

# **THE CODE OF CONDUCT**

**Guide for Members**

**March 2022**

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# 1 Introduction

## Adopting a Model Code of Conduct

Section 27 of the Localism Act 2011 requires the Council to promote and maintain high standards of conduct by members and co-opted members of the Council.

In discharging this duty the Council must adopt a Code dealing with the Conduct that is expected of members and co-opted members.

The Council has discretion as to what it includes within its Code of Conduct but it must, when viewed as a whole be consistent with the Seven “principles” of public life.

The Act also provides that the Code must contain appropriate requirements of the disclosure of pecuniary interests and interests other than pecuniary interests.

The Council adopted the current version of Code of Conduct on 17 July 2019.

The Council has accepted the recommendations contained in the report by the Committee for Standards in Public Life (CSPL) which provides the Code of Conduct should be reviewed annually.

This guide provides an overview of the adopted Code of Conduct. The Code of Conduct applies to all members and co-opted members of the Council. The Code of Conduct does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

The guidance is intended to provide you with a general understanding of the Code of Conduct and its requirements. Much of the guidance is taken from previous guidance issued by Standards for England on the previous model code as well as guidance from the Local Government Association on the current Model Code.

The Code of Conduct together with the guidance is designed to encourage and promote good conduct and safeguard the public’s trust and confidence in the role of a councillor in local government.

You can obtain a copy of the Code of Conduct by downloading it from [www.gedling.gov.uk](http://www.gedling.gov.uk) or by contacting the Monitoring Officer.

Ultimately, however, it is your responsibility to take specific advice from your monitoring officer where appropriate and to make a decision as to the most suitable course of action.

# The Seven Principles of Public Life

The Localism Act 2011 requires that the Code of Conduct is consistent with the Seven Principles set out in Section 28 (i).

They are based on the Seven Principles of Public Life, and appear in full below.

These principles define the ethical standards that members should uphold, and serve as a reminder of the purpose of the Code of Conduct.

You should be aware that a failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be “conduct which could reasonably be regarded as bringing a member’s office or authority into disrepute” as stated in paragraph 7 of the Code of Conduct.

## **The Seven Principles of Public Life**

You must observe the following general principles:

### **Selflessness**

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

### **Integrity**

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

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit.

### **Accountability**

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

### **Openness**

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **Leadership**

You should promote and support these principles by leadership and example.

## **Deciding when the Code of Conduct applies to you**

The Code of Conduct applies to you:

Whenever you act in your official capacity, including whenever you conduct the business of the Council or act, claim to act, or give the impression you are acting, in your official capacity or as a representative of your authority.

Where you act as a representative of the Council on another relevant authority, you must, when acting for that other authority, comply with their Code of Conduct.

You may also act as a representative of the Council on another body, for example as a school governor. When acting for that other body, you must comply with the Council's Code of Conduct, unless it conflicts with lawful obligations of the other body.

The Code of Conduct can apply to all forms of communication including written and verbal communication, electronic and social media communications, posts, statements and comments or on the telephone if you are acting or giving the impression of acting in your official capacity.

The Code of Conduct will not apply to Councillors acting as a private individual, however, it is not always immediately apparent in which capacity you are acting therefore in situations where it may be ambiguous, you should make it clear to people in which capacity you are engaging.

Describing yourself as a councillor in a social media posting or in your profile or username does not mean every posting is covered by the Code, it will depend on the content of the posting, however, to avoid ambiguity councillors may wish to have separate social media profiles for personal and local authority use.

## **2 General obligations under the Code of Conduct**

### **Treating others with respect**

See Paragraph 5 (1)

You must treat others with respect, including the organisations and public you engage with and those you work alongside.

You must value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect. This provision of the Code is not intended to stifle debate and members are entitled to express their opinions and concerns.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers.

Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Disrespectful behaviour is subjective, however any behaviour that a reasonable person would think would influence the willingness of fellow members, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

### **Complying with equality laws**

See Paragraph 5(2)(a)

You must not do anything which may cause the Council to breach the Equality Act 2010.

The Equality Act 2010 protects people from discrimination on the basis of 'protected characteristics'. The relevant characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race (which includes ethnic or national origins, colour and nationality)
- religion or belief
- sex
- sexual orientation
- marriage and civil partnership

**Direct discrimination:** less favourable treatment of a person compared with another person because of a protected characteristic

**Indirect discrimination:** applying a policy, procedure or criteria which puts people with a particular protected characteristic at a disadvantage compared with others who do not share that characteristic, where applying that policy, procedure or criteria cannot be objectively justified

**Harassment:** engaging in unwanted behaviour that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment

**Victimisation:** treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination. Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on the Council.

Under equality laws, the Council may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any forms of discrimination, or to do anything which hinders the Council's fulfilment of its positive duties under equality laws. Such conduct may cause the Council to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

## **Bullying, harassment and intimidation**

See Paragraphs 5(2)(b) and 5(2)(c)

You must not bully or harass any person.

Bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone. Appendix 1 of the Code of Conduct provides a non-exhaustive list of behaviour which amounts to bullying.

Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at specific issues rather than at an individual's conduct or behaviour, or where the behaviour of the complainant and the member contributed equally to the breakdown in relations. Repeated incidents of a minor nature may however cumulatively amount to inappropriate conduct.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual. A non-exhaustive list of behaviours which may amount to harassment is included in Appendix 1 of the Code of Conduct.

Harassment will usually occur where at least two or more incidents of behaviour which causes a person alarm or distress have occurred (Protection from Harassment Act 1997). Like bullying this could be physical, verbal or non-verbal conduct and could manifest itself through a number of communication tools including through social media. In some cases harassment, and bullying may amount to criminal conduct.

You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

## Compromising the impartiality of officers of the authority

See Paragraph 5(2)(d)

You must not do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

You should not approach or pressure anyone who works for, and on behalf of, the Council to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

The Council has a Member Officer Protocol which provides further guidance as to how relationships between officers and members should be maintained.

## Disclosing confidential information

See Paragraph 6(a)

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 Council

While local authority business is by law generally open and local authorities should always operate as transparently as possible, there will be times – for example when discussing a named individual, confidential HR matters or commercially sensitive information when it is appropriate for local authority business to be kept confidential or treated as exempt information. In such circumstances confidential information should not be disclosed unless (i) – (iv) are satisfied.

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
  - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
  - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
  - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
  - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
  - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
  - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to reoccur.
  - Whether the disclosure involves the Council failing in a duty of confidence owed to another person.
  
2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
  - a. A criminal offence is committed.

- b. Your authority or some other person fails to comply with any legal obligation to which they are subject.
  - c. A miscarriage of justice occurs.
  - d. The health or safety of any individual is in danger.
  - e. The environment is likely to be damaged.
  - f. That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.
  4. The fourth requirement, that you comply with the reasonable requirements of the Council, means that before making the disclosure you must comply with the Council's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

## Preventing access to information

See Paragraph 6(b)

You must not prevent another person from gaining access to information to which that person is entitled by law.

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act 2000*, *Environmental Information Regulations 2004* or *Data Protection Act 2018* or those copies of minutes, agendas, reports and other documents of the Council which they have a right to access.

## Disrepute

See Paragraph 7

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or the Council. Dishonest, deceitful, threatening or violent behaviour in your role as a member may bring the Council into disrepute. Your conduct could be displayed face to face or through other channels of communication including social media.

In general terms disrepute can be defined as a lack of good reputation or respectability. A member's behaviour will bring their role into disrepute if the conduct could be reasonably regarded as either:

1. Reducing the public's confidence in them being able to fulfil their role;  
or
2. Adversely affecting the reputation of the Council's members in being able to fulfil their role.

Conduct by a member which could reasonably be regarded as reducing public confidence in the Council being able to fulfil its functions and responsibilities will bring the Council into disrepute.

## Code of Conduct Investigations

See Paragraphs 8 and 9

You must not make trivial or malicious allegations that another Member has failed to comply with the Code of Conduct.

It is important for public trust that the Code of Conduct and investigations or complaints in relation to breach of the Code are seen to be taken seriously by individual members and the Council as a whole. This guidance document supports the Code and assists members in understanding where conduct may fall short of the Code. The Code of Conduct complaints and investigation process should not be used as a tool for members to attempt to discredit each other by making malicious or trivial complaints which undermines public and member confidence in the process.

Making a complaint against a fellow member simply to damage their reputation by inferences which are unsupported is likely to damage relationships and potentially bring the Council into disrepute.

You must comply with any formal standards investigation carried out in relation to an allegation that you have failed to comply with the Code of Conduct.

Code of Conduct investigations can be stressful and unpleasant for both the complainant and the member being investigated. In order to ensure efficiency in the investigation process it is essential that members comply with code investigations and determinations. Failure to comply with an investigation can delay the process and ultimately if you are the member being complained about and you do not co-operate, you may not then get the opportunity to have your side heard.

## Using your position improperly

See Paragraph 10(a)

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.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

Involving yourself in a decision in which you have an interest to seek benefit for yourself or another would be an example of a breach of this paragraph of the Code. In addition to paragraph 10(a), paragraphs 13(3) and 17(7) are also relevant to the proper use of your position. They support your role as a community advocate, representing and speaking for the concerns of your community, even where you have an interest which would require you to leave the room. This right applies to you at meetings where you have a statutory right to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If your authority does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, these paragraphs will not apply to you unless you have a statutory right to speak on the matter.

You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 13(3) and 17(7) of the Code of Conduct, you may be found to have improperly influenced the decision.

Note that this paragraph of the Code references attempts to misuse position, as well as situations where an advantage for yourself or another has been achieved through the misuse of position. For example, if a member attempted to influence members to vote a certain way on a particular matter for their own advantage or for an advantage of their family/close associate and the vote did not go their way, this could still fall foul of this part of the Code.

## The authority's resources

See Paragraph 10(b)(i)

You must when using or authorising the use by others of the resources of the Council act in accordance with the Council's reasonable requirements.

Where the Council provides you with resources (for example telephone, computer, iPads and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

Resources may also include services and facilities as well as the financial resources of the Council.

You must be familiar with the rules applying to the use of these resources made by the Council. Failure to comply with the Council's rules is likely to amount to a breach of the Code of Conduct.

If you authorise someone (for example a member of your family) to use the Council's resources, you must take care to ensure that this is allowed by the Council's rules.

## Using resources for proper purposes only

See Paragraphs 10(b) (ii) and (c)

In addition to paragraph 10(b) (i) you must ensure that the Council's resources are not used improperly for political purposes. It is not appropriate to use, or authorise others to use, the resources improperly for political purposes, including party political purposes.

When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act 1986*.

You should never use council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, the Council may authorise you to use its resources and facilities for political purposes in connection with the Council's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using the Council's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.

You should take particular care when using Council resources when elections are pending, particularly those resources related to publicity and should not

use such resource to appear to influence public opinion in favour of you, your party colleagues, or your party.

## Considering advice provided to you and giving reasons

See Paragraph 11(1)(a) and (b)

When reaching decisions you must listen to the interests of all parties and have regard to advice from your monitoring officer or chief finance officer where they give it under their statutory duties, as well as advice of other professional officers.

When reaching decisions you should take all relevant information into consideration, remain objective and take a decision on merit.

Decisions can be challenged if they are unreasonable. When considering any decision, you must have regard to any professional advice you have been offered, for example from planning or licensing officers. Both the monitoring officer and the chief finance officer have a statutory duty to report formally to the local authority where they believe a local authority action or expenditure is, or may be, unlawful. Similarly, when it comes to elections, you will need to have regard to any advice given to you by the returning officer who may well be a senior officer but in that capacity is entirely independent of and separate from the local authority and is required to be politically neutral.

If you seek advice, or advice is offered to you, for example, on whether or not you should register an interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.

You must give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by the Council. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision. Members are perfectly entitled to disagree with officers, advice does not have to be accepted without question, however regard should be had to professional advice provided and any concerns addressed reasonably with the relevant officer or manager if appropriate.

## Exercising independent judgement

See Paragraph 11(2)(a)

You must exercise independent judgement and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a 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 keep an open mind when making decisions and 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.

## Openness, transparency and accountability in decision-making

See Paragraph 11(2)(b) and (c)

You must contribute to making the Council'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 you and other members to account. You must also be accountable for your decisions and co-operate when scrutinised internally and externally, including by local residents.

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. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

There are several, widely accepted arguments in favour of a decision-maker giving reasons for their decisions. These include:

- Certainty;
- Transparency;
- Enabling the public to understand how a decision has been reached;
- Preventing arbitrary decision-making;
- Fair play;
- Exposing excess of jurisdiction, error of law, unsubstantiated findings, and irrelevant considerations;
- Improving public confidence in the decision-making process.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office. Scrutiny plays an important role in performance management and is at the heart of local accountability.

## Representing your constituents

See Paragraph 12

You must champion the needs of residents, deal with representations, or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially and not allow other pressures, including your financial interests 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.

As a member you have been elected to represent your constituents on the Council and you should champion the needs of the residents you serve in a fair, appropriate and impartial way. However this does not mean for example that you are obliged to run or support a local campaign. If you do not actively support a particular local campaign you can still fulfil your role as a community champion by:

- telling people how to present a petition to the council, how to speak to a committee or how to ask questions
- advising on council policy and procedures
- giving contact numbers of bodies or individuals that may be able to help
- being honest – you should not hint to campaigners that you support a cause if you actually oppose it
- making sure people have access to accurate sources of information.

You must exercise care when championing the needs of residents to ensure that your impartiality and integrity is not called into question. Your actions could lead others to conclude that you are biased in your decision-making which could lead to the decision being challenged on the grounds that it was unlawful.

## Leadership

See Paragraph 13

You must provide leadership by behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

You must promote and support high standards of conduct when serving in your public post, in particular, by leadership and example. You should demonstrate leadership by setting an example in what you say and do, both to council staff, other organisations and the wider community.

## 3 Interests

The Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. The purpose of

registering interests is so that the public, officers and fellow members know which of your interests might give rise to conflicts of interest.

The register is a public document, available on the Council's website and should be kept up to date. The register protects members by demonstrating openness and accountability of members. Decisions must be made in the public interest and not to serve private interests.

## Disclosable pecuniary interests

Part 2 of the Code of Conduct sets out the table of Disclosable Pecuniary Interests (DPIs) as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. You have a DPI in any business of the Council where it is of a description set out in the table:

- Employment, office, trade, profession or vocation (for profit or gain)
- Sponsorship
- Contracts (with the Council e.g. DNA membership)
- Land (in Council's area)
- Licences (to occupy land in the Council area)
- Corporate tenancies (where Council is Landlord)
- Securities (where body has a place of business in the Council's area and certain threshold met)

Your Declaration of Interest form guidance provides detail as to what may be included in each of those categories of interests. See Appendix 1. DPIs include not only your interests but the interests of:

- your spouse or civil partner
- a person with whom you are living as husband and wife
- a person you are living with as if you were civil partners

DPIs are interests which must be notified to the monitoring officer within 28 days of the code being adopted by your local authority or within 28 days from when you become a councillor in accordance with the statutory requirements of the Localism Act 2011.

These are enforced by criminal sanction, and failure to register or declare such an interest at a meeting is a criminal offence. You must keep your register up to date so, as soon as a new interest needs to be registered or you cease to hold an interest, you should notify the monitoring officer within 28 days of a new DPI.

## Offences

It is a criminal offence under the Localism Act 2011 to:

- fail to notify the monitoring officer of any disclosable pecuniary interest within 28 days of election or co-option
- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- fail to notify the monitoring officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- knowingly or recklessly provide information that is false or misleading in notifying the monitoring officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to five years.

Paragraph 13 and 14 of the Code provides instructions on how members should act where they have a DPI in business conducted in a meeting, or where there is a DPI in a matter being determined by a single member.

Members must not be involved in the determination of business in which they have a DPI. Where the matter is being considered at a meeting, the member should disclose the existence and nature of the DPI whether or not it is contained on the Council's register, not participate in the matter and (subject to the paragraph below) leave the chamber or room where the meeting is being held until the item is determined.

You may attend the meeting where a matter in which you have a DPI is being considered in order to make representations, answer questions or give evidence if a member of the public would be so entitled, but you should leave the meeting once those representations are made.

Where your interest is a sensitive interest, you must still declare that you have a DPI but you do not need to disclose the nature of the interest. Where a single member is asked to determine a matter in which they have a DPI, they should take no further part in the matter and the matter should be passed to a different member for determination.

## Non-pecuniary interests

These are interests which do not amount to DPIs and which are interests which you hold.

You have a non-pecuniary interest in an item of business where it relates to or is likely to affect:

- a body of which you are a member or in a position of control
- any employment, office, trade or profession not for profit or gain

- any easement, servitude, interest or right over land which does not carry with it the right for you to occupy or receive income from the land.
- The interests of any person from whom you have received a gift or hospitality over £50

OR

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 member of your family or a person with whom you have a close association;
- Any person or body who has appointed such persons
- An person or body in whom such persons have a beneficial interest in a class of securities exceeding £25,000
- Any body (previously declared above)

TO A GREATER EXTENT THAN THE MAJORITY OF OTHER COUNCIL TAX PAYERS, RATEPAYERS OR INHABITANTS OF THE ELECTORAL DIVISION OR WARD AS THE CASE MAY BE, AFFECTED BY THE DECISION.

Where you have a non-pecuniary interest in an item of business, this should be declared both in a meeting or recorded where an individual member is taking a decision.

Where you have a non-pecuniary interest in an item, you may participate, vote and remain in the meeting where the item is being considered UNLESS your interest is one which a member of the public, with knowledge of the relevant facts would regard as so significant that it is likely to prejudice your judgement of the public interest.

You should seek advice from the monitoring officer where you have a non-pecuniary interest in an item of business and are not sure whether you should participate.

Paragraph 17(9) of the Code provides exceptions where Members may participate in certain matters where they have a non-pecuniary interest:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) 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;
- (iii) an allowance, payment or indemnity given to members;
- (iv) any ceremonial honour given to members; and
- (v) setting council tax or a precept under the Local Government Finance Act 1992.

Non pecuniary interests are not statutorily prescribed and may differ from authority to authority.

Affecting financial position is clear, however affecting “well-being” may be not as clear cut. Well-being can be described as a condition of contentedness and happiness. The financial impact of an item of business may have a minimal effect on you or your family but the disruption it may cause could be significant, for example, closure of a service may have a significant impact on your wellbeing or your family’s wellbeing if you use it more regularly than others.

A relative or close associate is not defined in the Code but members should use their own judgement and consider the nature of their relationships with others and how this may be perceived in the context of certain decisions. Some members may have extended families to whom they are very close, others may not, but regard should be had as to whether a member of the public, acting reasonably would consider that the relationship would affect your judgement as a decision maker.

Non pecuniary interests should be registered within 28 days of election or appointment to office, or, if a new interest, within 28 days of you becoming aware of that interest.

Where you are re-elected or re-appointed, any new interests or changes to interests must be registered within 28 days.

## **4 Special categories of interests**

### **Gifts and hospitality**

Any gifts or hospitality received by members (in their capacity as members) with a value in excess of £50 should be reported to the monitoring officer within 28 days of receipt.

All gifts and hospitality notified to the Monitoring Officer will be included in the register of interests of gifts and hospitality which is reviewed and presented annually to the Standards Committee.

You should exercise caution in accepting gifts and hospitality which are offered due to your position as a member. Separate guidance is available for Member and Officers in relation to gifts and hospitality.

Hospitality can be defined as any food, drink, accommodation, or entertainment freely provided or heavily discounted.

If you are unclear of the value of the gift, it is better to register it. Gifts that are given to the Council as a whole do not need to be recorded on the Gifts and hospitality register however the Council should record these separately for audit purposes.

## Sensitive interests

Where you have an interest (DPI or otherwise) and the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation, this will be a sensitive interest.

Sensitive interests must still be registered but details will not be made public.

Where the interest changes and is no longer sensitive you must within 28 days of becoming aware of the change, notify the Monitoring Officer so the interest may be updated.

You must contact the Monitoring Officer if you consider you have a sensitive interest.