



Briercliffe with Extwistle Parish Council

Code of Conduct for Members and

Guidance

1. Introduction

The Council is determined to provide excellent local government for the people of the Parish. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011. The Code of Conduct is set out at pages 4 to 6. To help Members understand their conduct responsibilities, they should make sure they read and understand the General Principles (pages 1 to 3) and Guidance on the Code (pages 7 to 12).

2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

Selflessness

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

Honesty and Integrity

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

Objectivity

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

Accountability

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

Openness

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

Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

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

3. Training

- 3.1 Each Member must attend annual training on the Code of Conduct/ethical standards, in addition to any current requirements to receive training for specific Committees.
- 3.2 Records of attendance will be maintained by the Clerk and any apparent failure to attend annual training will be notified in the first place to the Member concerned and if not rectified at the next available session, will be referred to the Chair for further action.

THE CODE OF CONDUCT

Part 1

General provisions

Introduction and interpretation

1.— (1) This Code applies to you as a member of the Council.

(2) It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code—

“meeting” means any meeting of—

- (a) the Council;
- (b) any of the Council’s committees or sub-committees, joint committees or joint sub-committees or working groups;

“member” includes a co-opted member and an appointed member.

Scope

2.— (1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—

- (a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of the Council,

and references to your official capacity are construed accordingly.

(2) this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) Where you act as a representative of the Council—

- (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 this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.— (1) You must treat others with respect.

(2) You must not—

- (a) do anything which may cause your authority to breach the Equality Act 2010
- (b) bully 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 his or her 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 Council.

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

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

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. – (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by-

- (a) your authority's Clerk; or
- (b) Your authority's Responsible Finance Officer,

Where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Section 1

Disclosable Pecuniary Interests

This Part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means 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 you were civil partners) of the following descriptions:

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
- (b) Details of 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 you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the Council.
- (e) Details of any licence (alone or jointly with others) to occupy land in the Parish for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the Council; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the Council; and either the total nominal value of the securities exceeds £25,000 or one

hundredth of the total issued share capital of that body; or if that 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.

For the purposes of the above “relevant period” means the period of 12 months ending with the day on which you notify the Clerk of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

2. Register of interests

Any interests notified to the Clerk will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website and the Borough Council’s website.

3. Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Borough Council’s Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

4. Non participation in case of a disclosable pecuniary interest

a) If you are present at a meeting of the Council, the Executive, or any committee, sub-committee, joint committee, joint sub-committee or working group of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- You must not participate in any discussion of the matter at the meeting.
- You must not participate in any vote taken on the matter at the meeting.
- If the interest is not already registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Clerk of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

b) Where a Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by

her/him, the Executive Member must notify the Clerk of the interest and must not take any steps or further steps in the matter.

5. Dispensations

The Borough Council's Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

6. Offences

It is a criminal offence to

- Fail to notify the Clerk within 28 days of election of any disclosable pecuniary interest ;
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- Fail to notify the Clerk 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;
- As a Member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, fail to notify the Clerk within 28 days of the interest;
- Knowingly or recklessly provide information that is false or misleading in notifying the Clerk 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 of up to £5,000 and disqualification from being a councillor for up to 5 years.

7. Notification of changes

Whilst not a statutory requirement, the Council under this Code of Conduct requires you to notify the Clerk within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

Section 2

Other Interests

8. Notification of Other Interests

(1) In addition to the above you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Clerk in writing of the details of your interests within the following categories, for inclusion in the register of interests:

- (a) Details of 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 Council;
- (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body 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;
- (c) Details of any gift or hospitality with an estimated value of at least £25 that you have received, or is offered and refused, in connection with your role as a member of the Council and details of the donor.

(2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Clerk of the details of that new interest or change.

9. Disclosure of Other Interests

(1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) You have an interest in any business of your authority where 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 any person with whom you have a close association, to a greater extent than the majority of other council tax payers.

(3) Where you have an interest in any business of the authority of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) you need not disclose the

nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.

(5) Where you have an interest in any business of your authority by virtue of paragraph 8 or 9(2), 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.

10. Register of interests

(1) Any interests notified to the Clerk under paragraph 8 above will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the authority's website.

(3) Where a disclosable pecuniary interest is notified to the Clerk it need not be separately notified or separately registered as an interest under this section of the Code.

11. Sensitive interests

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Borough Council's Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

12. Non participation in case of certain other interests

(1) Where you have an interest in any business of the Council by virtue of paragraph 8 or 9(2) AND the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest AND where that business—

- (a) affects your financial position or the financial position of a person or body through whom the interest arises ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

you must not participate in any discussion of the matter at the meeting, and you must not participate in any vote taken on the matter at the meeting.

Note: In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

(2) Where you have an interest in any business of the Council to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of your authority 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) an allowance, payment or indemnity given to members;

(iii) any ceremonial honour given to members; and

(iv) setting council tax or a precept under the Local Government Finance Act 1992.

(4) Where, as a Member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Clerk of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.