



July 2012

ACTING OPENLY AND HONESTLY IN THE PUBLIC INTEREST

1. The Localism Act 2011 requires every parish and town council to adopt a code of conduct which complies with the requirement of the Act which came into force on 1st July 2012. This guidance refers to the revised code. Every councillor should have a copy of the code which defines the statutory duties of councillors to act openly and honestly in the public interest, and hence maintain proper standards. You should read the code carefully. A local district council committee exists to promote and maintain high standards of conduct by district, town and parish councillors. It oversees the operation of the code of conduct and protocols, and assists compliance through the provision of training. It also deals with complaints about the conduct of councillors. Councillors may seek advice on the code from the clerk and/or the monitoring officer of your city/borough/district (2nd tier) council.
2. Newly elected and co-opted councillors are required to sign a declaration of acceptance of office before they act as councillors and take their seats on their councils. They must also complete a register of Disclosable Pecuniary Interests within 28 days of taking office. Originals of individual registers are held by the monitoring officer (an officer of the district council) and made available for public inspection. Register of interests must also be published on the district council website and the parish council website, if it has one.
3. Once a council has adopted the code, all duties under the code fall upon individual councillors, as summarised overleaf. Councillors must be scrupulous about applying the requirements at all levels of discussion and decision.
4. Most employment matters and other matters subject to the proper exclusion of the public and press, for appropriate rather than frivolous reasons, are confidential.
5. Remember, it is the individual councillor – NOT the council – that may be in breach of the code.
6. It is recommended the council remains impartial and separates itself from alleged breaches of the code by individual councillors. The council should avoid discussion on code of conduct complaints, and press enquiries should be referred to the councillor(s) concerned and/or the monitoring officer. Unnecessary discussion on individual cases in council or committee can result in negative press stories attributed to the council as a whole. Where appropriate, a brief report from the clerk, circulated to councillors for information only, or a brief statement by the chairman, may be all that is required.

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7. Disclosable Pecuniary Interest (DPI)

You will have a **Disclosable Pecuniary Interest** (DPI) if the matter being considered at a meeting relates to:-

- employment, office, trade, profession or vocation carried on for profit or gain
- sponsorship
- contracts
- beneficial interests in land
- licences to occupy land
- corporate tenancies
- securities

If it is either an interest of yourself; or it is an interest of:-

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

and you are aware that the other person has the interest.

If you have a DPI you must not be present for the debate or voting on the matter. Failure to register or declare a Disclosable Pecuniary Interest may result in the commission of a criminal offence.

8. Other Disclosable Interest

You will have an **Other Disclosable Interest** in any matter if you are aware that you or a member of your family, or person or organisation with whom you are associated has a:-

- a) a pecuniary interest in the matter under discussion which is not de minimus; or
- b) a close connection with the matter under discussion.

If you are a member of another local authority, or public body, or you have been appointed as the council's representative on an outside body, you do not have a Disclosable Interest unless a member of the public knowing the circumstances would reasonably regard membership of the body concerned as being likely to prejudice your judgement of what is in the public interest.

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If you are present at a meeting of the council and you have an Other Disclosable Interest then you must:

- a) disclose the nature and existence of the interest; and
- b) if the interest;
 - i) affects your pecuniary interests or relates to the determination of a planning or regulatory matter; and
 - ii) is one which a member of the public knowing the circumstances would reasonably regard as being likely to prejudice your judgement of what is in the public interest

then you must leave the meeting (including the meeting room and public gallery) and take no part in the discussion.

9. Dispensations

Under certain circumstances S33 of the Localism Act 2011 permits a parish council to grant a dispensation to a member or co-opted member.

The dispensation can allow the member

- a) to remain in the meeting and to take part in the debate, or
- b) to remain in the meeting, take part in the debate and to vote.

A dispensation can be granted for a period of up to four years. As with any function of the council the authority to grant a dispensation may be delegated to an officer or to a committee by resolution of the council.

To obtain a dispensation the council member must make a written request to the clerk. A dispensation may be granted if

- a) without it the number of councillors prohibited from taking part in the item of business would impede the transaction of the business (i.e. the meeting would not be quorate)
- b) granting the dispensation is in the interests of people living in the council's area
- c) the council considers it is otherwise appropriate

If the decision to grant a dispensation is not delegated to the clerk then an application for a dispensation must be included on the agenda of the appropriate meeting.

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10. We recommend the following early agenda item for all council and committee meetings:

Declarations of Interest:

- a) Register of Interests: Councillors are reminded of the need to update their register of interests.
- b) To declare any Disclosable Pecuniary Interests in items on the agenda and their nature.
- c) To declare any Other Disclosable Interests in items on the agenda and their nature.

Councillors who have declared a Disclosable Pecuniary Interest, or an Other Disclosable Interest which falls within the terms of paragraph 12(4) (b) of the code of conduct, must leave the room for the relevant items.

Failure to register or declare a Disclosable Pecuniary Interest may result in the commission of a criminal offence.

- 11. It is good practice for councillors to declare all interests at the start of the meeting. However, interests may be declared at any time before the relevant agenda items.
- 12. There is no duty on the chairman or clerk with regard to individual councillors' declarations of interest; they are a matter for the individual councillors. However, where appropriate, a gentle reminder may be useful.
- 13. Where a councillor clearly has an interest and, when reminded, refuses to declare the interest and/or leave the room for the item, this breach of the code may be interpreted as unruly behaviour, which, if model standing orders have been adopted, may allow the removal of the councillor from the room. A determined councillor acting in this way may bring the council into disrepute.

THE CODE OF CONDUCT – A SUMMARY OF REQUIREMENTS

A parish/town councillor must:

- 14. Observe the code when representing the council.
- 15. Be aware of what Disclosable Pecuniary and Other Disclosable Interests are and declare them as required.
- 16. Keep his/her register of interests up to date.

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17. Treat others with respect.

A parish/town councillor must not:

18. Bring his/her office or authority into disrepute.

19. Use the authority's resources for party political purposes.

20. Compromise the impartiality of people who work for the authority.

21. Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.

22. Bully, intimidate or attempt to intimidate others.

23. Use his/her position improperly for personal gain or to advantage friends or close associates.

24. Disclose information given to him/her in confidence other than in exceptional circumstances.

25. Prevent anyone getting information to which they are entitled.

26. Not in an official capacity, or any other circumstance, use the position as a member improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage.