

SECTION 13 – CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

1. INTRODUCTION

- 1.1 This Code of Conduct has been adopted by the Council pursuant to the Localism Act 2011 and the duty to promote and maintain high standards of conduct by councillors and Co-opted members of the Council.
- 1.2 Failure to comply with the requirements of Section 7 of this Code, other than paragraph 7.3(c), constitutes a criminal offence for which I may be prosecuted. Failure to comply with any of the other sections of the Code or paragraph 7.3(c) may result in my public censure by the Council.
- 1.3 Common law developed by the courts indicates that, at least in relation to “quasi-judicial” functions such as Licensing and Planning, councillors should not participate if a reasonable member of the public who is neither complacent nor unduly sensitive or suspicious would in the circumstances conclude that there is a real possibility of bias. This Code requires councillors to excuse themselves from involvement in decision making where they have a “Disclosable Pecuniary Interest” or an “Affected Interest” (as defined by the Code) in the matter under consideration. However, it is possible that when exercising such a “quasi-judicial” function interests other than Disclosable Pecuniary Interests or Affected Interests could lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a councillor. In such circumstances the councillor should not participate in the decision-making process (*i.e. the councillor should not vote nor, unless they are requested by the Chair of the Committee on a point of clarification, speak on the matter*). In cases of doubt or difficulty advice should be sought from the Borough Solicitor.
- 1.4 This Code should be read in conjunction with the behavioural expectations of councillors set out in the Bracknell Forest Council Mayoral charter which was adopted by the Council on 12 January 2022
- 1.5 Though not forming part of this Code councillors should have regard to [Guidance on Local Government Association Model Councillor Code of Conduct insofar as it provides explanatory relating to obligations which are included in this document. \(click above to access link\)](#)

2. APPLICATION

- 2.1 This Code of Conduct applies to me when I am acting as a councillor or Co-opted member of the Council. A Co-opted member is a person who is not a Borough Councillor but who –
 - (a) is a member of any Committee or sub-Committee of the Council; or
 - (b) is a member of, and represents the Council on, any Joint Committee or joint Committee of the Council

and who is entitled to vote on any question that falls to be decided at any meeting of *the* Committee or sub-Committee.

Throughout this Code “Councillor” shall be deemed to also refer to Co-opted members.

2.2 This Code of Conduct is consistent with and based upon the following “Nolan” principles: -

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The above terms are expanded in the Annexe to this Code under the heading ‘The Principles’.

3. GENERAL OBLIGATIONS.

As a Councillor

- 3.1 I treat others with respect.
- 3.2 I promote equalities and do not discriminate against any person.
- 3.3 I do not bully or harass any person.
- 3.4 I do not compromise or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.
- 3.5 I do not bring my role or the Council into disrepute.
- 3.6 I do not use or attempt to use my position as a councillor improperly to the advantage or disadvantage of myself or anyone else.

4. ACCESS TO AND DISCLOSURE OF INFORMATION

As a Councillor

- 4.1 I do not disclose information given to me in confidence by anyone (including exempt information provided to me by the Council) or information acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, except where: -
 - (i) I have the consent of a person authorised to give it
 - (ii) I am required to do so by law
 - (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:-
 - reasonable and in the public interest

- made in good faith and in compliance with the reasonable requirements of the Council
- I have consulted the Monitoring Officer prior to its release.
- in the case of exempt information provided to me by the Council, only made after giving two clear working days notice of the intention to disclose (in writing, specifying the information proposed to be disclosed) has been given to the Chief Executive or in his absence the Deputy Chief Executive.

“exempt Information” means information described either as such or as confidential.

- 4.2 I do not prevent another person from accessing information if that person is entitled to do so by law.

5. DECISION MAKING

As a Councillor

- 5.1 When reaching decisions on any matter I:
- have regard to any advice provided to me by the Head of Paid Service (the Chief Executive) by the Executive Director: Resources and/or the Monitoring Officer pursuant to their statutory duties, and
 - give reasons for the decisions in accordance with any legal requirements or any additional requirements imposed by the Council.

6. RESOURCES

As a Councillor

- 6.1 When using or authorising the use by others of the resources of the Council I:
- act in accordance with the Council’s requirements, and
 - ensure that such resources are not used improperly for political purposes (including party political purposes) unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.

- 6.2 I have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

7. INTERESTS

Disclosable Pecuniary Interests

- 7.1 I have a Disclosable Pecuniary Interest if it falls within the description set out in the Schedule to this Code and either: -

- (a) it is my interest, or
 - (b) it is an interest of my spouse or civil partner, a person with whom I am living with as husband and wife/as if we were civil partners AND I am aware that such other person has an interest.
- 7.2 Within 28 days of becoming a councillor I must notify the Monitoring Officer of any Disclosable Pecuniary Interests which I have. Where I become a councillor as a result of re-election or re-appointment the requirement to notify the Monitoring Officer only applies in relation to Disclosable Pecuniary Interests not already notified.
- 7.3 If I am present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee and I am aware that I have a Disclosable Pecuniary Interest in any matter to be considered:-
- (a) if the interest is not registered then I must disclose the interest to the meeting **and** notify the Monitoring officer within 28 days.
 - (b) I must not participate in discussion of the matter or vote on the matter **unless** I have been granted a dispensation by the Monitoring Officer or by the Governance and Audit Committee.
 - (c) if I am required by the Council's Standing Orders to withdraw from the meeting then I should notify the Democratic Services Officer in attendance at the meeting that I am withdrawing as I have an Interest in the matter.
- 7.4 If I am an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and I have a Disclosable Pecuniary Interest in a matter: -
- (a) I must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another Member, and
 - (b) if the interest is not registered then I must notify the Monitoring Officer of the interest.
- 7.5 If I have a Disclosable Pecuniary Interest in a matter, I must not seek improperly to influence a decision about it.

8. AFFECTED INTERESTS

- 8.1 I have an Affected Interest in a matter if: -
- (a)
 - (i) a decision in relation to that matter might reasonably be regarded as affecting the financial position of an Affected Person/Entity to a greater extent than the majority of other residents in my Ward, or

- (ii) it is an application for a Licence, permission or consent made by an Affected Person/Entity or which (to my knowledge) an Affected Person/Entity has made objection to the Council

AND

- (b) a member of the public, who knows the relevant facts, would reasonably think that the interest is so significant that it would be likely to prejudice my judgement of the Public Interest.

The following are “Affected Persons/Entities”: -

- (a) me
- (b) my spouse/partner
- (c) my parents and grandparents and those of my spouse/partner
- (d) my children and grandchildren and those of my spouse/partner
- (e) my sibling or his/her spouse or partner
- (f) my employer, business partner or any person whom I have undertaken work for in the previous two years, and
- (g) my employee
- (h) a company in which the total nominal value of the securities held by me/my spouse or partner exceeds £25,000 or more than ten per cent of the total issued share capital
- (i) a company which I, my spouse, partner, parent, grandparent, child or grandchild is a Director of
- (j) a company which my sibling or his/her spouse or partner is a Director of
- (k) a Limited Liability Partnership in which I, my spouse, partner, parent, grandparent, child or grandchild is a Partner
- (l) a Limited Liability Partnership in which my sibling or his/her spouse or partner is a Partner
- (m) a person with whom I have a close association

8.2 Within 28 days of becoming a Member I must notify the Monitoring Officer (in order for him/her to make entries in the Register of Member’s Interests): -

- (a) the name of any company which I, my spouse or partner are a director of and
- (b) the name of any Limited Liability Partnership which I, my spouse or partner are a partner in.

8.3 If I am present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, or an Executive Committee and I am aware that I have an Affected Interest in a matter to be considered:-

- (a) if the interest is not registered then I must disclose the interest to the meeting **and** (unless I have previously notified the Monitoring Officer of the interest) notify the Monitoring Officer within 28 days (if the Monitoring Officer determines that the interest is a Disclosable Pecuniary Interest the interest shall be entered on the Council’s register of interests).

- 8.4 If I am an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and I have an Affected Interest in a matter:-
- (a) I must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another councillor, and
 - (b) if the interest is not registered, I must notify the Monitoring Officer of the interest
- 8.5 If I have an Affected Interest in a matter, I must not seek improperly to influence a decision about it.

9. SENSITIVE INTERESTS

- 9.1 If I have a Disclosable Pecuniary Interest or an Affected Interest but I consider that disclosure of the interest could lead to me or a person connected with me being subject to violence or intimidation **and** the Monitoring Officer agrees with that assessment then instead of disclosing the interest I need only disclose *the fact* that I have a Disclosable Pecuniary Interest or an Affected Interest (as the case may be) *without giving details of that interest*.

10. MEMBERSHIP OF EXTERNAL ORGANISATIONS AND ASSOCIATION

- 10.1 This section of the Code applies where I am a member of or in a position of general control or management of any body: -

- (a) exercising functions of a public nature
- (b) directed to charitable purposes, or
- (c) one of whose principal purposes includes the influencing of public or policy (including any political party or trade union)

and I have **not** been appointed or nominated in such capacity by the Council.

- 10.2 Within 28 days of becoming a member I shall notify the Monitoring Officer of my membership/position. Where I become a member as a result of re-election or reappointment the requirement to notify the Monitoring Officer only applies in relation to a membership/position not already notified. The membership/position will be recorded on the Council's register of councillor's interests.
- 10.3 If I am present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee at which a matter is to be considered which affects that body to a greater extent than the majority of residents in my Ward then I shall disclose to the meeting my connection to the body immediately prior to consideration of the matter. I need not withdraw from the meeting but shall within 28 days notify the Monitoring Officer of the membership/position unless notification has previously been given.

11. REGISTRATION OF GIFTS AND HOSPITALITY

As a Councillor

11.1 I shall promptly notify the Assistant Director: Democratic and Registration Services of: -

- (a) gifts or hospitality the value of which exceeds £25.
- (b) gifts or hospitality (of any value) the value of which combined with the value of any other gift or hospitality from the same source providing the gift or hospitality in the preceding period of one year exceeds £25

which my spouse/partner or I receive because (or which a reasonable member of the public would infer because) I am a councillor, or I have been appointed to any position by or on behalf of the Council.

Where the value is not immediately apparent the value is that which a reasonable member of the public would estimate for the gift or hospitality. I shall err on the side of caution i.e. if there is any doubt as to whether the gift or hospitality is registrable I shall register it.

The notice to the Assistant Director: Democratic and Registration Services should state: -

- (a) the nature of the gift or hospitality provided
- (b) the identity of the source providing the gift or hospitality, and
- (c) the date on which the gift or hospitality was provided.

The register of gifts or hospitality will be made available for public inspection.

12. BIAS AND PREDETERMINATION

12.1 I am aware that in addition to the Provisions of this Code relating to Disclosable Pecuniary Interests and Affected Interests, a decision that I am involved in making, either as an individual Councillor or as a Member of a Committee can be set aside if it is found that in making my decision I closed my mind to all considerations other than my already held view.

12.2 The test applied by Courts on establishing whether a decision has been tainted by bias or predetermination is whether the circumstances were such as would lead a fair minded and informed observer to conclude that there was real risk that I had predetermined the outcome.

12.3 In addition to a decision being set aside as a result of bias or predetermination I could be found to have brought my Council and the Office into disrepute under paragraph 3.5 of the Code.

SCHEDULE

Categories of Disclosable Pecuniary Interests

<u>Subject</u>	<u>Prescribed Description</u>
Employment, office trade, professional or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	<p>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 me in carrying out duties as a councillor, or towards my election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992</p>
Contracts	<p>Any contract which is made between me or a relevant person (or a body in which I or a relevant person has a beneficial interest) and the Council –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>
Land	Any beneficial interest in land which is within the Borough.
Licences	Any licence (alone or jointly with others) to occupy land in the Borough for a month or longer.
<u>Subject</u>	<u>Prescribed Description</u>
Corporate tenancies	<p>Any tenancy where (to my knowledge) –</p> <p>(a) the landlord is the Council; and</p> <p>(b) the tenant is a body in which I or a relevant person has a beneficial interest</p>
Securities	Any beneficial interest in securities of a body where –

- (a) that body (to my knowledge) has a place of business or land in the Borough; and
- (b) either –
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (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 I or a person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Definitions

“body in which I or a relevant person has a beneficial interest” means a firm in which I or a relevant person is a partner or a body corporate of which I or a relevant person is a Director, or in the securities of which I or a relevant person has a beneficial interest.

“director” includes a member of the Committee of management of an industrial provident society.

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for me or a relevant person (alone or jointly with another) to occupy the land or to receive income.

“relevant period” means the period of one year ending with the day on which I give a notification of my Disclosable Pecuniary Interests to the Monitoring Officer.

“relevant person” is a person falling within 7.1(b) above.

“securities” means shares, debentures, debenture 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.

THE PRINCIPLES

- **Selflessness**
Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and Integrity**
Councillors 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**
Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability**
Councillors 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**
Councillors should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
- **Leadership**
Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.