

# Part Four, Section B

## Code of Conduct for Councillors

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### PREAMBLE TO THE CODE OF CONDUCT

This Preamble provides an explanatory introduction to the **Councillors’ Code of Conduct**. A plain language and practical Guide is also available. The Preamble and Guide do not form part of the Code of Conduct, and in the event of any conflict between the Preamble/Guide and the Code, the Code shall take precedence. The **Standards Committee** is responsible for overseeing the **Councillors’ Code of Conduct**.

The **Councillors’ Code of Conduct** is positioned at the centre of the Council’s framework for ethical governance. The Code is supported by, and should be read in conjunction with, other policies and protocols which together set out important obligations and standards for maintaining public confidence in councillor conduct and propriety. Section C of this Part of the Constitution contains a **Councillor/Officer Protocol** which sets out the nature of the working relationship between elected members and officers and how these different roles interact. Section D of this Part of the Constitution contains a **Councillors’ Planning Code of Conduct** which deals specifically with councillor involvement in Town and Country Planning, an important Council function generating much public engagement. The **Planning Code** covers the standards expected of councillors when, for example, dealing with developers or ensuring fairness and impartiality in decision-making. There are other non-Constitutional documents which also seek to maintain and promote high standards amongst councillors. A **Gifts and Hospitality Policy for Councillors** provides a clear set of rules on the limited circumstances when receipt of gifts or hospitality may be acceptable. Together these various policies and protocols provide a robust framework for maintaining and promoting ethical propriety in everything councillors do day-to-day.

### Introduction

The East Hampshire District Council has adopted the following Code dealing with the conduct that is expected of **Councillors** and **co-opted members** of the Council when they are acting in that capacity, as required by section 27 of the Localism Act 2011 (“the Act”).

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Councillors, and the Code sets out the standards that the Council expects Councillors to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on **Councillors**. If in doubt, Councillors should seek advice from the **Monitoring Officer** or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Councillors themselves.

**Councillors** should not do anything in their capacity as Councillors, which they could not justify to the public or could not justify by law. Councillors' conduct and what the public believe about their conduct will affect the reputation and credibility of Councillors and the Council as a whole.

Failure to comply with the **Code of Conduct for Councillors** 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 an unlimited fine and/or disqualification from office for a period of up to 5 years.

### **Expectations and Values**

It is the responsibility of individual **Councillors** to understand and comply with the provisions of this **Code of Conduct for Councillors**, the **Councillors' Planning Code of Conduct** (where relevant) and any Protocols contained in or linked to the Council's Constitution, as well as such other legal obligations as may apply to them from time to time.

**Councillors** have a responsibility to ensure that they comply with the **Code of Conduct for Councillors** in all respects.

**Councillors** are community leaders who will hold their peers to account and challenge any conduct which is unbecoming to the role and position of Councillor.

**Councillors** will treat each other and officers civilly and with respect and will challenge any breach of this requirement.

**Councillors** will regularly review their personal circumstances and intended actions in the context of the Code.

It is not enough to avoid impropriety; perception is also important. **Councillors** should avoid any occasion for suspicion and any appearance of improper conduct.

### **SEVEN GENERAL PRINCIPLES OF PUBLIC LIFE**

The **Code of Conduct for Councillors** includes and is intended to be consistent with the following seven principles, introduced by the Committee on Standards in Public Life, as required by the Localism Act 2011.

#### **1 Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **2 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.

### **3 Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **4 Accountability**

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

### **5 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.

### **6 Honesty**

Holders of public office should be truthful.

### **7 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.

## **Part A**

### **General Provisions**

Introduction and interpretation

#### **1 Application of the Code**

1.1 This Code applies to members of the Council as Councillors and any co-opted member.

1.2 It is your responsibility to comply with the provisions of this Code.

1.3 In this Code—

1.3.1 "meeting" means any meeting of—

- (a) the Council;
- (b) the Cabinet of the Council;
- (c) any of the Council's or its Cabinet Committees, Sub-Committees, **Joint Committees**, Joint Sub-Committees, and

- (d) any informal meetings

1.3.2 "member" includes a co-opted member and an appointed Councillor.

## 2 Scope

2.1 You must comply with this Code whenever you:

2.1.1 conduct the business of your Council (which, in this Code, includes the business of the office to which you are elected or appointed); or

2.1.2 act, claim to act or give the impression you are acting as a representative of your Council, and references to your official capacity are construed accordingly.

2.1.3 you act or may be perceived as acting in your role in public life.

## 3 General obligations

3.1 You must treat others civilly and with respect.

3.2 You must not—

3.2.1 do anything which may cause the Council to breach the Equality Act 2010 (or subsequent legislation)

3.2.2 bully<sup>1</sup> any person;

3.2.3 intimidate or attempt to intimidate any person, in particular:

(a) a complainant,

(b) a witness, or

(c) involved in the administration of any investigation or proceedings, in relation to an allegation that a Councillor has failed to comply with the **Code of Conduct for Councillors**; or

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

3.3 The **Chief Executive** and the **Monitoring Officer** should be advised about any close personal relationship with an officer or a close family member of an officer, that goes beyond that of a simple friendship which might be expected to exist between colleagues.

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<sup>1</sup> Bullying definition is the definition as adopted by ACAS an updated from time to time and includes harassment, any offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

PART FOUR – CODES AND PROTOCOLS  
Section B – Code of Conduct for Councillors

3.4 You must not:

3.4.1 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:

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice (such as legal advice) provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is permitted by law; or

3.4.2 prevent another person from gaining access to information to which that person is entitled by law.

3.5 You must not conduct yourself in a manner which a reasonable member of the public would regard as bringing the Council or the office of Councillor into disrepute.

3.6 You must:

3.6.1 represent the needs of residents- the whole community and your constituents, including those who did not vote for you,

3.6.2 deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

3.7 You:

3.7.1 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<sup>2</sup>; and

3.7.2 must, when using or authorising the use by others of the resources of the Council –

- (a) act in accordance with the Council's reasonable requirements;
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

3.7.3 must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

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<sup>2</sup> The advantage may be any benefit and need not be material or financial.

- 3.8 When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- 3.8.1 the Council's Chief Finance Officer; or
  - 3.8.2 the Council's Monitoring Officer, where that officer is acting pursuant to his/her statutory duties.
- 3.9 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

#### **4 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.

##### **4.1 Notification of disclosable pecuniary interests**

- 4.1.1 Within 28 days of becoming a Councillor or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.
- 4.1.2 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 are 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 relevant authority 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 relevant authority
  - (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer

- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; 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 relevant authority; 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

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

## 4.2 Register of interests

- 4.2.1 Any interests notified to the **Monitoring Officer** will be included in the register of interests.
- 4.2.2 A copy of the register will be available for public inspection and will be published on the Council’s website.

## 4.3 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, intimidation, threats, harassment or abusive behaviour and the **Monitoring Officer** agrees, if the interest or information 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 or information, 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.

## 4.4 Non-participation in case of disclosable pecuniary interest

- 4.4.1 If you are present at a meeting of the Council, Cabinet, or any Committee, Sub-Committee, **Joint Committee** or Joint Sub-Committee of the Council, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
  - (a) You may not participate in any discussion of the matter at the meeting.
  - (b) You may not participate in any vote taken on the matter at the meeting.

- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the **Monitoring Officer** of the interest within 28 days.

In addition, the Council and Committee Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

- 4.4.2 Where a Cabinet 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 them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

#### 4.5 Dispensations

The **Monitoring Officer** may authorise the granting of dispensations pursuant to section 33 of the Localism Act 2011.

#### 4.6 Offences

4.6.1 It is a criminal offence to:

- (a) Fail to notify the **Monitoring Officer** within twenty-eight days of election of any disclosable pecuniary interest
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- (c) Fail to notify the **Monitoring Officer** within twenty-eight days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- (d) Participate in any discussion, see paragraph 12 below, or vote on a matter in which you have a disclosable pecuniary interest
- (e) As a **Cabinet member** discharging a function acting alone and having a disclosable pecuniary interest in such a matter, fail to notify the **Monitoring Officer** within 28 days of the interest.
- (f) 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

#### 4.7 Notification of changes



You must notify the **Monitoring Officer** within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## 5 Other Interests

### 5.1 Notification of Other Interests

5.1.1 You must, within 28 days of adoption of the **Code of Conduct for Councillors**; or your election or appointment to office notify the **Monitoring Officer** in writing of the details of your other 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;
- (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 £50 that you have received in connection with your role as a **Councillor**, and details of the donor, the reason for acceptance and disposal.

5.1.2 You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the **Monitoring Officer** of the details of that new interest or change.

### 5.2 Disclosure of Other Interests

5.2.1 Subject to sub-paragraphs 5.1 to 5.6, where you have an interest described in paragraph 5.1 above or in paragraph 5.2.2 below in any business of the Council, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of the Council 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.

5.2.2 You have an interest in any business of the Council 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.

5.2.3 Where you have an interest in any business of the Council of the type mentioned in paragraph 5.1.1, (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.

- 5.2.4 Where you have an interest by virtue of paragraph 5.1 but, by virtue of paragraph 5.4 Sensitive Interests, information relating to it is not registered in the register of interests, you must indicate to the meeting that you have an interest but need not disclose the sensitive information to the meeting.
- 5.2.5 Where you have an interest in any business of the Council by virtue of paragraph 5.1 or 5.3, 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.

### **5.3 Register of interests**

- 5.3.1 Any interests notified to the **Monitoring Officer** under paragraph 8 above will be included in the register of interests.
- 5.3.2 A copy of the register will be available for public inspection and will be published on the Council's website.

### **5.4 Sensitive interests**

Where you consider that disclosure of the details of another interest could lead to you, or a person connected with you, being subject to violence, intimidation, threats, harassment or abusive behaviour, and the **Monitoring Officer's** 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.

### **5.5 Non-Participation in case of certain other interests**

- 5.5.1 Subject to paragraphs 5.5.2 and 5.5.3 below, where you have an interest in any business of the Council by virtue of paragraph 5.1 or 5.3 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 judgement of the public interest you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

In addition, the Council and Committee Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

- 5.5.2 Where you have an interest in any business of the Council to which paragraph 5.5 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.

- 5.5.3 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 5.5 that relates to the functions of the Council in respect of –
- (a) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;
  - (b) an allowance, payment or indemnity given to Councillors;
  - (c) any ceremonial honour given to Councillors; and
  - (d) setting Council Tax or a precept under the Local Government Finance Act 1992.
  - (e) Where, as a **Cabinet member**, you may discharge a function alone, and you become aware of an interest under paragraph 5.5 in a matter being dealt with, or to be dealt with by you, you must notify the **Monitoring Officer** 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.