 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.



Department for  
Communities and  
Local Government

# Openness and transparency on personal interests

**A guide for councillors**



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Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

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# The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011<sup>1</sup>.

## Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.<sup>2</sup>

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

## Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority

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<sup>1</sup> The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

<sup>2</sup> The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

## How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.<sup>3</sup>

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

## What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

## What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of honesty - that **'holders of public office have a duty to declare any private interests**

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<sup>3</sup> <http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>

**relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'<sup>4</sup>.**

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose<sup>5</sup> this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

## What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are

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<sup>4</sup> [http://www.public-standards.gov.uk/Library/Seven\\_principles.doc](http://www.public-standards.gov.uk/Library/Seven_principles.doc)

<sup>5</sup> If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

## Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests of your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

## Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

## Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

## Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

## Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

## When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

## What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

## Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

## When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

## What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a

criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

## Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>



# Annex

## Description of disclosable pecuniary interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either -
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.