

Part 5 Section 1

Code of Conduct

Approved by the County Council at its meeting on 13 May 2019 and containing all subsequent approved amendments up to 21 July 2021

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Part 5 Section 1

Code of Conduct

Part 1

General provisions

Introduction and interpretation

1.

(1) This Code applies to **you** as a member of the County Council ('the authority'). It is your personal responsibility to comply with it. You should read this Code together with the general principles of public life on which it is based and which are set out at in Part 4 of the Code.

(2) In this Code:

'meeting' means any meeting of:

(a) the authority, the executive, any committees, sub-committee, joint committee, area or local committee;

(b) members in formal or informal meetings with other members and/or with officers relating to the business of the authority;

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

(3) If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

Scope and offences

2.

(1) You must comply with this Code whenever you act or appear to act in your official capacity, namely when you:

(a) conduct the business of the authority (including 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 the authority,

(2) Where you act as a representative of the authority:

(a) on another 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.

- (3) It is a criminal offence to fail, without reasonable excuse, to notify the authority's Monitoring Officer of a disclosable pecuniary interest (as defined in paragraph 4(1), to fail to disclose such an interest at a relevant meeting (where it is not registered or notified), to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest. It is also an offence knowingly or recklessly to provide false or misleading information about pecuniary interests to the authority's Monitoring Officer.
- (4) Anyone may make a formal complaint to the Monitoring Officer about member conduct or an alleged breach of Standing Orders by a member, if matters cannot be resolved informally. Complaints can be made in relation to any of the codes of conduct included within Part 5 of the Constitution. Complaints must be made in writing to the Monitoring Officer by email or by post to County Hall, West Street, Chichester PO19 1RQ. The Monitoring Officer will refer the complaint to the Standards Committee, which will decide whether or not to investigate the complaint. The procedures for local investigation and determination are set out in the terms of reference for the Standards Committee Investigation in Part 3 of the Constitution. The Monitoring Officer will also consider whether to take any action following criticism of a member in an Ombudsman or audit report.

General obligations

3.

- (1) You must treat others with respect.
- (2) You must not do anything which may cause your authority to breach any of the equality duties (as set out in the Equality Act 2010);
- (3) You must not bully any person;
- (4) You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant or a witness, or involved in any investigation or proceedings about a complaint that a member (including yourself) has failed to comply with his or her authority's code of conduct;
- (5) You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (6) 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, unless:
 - (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 for the purpose of obtaining professional advice and the recipient agrees not to disclose the information to any other person; or

- (iv) the disclosure is in the public interest, made in good faith and in compliance with the reasonable requirements of the authority¹;
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- (8) You 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
- (9) You 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).
- (10) You must have regard to the County Council's Code of Practice on Publicity and to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (11) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the authority's Chief Finance Officer or the authority's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties.
- (12) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

[¹ Note 'in compliance with the reasonable requirements of the authority' means that a member should consult the Chief Executive (as Head of Paid Service), the Director of Law and Assurance (as Monitoring Officer) or the Director of Finance and Support Services (as Chief Financial Officer) before taking a decision on whether or not to disclose confidential information.]

Part 2

Interests

Disclosable pecuniary interests

4.

- (1) You have a disclosable pecuniary interest in any business of the authority where it relates to or is likely to affect, in relation to you, your spouse, civil partner or a person living with you as if spouse or civil partner ('the relevant person')
 - (i) any employment, office, trade, profession or vocation carried on for profit or gain;
 - (ii) any payment or provision of any other financial benefit (other than from the authority) made or provided within the preceding 12 months 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(a);
 - (iii) any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed and which has not been fully discharged.
 - (iv) any beneficial interest in land which is within the area of the authority;
 - (v) any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer;
 - (vi) any tenancy where (to your knowledge) the landlord is the authority and the tenant is a body in which the relevant person has a beneficial interest;
 - (vii) any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and

either:

- (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (b) 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.

(certain words and expressions used in this list are defined in Regulations)

- (2) You have an interest which is a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority where it relates to or is likely to affect anything listed in paragraph 4(1) but any interest which your spouse or partner may have is only treated as your interest if you are aware that your spouse or partner has the interest.
- (3) Unless registered or notified in accordance with paragraph 10 any such interest must be disclosed at the start of any meeting at which business relevant to the interest may be discussed or considered. When such an interest arises you must not, unless you have received a dispensation from the Monitoring Officer, take part in any discussion or vote in relation to such business and you must leave the room whilst the business is discussed.

Personal interests

5.

- (1) You have a personal interest in any business of your authority where
 - (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 of which you are a member or in a position of general control or management:
 - (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);
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 (see Part 6 below for advice);

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 person described in sub-paragraph (2) to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of your electoral division;
- (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;

- (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

6.

- (1) Subject to sub-paragraphs (2) to (5), 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, but only where you are aware or ought reasonably to be aware of the interest.
- (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 5(1)(a)(i) or 5(1)(a)(ii)(aa), you need only disclose 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 5(1)(a)(iii), you need not disclose that interest if it was registered more than three years before the date of the meeting.
- (4) Where you have a personal interest but, by virtue of paragraph 11, 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.
- (5) Where you have a personal interest in any business of your authority and you have made an executive decision (as defined in regulations made under the Local Government Act 2000) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial interests

7.

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the 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 5;
 - (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 4; or
 - (c) relates to the functions of the authority in respect of:
 - (i) housing, where you are a tenant of the 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, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; or
 - (vi) setting council tax or a precept.
- (3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.
- (4) An important principle of decision-making is that members must come to each decision without having previously closed their minds to the arguments. While members may well wish to express strong views on behalf of their constituents and, in some cases, may have been elected on a particular local issue, it is important for members not to create the impression that they have made up their mind beforehand to vote in a particular way regardless of the arguments and advice of officers and regardless of the interests of the whole of the West Sussex community. If a member gives the impression that their mind is already made up, they should declare a prejudicial interest and leave the room.
- (5) Examples for paragraph 4 above would be that there should be no difficulty in members saying:
- "This is outrageous - this proposal doesn't meet our requirements to"
 - "This flatly contradicts existing County Council policy"
 - "I will take this up on your behalf"
 - "There are better alternatives, which I will pursue"

Members are able to attend local meetings and site visits to gather evidence and hear views expressed. Officers will endeavour to attend in particularly controversial cases.

But difficulties could arise if members were to say, for example:

- "I will never vote for/against these proposals"
- "I was elected to oppose/support this proposition and I am bound to do so."

Interests arising in relation to overview and scrutiny committees

8.

- (1) In addition to any other interest which the member may have, a member of a Scrutiny Committee shall declare a personal interest as defined in the Code of Conduct in respect of any matter in which he or she has had prior involvement, as a member of an executive task and finish group or non-executive; provided:
 - (a) that an adviser to a cabinet member who has advised a cabinet member whose decisions or recommendations are being reviewed by that scrutiny committee may be asked to support the Cabinet Member in responding to the scrutiny committee.
 - (b) that membership of an executive task and finish group, shall only constitute a prejudicial interest where the scrutiny committee is reviewing the recommendations of the task and finish group, and
 - (c) that a member of a scrutiny committee who is a member of an executive task and finish group which has reported to a cabinet member whose decisions or recommendations are being reviewed by that scrutiny committee and therefore has a prejudicial interest may be asked to support the Cabinet Member in responding to the Scrutiny Committee. In any event the member concerned will not be entitled to vote on that item.
- (2) You also have a prejudicial interest in any business before an overview and scrutiny committee of the 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 the authority's executive or another of the 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

9.

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the authority then, unless you have obtained a dispensation from the Monitoring Officer:
 - (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;
 - (b) You must not participate in any vote or exercise any executive function in relation to that business; and
 - (c) You must not participate in any discussion 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.

Part 3

Registration of Members' Interests

Registration of members' interests

10.

- (1) Subject to paragraph 11, you must, within 28 days of:
 - (a) this Code coming into force after being approved by the authority;
or
 - (b) your election or appointment to office (where that is later), register in the authority's register of members' interests
 - (i) details of your personal interests where they fall within a category mentioned in paragraph 5(1)(a), by providing written notification to the authority's Monitoring Officer; and
 - (ii) disclosable pecuniary interests as defined in paragraph 4.
- (2) You must, within 28 days of becoming aware of any new personal or pecuniary interest or a change to any such interest registered under paragraph (1), register details of that new interest or change by written notification to the authority's Monitoring Officer.

Sensitive information

11.

- (1) Where you consider that the information relating to any of your personal or pecuniary interests is sensitive information, and your authority's Monitoring Officer agrees, you need not include that information when registering that interest, or a change to that interest.
- (2) You must, within 28 days of becoming aware of circumstances which mean that information excluded under paragraph (1) is no longer sensitive, notify the Monitoring Officer so that the information is 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 any person may be subjected to violence or intimidation.

Part 4

The General Principles of Public Life

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity

2. Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Honesty

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour.

Leadership

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Part 5

Guidance on Hospitality and Gifts

1. Introduction

- (1) This guidance provides further advice about gifts and hospitality. If a member is in any doubt about the propriety of accepting a particular offer of a gift or hospitality, they should consult the Director of Law and Assurance as Monitoring Officer before accepting.
- (2) Members should treat with extreme caution any "offer or gift, favour or hospitality" that is made to them personally.
- (3) People or bodies may have contractual relationships with the County Council which they may seek to influence, or which it might be suspected they were attempting to influence, even if the gift was offered innocently. The same would apply within contexts such as applications for planning permission.
- (4) There are no hard and fast rules, but cites as acceptable a working lunch which is approved by the authority and where there is no extravagance, or representing the council at a social function or event organised by an outside body or person.
- (5) Members are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government. The offer or receipt of gifts or invitations should always be reported to the appropriate senior officer for the council.
- (6) Members should avoid impropriety and the appearance of it. Members should never use their position to benefit themselves, their family or friends with any financial benefits, preferential treatment or other advantage. On hospitality, members should record all gifts and hospitality received in connection with membership of the County Council and, in particular, should not accept gifts or hospitality that might reasonably be thought to influence or be intended to influence the members' trust or bring discredit on the County Council.

2. General Guidance on Gifts and Hospitality

- (1) When to accept hospitality is a matter of judgement for each individual member. An important criterion in exercising judgement as to what is acceptable is what interpretation those in the community or the press might reasonably put upon acceptance.
- (2) It would be wrong to produce an atmosphere where even members acting in a representative capacity for the council refuse all invitations for social involvement with those who have or who seem to have business or other dealings with the County Council. Contacts established through a social environment are often helpful to the County Council's interests. Members have as a key part of their role

the establishment of the standing of the County Council in the community.

- (3) Any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence must be avoided.
- (4) Extravagance can be damaging to the reputation of the authority.

3. Registration

The Director of Law and Assurance maintains a register of hospitality and gifts. Any gifts or hospitality received from an external party of an estimated value of at least £50 must be registered as in Part 2, section 5(1)(iii) above.

4. Examples of Acceptable Gifts

- (1) Working lunch of a modest standard provided to allow a member to discuss matters in which he is involved on behalf of the authority or which arise out of his work as a "constituency" member. [If there is a series of meetings requiring hospitality, the County Council and the other party should alternate on an approximately equal basis.]
- (2) An invitation to a professional society dinner or one associated with a body with whom the elected member may have been working in his capacity as such. For example, Royal garden parties or the annual dinner of an Association.
- (3) An invitation to join other guests in West Sussex or neighbouring counties as the County Council representative at a jubilee or other special occasion for a statutory, charitable or other body (including commercial organisation) with whom the member may expect to work in their role as such.

5. Examples of Unacceptable Gifts

- (1) Paid holiday or leisure travel or accommodation.
- (2) Tickets for premium events (e.g. Wimbledon) which are offered on a personal basis.
- (3) Use of an individual or organisation's flat or hotel.
- (4) Discounted services, material, labour etc from contractors or suppliers which are not normally equally available on the same basis to others not having an actual or potential business link with them. (Members should not procure or encourage any such provision to family, friends or business associates.) Members should consider it appropriate to get more than one quote on private works, e.g. on their own house, if a supplier to the County Council is involved.
- (5) Non-reciprocal invitations to high-profile or prestige events, particularly outside West Sussex, unless specifically authorised on behalf of the County Council.
- (6) Cash gifts.

- (7) Significant gifts in kind (e.g. a case of whisky but not a company calendar or diary).