

**HAMPSHIRE COUNTY COUNCIL**

**Report**

<b>Decision Maker:</b>	Conduct Advisory Panel
<b>Date:</b>	15 June 2012
<b>Title:</b>	Localism Act 2011 – Revised Standards Arrangements - Interim Code of Conduct for Members of the County Council and related matters
<b>Reference:</b>	4056
<b>Report From:</b>	Chief Executive

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**1. Executive Summary**

- 1.1. This report outlines the revised requirements on the County Council in respect of changes in the Members' Code of Conduct and associated Standards Arrangements introduced by the Localism Act 2011 ('the Localism Act'), and advises the Conduct Advisory Panel on the legislative framework surrounding the changes.
- 1.2. This report also suggests an interim Code of Conduct for Members of the Conduct Advisory Panel to consider, together with suggested interim Arrangements in respect of allegations of breach of the Members' Code of Conduct.

**2. Contextual information**

- 2.1. Section 7 of the Localism Act and Schedule 4, which it introduces, contain revised arrangements in respect of a Members' Code of Conduct and Standards Arrangements which the County Council is required to adopt, and matters relating thereto, and the registration and disclosure of Members' Interests.
- 2.2. As members of the Conduct Advisory Panel will be aware, both the Standards Board for England and the jurisdiction of the First-tier tribunal over Member conduct issues have already been abolished. Regulations have in the last few days also been made implementing from 1 July 2012 the remaining parts of the Localism Act, so far as they relate to Standards Arrangements, together with some transitional provisions. These revised Standards Arrangements and transitional provisions are dealt with in more detail below.

### **3. Members' Code of Conduct**

- 3.1. Once the provisions of the Localism Act are implemented on 1 July 2012, the County Council's existing Members' Code of Conduct, contained within the Constitution, will cease to have effect, as will undertakings by Members to comply with the Code of Conduct as part of their declaration of acceptance of office.
- 3.2. However by virtue of Section 27 of the Localism Act, the County Council is still required to promote and maintain high standards of conduct by both Members and Co-opted Members of the County Council, and to adopt a Code of Conduct to deal with the conduct expected of Members and Co-opted Members when acting in an official capacity. By virtue of Section 28 of the Localism Act, such Code of Conduct must, when viewed as a whole, be consistent with the Nolan principals of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as set out in the Localism Act. The new Code of Conduct must also include such provision as the County Council considers appropriate in respect of the registration and disclosure of specified pecuniary interests, and interests other than pecuniary interests which the County Council requires to be registered. Provision in respect of the registration and disclosure of Members' Interests is dealt with in more detail at paragraph 4 of this report.
- 3.3. The new Code of Conduct may be either a revision of the existing Members' Code of Conduct, or a replacement of the existing Code. Approval of the new Members' Code of Conduct is required, by virtue of the Localism Act, to be done by full Council. However, recognising the need for the County Council to put in place interim arrangements in respect of a new Members' Code of Conduct, and Members' Interests under the Localism Act required to be registered, the County Council at its meeting on 17 May 2012 delegated authority to the Conduct Advisory Panel to consider interim arrangements in respect of these, and to report back to the County Council at its meeting on 19 July 2012 on its conclusions.
- 3.4. Subject to the mandatory requirements of the Localism Act, the exact format of the new Members' Code of Conduct is a matter of local choice. However, as Members will be aware, in order to provide help to Local Authorities in determining what a new Code of Conduct might look like, both the Local Government Association ('LGA') and the Department for Communities and Local Government ('DCLG') have issued suggested 'model' Codes of Conduct. The LGA model is referred to as a 'template Code of Conduct', and the DCLG model is referred to as an 'illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity'. A copy of the suggested LGA model is attached at Annex 2 to this report, and a copy of the suggested DCLG model is attached at Annex 3 to this report. Also attached, for ease of reference, at Annex 4 to this report, is the County Council's existing Members' Code of Conduct, as contained within the Constitution.
- 3.5. Attached at Annex 1 to this report is a suggested draft new Code of Conduct for Members of the Conduct Advisory Panel to consider. The draft is based on the LGA model, which has been approved by local government leaders,

and also takes in points from the DCLG model, together with some additional points regarding the registration and disclosure of Members' Interests. Members will note that there are some drafting differences between the content and form of the new suggested model Code of Conduct, and existing obligations on Members of the County Council in the existing Members' Code of Conduct, as set out at Part 1, Paragraph 3 ('General obligations') of the existing Code. Thus also attached at Annex 1A of this report are draft alternative obligations for Members of the Conduct Advisory Panel to consider, based on provisions in the existing Code of Conduct, as an alternative to the obligations set out at Part 1, Paragraph 3 of the suggested new Code of Conduct attached at Annex 1.

#### **4. Members' Interests**

- 4.1. Existing provisions in respect of the registration and disclosure of Members' Interests will be repealed from 1 July 2012, as part of the repeal of the existing Code of Conduct. However Section 29 of the Localism Act requires the Monitoring Officer to establish and maintain a Register of Members' and Co-opted Members' interests, to make the register available for inspection, and to publish it on the County Council's website. The Register must include details of disclosable pecuniary interests (DPI's), as defined in Regulations made by the Secretary of State of themselves, their spouse or person they live with as husband and wife or civil partner which should be registered within 28 days of taking office, and any other interests the County Council considers should be registered. Regulations have in the last few days been made by the Secretary of State defining what will constitute a 'DPI', and a detailed note will be sent separately to all Members by the Head of Governance advising Members of the content of the Regulations and procedures to be followed in respect of registration of 'DPI's' prior to this date. Details of statutory provisions in respect of 'DPI's' are set out at Part 3 of the draft new Members' Code of Conduct. As indicated above, other than 'DPI's', it is up to the County Council to determine in its Code of Conduct what, if any, other interests it requires to be entered on the Register.
- 4.2. It should be noted that there is no ongoing requirement under the Localism Act to register any 'DPI' arising after a Member has taken office, although these do need to be declared at meetings, and subsequently included on the Register. However, in the interests of good governance and transparency, Members of the Conduct Advisory Panel may consider that the new Members' Code of Conduct should also contain an ongoing obligation to register any 'DPI's'.
- 4.3. Where at a meeting a Member or a Co-opted Member of the County Council is aware that they have a 'DPI' in a matter being considered at such meeting, such Member cannot by virtue of provisions in the Localism Act participate in discussion or voting on the matter. It should however be noted that, unlike the existing position in respect of prejudicial interests, the Localism Act does not specifically require a Member with a 'DPI' to leave the room while the matter is discussed, or to declare the nature of the 'DPI'. As a matter of good governance, and in the interests of openness and transparency, and to

protect Members from allegations of undue influence from the fact of being present at a meeting, it may be that Members of the Conduct Advisory Panel might wish for this provision to continue. This point is reflected at Part 2, Paragraph 1.6 of the draft new Members' Code of Conduct. Should Members agree with this suggestion, then Standing Orders would also need to be amended accordingly.

- 4.4. In addition, in the interests of good governance, and to minimise any allegations of bias in decision making, Members might wish to retain provision (either existing or amended) in respect of the registration and disclosure of what, under the existing Code of Conduct, would constitute a personal interest. A personal interest currently arises where it relates to either a personal interest a Member must register, or to a personal interest not required to be registered, where the well-being or financial position of the Member, his family, or persons with whom the Member has a close association, is likely to be affected by the business more than the majority of inhabitants of any electoral division of the County Council, or inhabitants of the County Council's area generally. Further advice will be given by the Head of Governance to the meeting on any overlap between existing personal interests and disclosable pecuniary interests as defined in the Regulations made by the Secretary of State. Should Members consider it appropriate that personal interests should continue to be registered, details of personal interests to be registered will be contained at Part 4 of the draft new Members' Code of Conduct.

## **5. Arrangements for investigation of allegations of breaches of the Members' Code of Conduct**

- 5.1. As indicated above, existing procedures in respect of the investigation of allegations of breach of the Members' Code of Conduct are repealed by the Localism Act from 1 July 2012, as is the requirement for the County Council to have a Standards Committee chaired by an Independent Person. It is still however necessary, under the Localism Act, for the County Council to have in place from 1 July 2012 arrangements to deal with the investigation and determination of allegations of breach of the new Members' Code of Conduct. These arrangements are now however a matter of local determination. Delegated authority to determine such revised arrangements was given to the Conduct Advisory Panel by the County Council at its meeting on 17 May 2012.
- 5.2. A further report will be brought to the next meeting of the Conduct Advisory Panel on 4 July 2012 with suggestions as to a revised procedure under the Localism Act for the investigation and determination of complaints under the new Members' Code of Conduct. It is however suggested that in the meantime, in order to avoid the County Council being in a position of non-compliance, and to allow any existing complaints to continue to be dealt with pending approval of the new arrangements, existing arrangements in respect of the investigation and determination of complaints are carried forward until revised arrangements are agreed by the Conduct Advisory Panel. After this date any existing complaints would be subject to the new arrangements.

## **6. Recommendations**

It is recommended that the Conduct Advisory Panel:

- 6.1. Consider the draft new interim Members' Code of Conduct attached at Annex 1 to this Report, so that any comments can be incorporated in a revised draft to be submitted to the Conduct Advisory Panel for approval at its meeting on 4 July 2012, prior to consideration by the County Council at its meeting on 19 July 2012.
- 6.2. Note the new Statutory Requirements introduced by the Secretary of State pursuant to the Localism Act 2011, as set out at Part 3 of the draft new Members' Code of Conduct, in respect of the registration and disclosure of disclosable pecuniary interests.
- 6.3. Approve the direction of travel in respect of the procedure to be followed, in respect of the registration and disclosure of Members' Interests, including any consequential change required to Standing Orders,.
- 6.4. Consider the position in respect of the registration and disclosure of interests, other than pecuniary interests required by the Localism Act to be registered, so that appropriate provision in respect of these can be included in the new interim Members' Code of Conduct to be considered by the Conduct Advisory Panel on 4 July 2012.
- 6.5. Approve as an interim measure the continuation of existing arrangements in respect of the investigation and determination of allegations of breach of the existing and new Members' Code of Conduct, until such time as revised arrangements are agreed by the Conduct Advisory Panel.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

**This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because the County Council must consider a new Code of Conduct for Members of the Council as required by the Localism Act 2011. The Code of Conduct Advisory Panel was appointed by the Council on 17 May 2012 to investigate the Model Codes issued by the Local Government Association and the Department for Communities and Local Government, and recommend a new Code of Conduct to the Council.**

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Localism Act 2011 – Standards Update	3757	2 March 2012
Localism Act 2011 – Revised Standards Arrangements - Update	3882	30 April 2012
Localism Act 2011 – Interim Standards Arrangements	3932	17 May 2012
<b>Direct links to specific legislation or Government Directives</b>		
<u>Title</u>	<u>Date</u>	
Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions Order).	2011	
Relevant Authorities (Disclosable Pecuniary Interests) Regulations.	2012	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
None	

**IMPACT ASSESSMENTS:**

**1. Equalities Impact Assessment:**

1.1. N/A

**2. Impact on Crime and Disorder:**

2.1. N/A

**3. Climate Change:**

a) How does what is being proposed impact on our carbon footprint / energy consumption?

N/A

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

N/A

# HAMPSHIRE COUNTY COUNCIL

## DRAFT CODE OF CONDUCT FOR MEMBERS

### Part 1: General Provisions and Interpretation

#### 1. Introduction

This Code of Conduct is adopted by the County Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the County Council. This Code applies to all Members and Co-opted Members of the County Council.

This Code is based on and is consistent with the following principles:

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

## **2. Scope**

This Code applies to all Members and Co-opted Members of the County Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the County Council.

Where a Member or Co-opted Member is a member of more than one local authority, but acting on behalf of the County Council, such Member or Co-opted Member is, for the avoidance of doubt, bound by this Code of Conduct.

## **3. General obligations of Members and Co-opted Members**

As a Member of Hampshire County Council, your conduct will address the statutory principles of the Code of Conduct by:

- 3.1 Championing the needs of residents – the whole community and as a local member your constituents, including those who did not vote for you - and putting their interests first.
- 3.2 Dealing with representations or enquiries from residents, members of communities within the administrative area of Hampshire County Council and visitors fairly, appropriately and impartially.
- 3.3 Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the County Council's area, or the good governance of the County Council in a proper manner.
- 3.4 Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member or Co-opted Member of the County Council.
- 3.5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the County Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 3.6 Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
- 3.7 Contributing to making the County Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account, but restricting access to information when the wider public interest, the County Council's Constitution or the law requires it.

- 3.8 Behaving in accordance with all the County Council's legal obligations, alongside any requirements contained within the County Council's policies, protocols and procedures.
- 3.9 Ensuring that when using or authorising the use by others of the resources of the County Council that you act in accordance with the County Council's reasonable requirements, and that such resources are not used improperly for political purposes.
- 3.10 Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- 3.11 Not doing anything which might cause the County Council to breach any equalities legislation.
- 3.12 Valuing your colleagues and Officers of the County Council and engaging with them in an appropriate manner and one that underpins the mutual respect between you and them that is essential to good local government.
- 3.13 Always treating people with respect and propriety, including other Members, Co-opted Members and Officers of the County Council and the organisations and public you engage with and those you work alongside.
- 3.14 Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the County Council.

## **Part 2: Registration and Disclosure of Pecuniary and Personal Interests**

### **1. Obligations**

- 1.1 You must, within 28 days of taking office as a Member or Co-opted Member of the County Council, notify the County Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 3 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 1.2 In addition, you must, within 28 days of taking office as a Member or Co-opted Member of the County Council, notify the County Council's Monitoring Officer of any personal interest which the County Council has decided should be included in the County Council's Register of Members' Interests (as set out at Part 4 of this Code).

- 1.3 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest or any personal interest the County Council has required to be registered, or change thereto, notify the County Council's Monitoring Officer of such new or changed interest.
- 1.4 If you have an interest included on the Register of Members' Interests (disclosable pecuniary interest or personal interest), you must disclose this interest at any meeting of the County Council, its Committees or the Executive at which you are present and participating in the business. Where an interest is a 'sensitive interest'<sup>1</sup>, you need only disclose the fact that you have a disclosable pecuniary or personal interest in the matter being considered and do not need to disclose details of the interest itself.
- 1.5 If an interest (disclosable pecuniary interest or personal interest) required to be registered has not been entered onto the County Council's Register of Interests, then you must also disclose the interest to any meeting of the County Council, its Committees or the Executive at which you are present where you have such an interest in any matter being considered. Where an interest is a 'sensitive interest', you need only disclose the fact that you have a disclosable interest in the matter concerned and do not need to disclose details of the interest itself. Following disclosure of an interest not on the County Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 1.6 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest and must (save for in circumstances set out at 1.7 below) withdraw from the chamber or room where the meeting considering the business is being held, unless a dispensation has been granted by the County Council's Conduct Advisory Panel. If acting as a single Executive member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.
- 1.7 Without prejudice to paragraph 1.6 above, where you have a disclosable pecuniary interest in any business of the County Council (including any meeting of a Select Overview and Scrutiny Committee of the County Council) you may, notwithstanding such disclosable pecuniary interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business,

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest (disclosable pecuniary interest or otherwise), and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

- 1.8 For the avoidance of doubt the restrictions contained at paragraph 1.6 above only apply in cases where a Member has a disclosable pecuniary interest, and do not apply in cases where a Member has a personal interest in a matter only.

## **Part 3: Disclosable Pecuniary Interests**

### **1. Introduction**

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself; or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

### **2. Interpretation**

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- 2.3 'director' includes a member of the committee of management of an industrial and provident society;
- 2.4 'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Hampshire County Council of which M is a member;
- 2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section

31(7), as the case may be, of the Act;

- 2.9 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000<sup>1</sup> and other securities of any description, other than money deposited with a building society.

### 3. Schedule of disclosable pecuniary interests

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	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 M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>2</sup> .
Contracts	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: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (along or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a

<sup>1</sup> 2000 c. 8.

<sup>2</sup> 1992 c. 52

	<p>body where:</p> <ul style="list-style-type: none"><li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li><li>(b) either:<ul style="list-style-type: none"><li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li><li>(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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li></ul></li></ul>
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**Part 4: Personal interests**

[to be added after consideration by the Conduct Advisory Panel]

## **Part 1: General Provisions and Interpretation**

### **3. General obligations of members and co-opted members**

1. You must treat others with respect.
2. You must not do anything which may cause the Authority to breach equalities legislation.
3. You must not bully any person.
4. You must not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.
5. You must not do anything which compromises the impartiality of the Authority's officers.
6. You must not disclose confidential information (other than in very limited circumstances permitted by law, and following consultation with the Authority's Monitoring Officer).
7. You must not prevent a person from gaining access to information to which they are entitled.
8. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute.
9. You 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.
10. You must, when using or authorising the use by others of the resources of the Authority, act in accordance with the Authority's reasonable requirements, and ensure that the resources are not used improperly for political purposes.
11. You must have regard to the Code of Recommended Practice on Local Authority Publicity.
12. When reaching decisions, you must have regard to relevant advice from the Authority's officers, and give reasons for decisions.

## TEMPLATE CODE OF CONDUCT

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of *[X authority]*, my conduct will in particular address the statutory principles of the code of conduct by:

Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.

Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests

of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.

Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.

Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.

Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

Always treating people with respect, including the organisations and public I engage with and those I work alongside.

Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

**ILLUSTRATIVE TEXT FOR CODE DEALING WITH THE CONDUCT  
EXPECTED OF MEMBERS AND CO-OPTED MEMBERS OF THE AUTHORITY  
WHEN ACTING IN THAT CAPACITY**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of the disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

## **Existing Hampshire County Council Members' Code of Conduct**

### **Part 1: General provisions**

#### **Introduction and interpretation**

- 1 (1) This Code applies to **you** as a member of Hampshire County Council.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State(a).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code “meeting” means any meeting of
  - (a) Hampshire County Council;
  - (b) the Executive of Hampshire County Council;
  - (c) any of Hampshire County Council or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees, or Area Committees;

“member” includes a co-opted member and an elected member of Hampshire County Council.

“your authority” means Hampshire County Council

- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the Monitoring Officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the local Government Act 2000.
- (6) Where you are a member of more than one local authority, but acting on behalf of the County Council, you are, for the avoidance of any doubt, bound by this Code of Conduct.

#### **Scope**

- 2 (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you
  - (a) conduct the business of your authority (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 your authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your 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 your authority's Code of Conduct, 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 any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));
  - 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, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

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 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

- reasonable and in the public interest; and
- 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 your 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;
- (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 chief finance officer; or
  - (b) your authority's monitoring 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**

### **Personal Interests**

- 8 (1) You have a personal interest in any business of your authority where either
- (a) it relates to or is likely to affect
    - (i) 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 your authority;
    - (ii) any body
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) 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) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

- (vii) any contracts for goods, services or works made between your 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 specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimate value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are remunerated director, or a person or body of the description specified in paragraph(vi) is, the tenant;
  - (xi) any land in your authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) 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 relevant person to a greater extent than the majority of
- (i) (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;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decisions; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) in sub-paragraph (1)(b), a relevant person is
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

- 9 (1) Subject to sub-paragraphs (2) to 97), where you have a personal interest in any business of your authority 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) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph (8)(1)(a)(i) or (8)(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(i)(a)(viii), 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) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority 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
- (7) 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 (a).

### **Prejudicial interest generally**

- 10 (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where 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.

- (2) You do not have a prejudicial interest in any business of the authority where that business
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) 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) school meals or school transport and travelling expenses, where you are 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) statutory sick pay under Part XI of the Social Security Contributions and benefits Act 1992, where you are in receipt of or are entitled to the receipt of such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committee**

- 11 You also have a prejudicial interest in any business before a Select (Overview and Scrutiny) Committee of your authority (or of a sub-committee of such a committee) where
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive committee, sub-committee, joint

committee, or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests in participation**

- 12 (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that that the business is being considered at that meeting;
- unless you have obtained a dispensation from your authority's Standards Committee;
- (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.

## **Part 3: Registration of Members' Interests**

### **Registration of members' interests**

- 13 (1) Subject to paragraph 14, you must, within 28 days of
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 81(1) of the local Government Act 2000) details of your personal interests where they fall within a

category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

### **Sensitive information**

- 14 (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstance which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (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 subjected to violence or intimidation.