

Part 5(a) – Members’ Code of Conduct

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Part 5(a) – Members’ Code of Conduct

General Provisions

Introduction and Interpretation

As a Member you are a representative of Southend-on-Sea Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code:

“**meeting**” means any meeting of:

- (a) The Authority;
- (b) The Executive of the Authority;
- (c) Any of the Authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Areas Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members;
- (d) Any briefings by officers and site visits organised by the Authority.

“**relevant period**” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“**profit or gain**” includes any payments or benefits in kind which are subject to Income Tax.

“**beneficial interest**” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“**Member**” includes a co-opted member.

“**Bully(ing)**” means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, or injure the person on the receiving end. This is not an exhaustive list.

“**Harassment**” means unwanted conduct related to a relevant protected characteristic, 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. It may be physical, verbal or non-verbal and is not always face to face. It may occur through written communications, visual images (for example pictures of sexual nature), email, and phone calls. This is not an exhaustive list.

1. Who does the Code apply to?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- 2.1 You must comply with this Code whenever you:
 - (a) Conduct the business of the Authority, or
 - (b) You are acting as a representative of the Authority.
- 2.2 This Code has effect in relation to your conduct in your official capacity.

2.3 Where you act as a representative of the Authority:

- (a)** On another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b)** On any other body, you must, when acting for that other body, comply with the 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. General Obligations

3.1 You must treat others with respect.

3.2 You must uphold the law

3.3 You must co-operate with any formal investigations by the Monitoring Officer or his/her nominated representative into complaints alleging a breach of the Code.

3.4 You must not:

- (a)** Do anything which may cause the Authority to breach any of the equality enactments.
- (b)** Bully or harass any person.
- (c)** Intimidate or attempt to intimidate any person who is or is likely to be:
 - (i)** a complainant;
 - (ii)** a witness; or
 - (iii)** involved in the administration of any investigation or proceedings.

in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or

- (d)** Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e)** Make trivial or malicious allegations against another Councillor.

4. Confidential Information

You must not:

- (a)** Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i)** you have the consent of a person authorised to give it;
 - (ii)** you are required by law to do so;
 - (iii)** the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv)** the disclosure is:
 - (aa)** reasonable and in the public interest; and
 - (bb)** made in good faith and in compliance with the reasonable requirements of the Authority;

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

5. Conferring an Advantage or Disadvantage

You must:

- (a) 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;
- (b) When using or authorising the use by others of the resources of the Authority:
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Members' Interests

6. Disclosable Pecuniary Interests¹

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as "Relevant Persons").

6.2 A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (i) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (ii) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your 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;
- (iii) Any contract for goods, services or works which has not been fully discharged made between you or a Relevant Person (or a body in which you or they have a beneficial interest) and the Authority;
- (iv) A beneficial interest in any land in the Authority's area;
- (v) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer;
- (vi) Any tenancy where to your knowledge:
 - (a) the landlord is the Authority; and
- (b) the tenant is a body in which you or a Relevant Person has a beneficial interest;(vii) Any beneficial interest in securities of a body where:

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011.

1. that body (to your knowledge) has a place of business or land in the area of the Authority and
2. 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. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

7. Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:

- (i) any person or body who employs or has appointed you;
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2 (vii) which has been fully discharged within the last 12 months.

8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where:

- (i) It relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (ii) It relates to or is likely to affect any body:
 1. exercising functions of a public nature;
 2. directed to charitable purposes; or
 3. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
 of which you are a member or in a position of general control or management;
- (iii) It relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 3 years;
- (iv) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:
 - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

Note: Only items (i) – (iii) are registerable non-pecuniary interests.

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 9.1** Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2** Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest.
- 9.3** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4** Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Effect of Interests on Participation

10.1 Disclosable Pecuniary Interests

- (a)** If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i)** You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
 - (ii)** You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer ².
- (b)** If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i)** exercise executive functions in relation to that business; or
 - (ii)** seek improperly to influence a decision about that business
- (c)** If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

² On 11 July 2012 the Standards Committee granted the following general dispensations and these were endorsed by Council on 19th July 2012: -

- i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)
- ii) school meals or school transport and travelling expenses, where the Member is 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) an allowance, payment or indemnity given to Members
- iv) any ceremonial honour given to Members
- v) setting Council Tax or a precept under the Local Government Finance Act 1992
- vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items.

10.2. Other Pecuniary Interests

If you have an Other Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (i) Disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3); and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held.

10.3 Non-Pecuniary Interests

After having declared an interest in accordance with paragraph 9.1 you may then participate and vote unless a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw.

11. Registration of Members' Interests

(a) Subject to paragraph 12, you must, within 28 days of:

- (i) This Code being adopted by or applied to the Authority; or
- (ii) Your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority.

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you or a Relevant Person has in so far as you are aware of their interests at that time;
- ii. Other Pecuniary Interests referred to in paragraph 7 that you have; and
- iii. Non-pecuniary interests referred to in paragraph 8 (sub paragraphs (i) – (iii)) that you have.

(b) You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change.

12. Sensitive Information

12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or Other Pecuniary Interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's Monitoring Officer.

12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

13. Register of Gifts and Hospitality

- 13.1** You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Authority.
- 13.2** The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3** This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

The Nolan Principles (as revised by the Committee on Standards in Public Life in January 2013) and Section 28(1) of the Localism Act 2011

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.

Endnotes