



## Code of Conduct for Councillors and Co-opted Members

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# CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

## PART 1

### GENERAL PROVISIONS

#### Introduction and Interpretation

1. (1) This version of the Code came into effect on 6 October 2020 and applies to you only when acting in your capacity either as a councillor or co-opted (voting) member of the Council or its committees and sub-committees.
- (2) It is your responsibility to comply with the provisions of this Code which will assist the Council in meeting its statutory obligation to promote and maintain high standards of conduct by its councillors and co-opted members in accordance with the following principles:
  - **Selflessness.** Holders of public office should act solely in terms of the public interest.
  - **Integrity.** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.
  - **Objectivity.** Holders of public office must act and take decisions impartially fairly and on merit using the best evidence and without discrimination or bias.
  - **Accountability.** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
  - **Openness.** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
  - **Honesty.** Holders of public office should be truthful.
  - **Leadership.** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

#### Definition of terms

- (3) In this Code:

“bully” means to persistently display offensive, intimidating, malicious or insulting behaviour, which may involve an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

“harass” means the undertaking of an act or series of acts which are intended to cause alarm or distress (for example the making of malicious or false assertions, whether publicly or privately) and in the context of a relevant protected characteristic defined in the Equality Act 2010 to display 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 that individual.

A “disclosable pecuniary interest” is an interest within the prescribed descriptions set out below that you have personally, or is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and you are aware that that other person has the interest:

| <i>Subject</i>                                    | <i>Prescribed description</i>   |
|---|---|
| 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—<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(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 (alone 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)—<br>(a) the landlord is the relevant authority; and<br>(b) the tenant is a body in which the relevant person has a beneficial interest.  |

| Subject    | Prescribed description  |
|------------|---|
| Securities | Any beneficial interest in securities of a body where—<br>(a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and<br>(b) either—<br>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(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. |

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“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;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes 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;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31 (7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

“meeting” means any meeting of:

- (a) the Council;
- (b) the Executive of the Council;
- (c) any of the Council’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or area committees, including any site visit authorised by the Council, the Executive or any of the aforementioned committees.

A “non-pecuniary interest” is an interest which is not a disclosable pecuniary interest (as defined above) but is nonetheless an interest that may in the mind of a reasonable observer affect your objectivity or judgement of the public interest. Examples of non-pecuniary interests include but are not limited to:

- (a) membership of organisations to which you have been appointed or nominated by the Council and in which you hold a position of general control or management, or
- (b) membership or holding a position of general control or management of any body that:
  - exercises functions of a public nature
  - is directed to charitable purposes
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- (4) This Code does not cover matters in respect of which the Localism Act 2011 specifically provides that criminal sanctions will apply.
- (5) A failure of a councillor or co-opted member to comply with this Code is not to be dealt with otherwise than in accordance with arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations can be made. In particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure by a councillor or co-opted member to comply with the Code.
- (6) Councillors may in their individual and personal capacity be subject to legal proceedings from third parties aggrieved by an action which also amounts to a breach of this Code. Councillors should be aware that the legal indemnity provided by the Council to Councillors engaged in the discharge of Council functions is unlikely to cover actions which constitute breaches of this Code.

## **General Obligations**

- 2. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause the Council to breach any of the equality enactments;
  - (b) bully or harass any person. Examples of bullying/harassing behaviour include but are not limited to:
    - (i) malicious falsehood, actions (whether by speech, written communication (including by email, text message, etc), or via social media which are intended to cause alarm or distress, spreading malicious rumours, or insulting someone by word or behaviour
    - (ii) the broadcast of confidential or private correspondence (whether by forwarding, copying, or reproducing that correspondence in a wider or public forum) where you know or ought to know that it would have the effect of inciting harassment or ridicule or having a detrimental impact on a person’s reputation or business
    - (iii) exclusion or victimisation
    - (iv) unfair treatment
    - (v) overbearing supervision or other misuse of power or position
    - (vi) unwelcome sexual advances – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected

- (vii) making threats or comments about job security without foundation
- (viii) deliberately undermining by constant negative criticism rather than to complain to the appropriate manager or supervisor
- (ix) preventing individuals progressing by intentionally blocking promotion or training opportunities.

(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 councillor or co-opted member (including yourself) has failed to comply with this code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3. 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<sup>1</sup>; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members.

5. You:

- (a) must not use or attempt to use your position as a councillor or co-opted 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 Council's resources:
  - (i) act in accordance with the Council's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

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<sup>1</sup> Means the councillor should always consult the Monitoring Officer before taking a decision on whether or not to disclose confidential information

- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to their statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
- 7. If you are the subject of a complaint, you have a duty to cooperate with any investigation and to respond promptly and comply with any reasonable requests from the Investigating Officer for such things as interviews, comments on draft meeting/ interview notes or the provision of information necessary for the conduct of an investigation.
- 8. You must not make trivial, politically motivated, or malicious allegations of misconduct against other councillors.
- 9. In addition to compliance with this Code of Conduct, you are also expected to comply with:
  - (i) the relevant requirements of the Protocol on Councillor/Officer Relations, the Social Media Guidance for Councillors, and the Probity In Planning – Councillors' Handbook, and
  - (ii) any reasonable request by the Council that you complete a related party transaction disclosure

## **PART 2**

### **INTERESTS**

#### **Predetermination**

- 10. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as a councillor.
- (2) However, you should not place yourself under any financial or other obligation to outside organisations that might seek to influence you in the performance of your official duties.
- (3) When making decisions you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.
- (4) If a councillor considers that they could be biased or they have predetermined their position to a decision, he or she should disclose this and should not take part in the decision-making process whenever it becomes apparent that the matter is being considered.

#### **Registration of Disclosable Pecuniary Interests**

- 11. As a councillor or co-opted member of the Council you must avoid participating in any decision where you could reasonably be seen as having an interest which compromised your honesty or objectivity. Equally you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and to promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on our website:

<http://www.guildford.gov.uk/councillorsearch>

12. You must, before the end of 28 days beginning with the day on which you became a councillor or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given. You should be aware that these interests include those of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner so far as you are aware of the interests of that person. These interests will then be entered on the register of interests.
13. Where you become a councillor or co-opted member of the Council as a result of re-election or re-appointment, paragraph 12 applies only as regards disclosable pecuniary interests not entered in the register when the notification is given.

#### **Disclosure of Disclosable Pecuniary Interests and participation in decision making**

14. Subject to paragraphs 29 to 32 (*dispensations*), if you are present at any meeting and you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, you must, irrespective of whether that interest has been registered:
  - (a) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in paragraph 33 below, disclose merely the fact that it is a disclosable pecuniary interest);
  - (b) not participate in any discussion or vote regarding that matter; and
  - (c) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date of the meeting at which it became apparent.

15. Subject to paragraphs 29 to 32 (*dispensations*), if you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter on which either:
  - (a) you are authorised to make decisions, or
  - (b) you are consulted by an officer discharging powers delegated to them,

you must not, in relation to (a) above, take any decision on that matter or, in relation to (b) above, participate in any consultation with such officer in respect of that matter

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date on which it became apparent.

16. You may participate in any business of the Council where that business relates to the Council's functions 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 councillors or co-opted members;



- (v) any ceremonial honour given to councillors; and
  - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.
17. You should be aware that it is a criminal offence if, without reasonable excuse, you
- (a) fail to disclose a disclosable pecuniary interest as set out above;
  - (b) participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
  - (c) take any steps as a single member discharging a function of the Council, when you have a disclosable pecuniary interest in a matter you are dealing with
  - (d) provide information in relation to your disclosable pecuniary interests that is false or misleading and you know that the information is false or misleading, or are reckless as to whether the information is true and not misleading.

### **Non-Pecuniary Interests**

18. In addition to the disclosable pecuniary interests referred to above, you will have a non-pecuniary interest in any organisation, operating in the borough of which you are in a position of general control or management, even if you were appointed or nominated to that organisation by the Council. This includes public and voluntary sector organisations, such as other councils, schools, charities and some companies. It also includes political parties and campaigning groups.
19. You must, within 28 days of taking office as a councillor or co-opted member notify the Council's Monitoring Officer of your non-pecuniary interests. Any interests you declare will be included in the Council's Register of Interests. You must also notify the Monitoring Officer of any changes in your interests arising after you have completed your initial notification.
20. In accordance with this Council's requirement that you are as open as possible about your decisions and actions, where you have a non-pecuniary interest in any matter to be considered or being considered at a meeting of the Council, the Executive (or any of its committees or sub-committees), a committee, board, sub-committee or joint committee of the Council and you speak at that meeting, you must disclose to that meeting the existence and nature of that interest.
21. You can participate in any discussion and (where applicable) vote on any matter in which you have a non-pecuniary interest unless you consider, having taken advice from the Monitoring Officer, that the interest is one that would affect your objectivity in relation to that matter, in which case you should withdraw from the room or chamber when it becomes apparent that the matter is being considered at that meeting.
22. If you are discharging a function of the Council as a member acting alone (e.g. as a Lead Councillor) or if you are being consulted by an officer discharging powers delegated to them, you will need to consider whether you have a non-pecuniary interest in any matter you are dealing with in the course of discharging that function, or in any matter on which you are being consulted. If you do have such an interest, you must ensure that a record of the existence and nature of the interest is recorded in the decision notice.
23. If, having taken advice from the Monitoring Officer, you consider that the interest is one that would affect your objectivity in relation to the matter, and therefore inappropriate for you to continue to take any steps in relation to the matter, you should not do so (except for the purpose of enabling the matter to be dealt with by someone else).

## Acceptance of Gifts and Hospitality

24. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your integrity, honesty or objectivity. You should never accept any gift or hospitality as an inducement or reward for anything, if acceptance might be open to misinterpretation or which puts you under an improper obligation. In particular, whenever acting in your capacity as a councillor or co-opted member, you
- (1) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
  - (2) should exercise caution in accepting any gifts or hospitality regardless of value which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member;
  - (3) should never solicit a gift or hospitality; and
  - (4) should never accept significant gifts or hospitality (i.e. anything with a value of £50 or more) from any third party.
- Any declined offer of a gift or hospitality need not be registered.
25. For the avoidance of doubt, the following gifts and types of hospitality do not need to be disclosed/registered:
- (a) civic hospitality provided by the Council or another public authority;
  - (b) modest refreshment in connection with any meeting or on the occasion of any social meeting;
  - (c) tickets for sporting, cultural and entertainment events which are sponsored by, or organised by or behalf of the Council;
  - (d) individual gifts with a value of up to £50, or more than one gift from one donor with a combined value of up to £50
26. Where it is impracticable to return any unsolicited gift of a value of £50 or more, or the return would cause offence, you must as soon as practicable within 28 days after the receipt of the gift, notify the Monitoring Officer in writing, and pass the gift to the Mayor's Office for donation to a charity or raffle as appropriate.
27. You must immediately report to the Monitoring Officer any circumstances where a gift or hospitality has been offered to you or to another councillor in order to gain inappropriate favour.
28. Your participation in any item of business that affects a donor from whom you have received any gift or hospitality that is registered, or ought to be registered as set out above, will need to be considered by you on a case by case basis. You will only be expected to exclude yourself from speaking or voting in exceptional circumstances, for example where there is a real danger of bias, or where you consider, having taken advice from the Monitoring Officer, that acceptance of a gift or hospitality would affect your objectivity in relation to the consideration of that business.

## Dispensations

29. A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant of a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.
30. The Monitoring officer may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, he considers that without the dispensation:
- (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
  - (b) considers that without the dispensation each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
31. The Corporate Governance and Standards Committee may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, the Committee considers that:
- (a) without the dispensation the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
  - (b) granting the dispensation is in the interests of persons living in the borough, or
  - (c) it is otherwise appropriate to grant the dispensation.
32. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

## Sensitive Information

33. (1) Sub-paragraphs (2) and (3) apply where:
- (a) a councillor or co-opted member of the Council has an interest (whether or not a disclosable pecuniary interest), and
  - (b) the nature of the interest is such that the councillor or co-opted member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the councillor or co-opted member, or a person connected with that councillor or co-opted member, being subject to violence or intimidation.
- (2) If the interest is entered in the register of interests, copies of the register that are made available for inspection, and any version of the register published on the Council's website, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under this provision of the Code).
- (3) Where a disclosable pecuniary interest is not entered on the register of interests and would otherwise require disclosure at a meeting, the councillor or co-opted member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.

34. An entry in the register of interests will be removed once the person concerned:
- (a) no longer has the interest, or
  - (b) is (otherwise than transitorily on re-election or re-appointment) neither a councillor nor a co-opted member of the Council.

#### **Review of the Councillors' Code of Conduct**

35. This code of conduct shall normally be reviewed every four years during the year following the Parish council Elections, and any such review shall involve formal consultation with the borough council.

Review date: March 2024