WITHERNSEA TOWN COUNCIL

MEMBER CODE OF CONDUCT

Definitions

In this Code of Conduct:-

Councillor means a member or co-opted member of a local authority; "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

(a) is a member of any committee or sub-committee of the authority, or;
(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Family means Spouse, Civil partner, any person with whom you are living as a spouse or civil partner, parent, grandparent, child, grandchild or sibling.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, authority officers and the reputation of local government. It sets out your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

1. **You must treat others with respect**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online. Intimidatory or threatening behaviour which may amount to a criminal offence can be reported to the Police. You may also report any such behaviour to the relevant social media provider. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and authority employees, where concerns should be raised in line with the local authority's councillor officer protocol.

2. **You must not:**

    a. **Bully any person.**

    b. **Harass any person.**

    c. **Do anything which may cause your authority to breach any of the equality enactments.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. **You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.**

Officers work for the local authority as a whole and must be politically neutral. They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. **You must not**

    a. **Disclose information:**

        i. **given to you in confidence by anyone**
        ii. **acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature,**
        iii. **which consists of the personal data of another person , unless**
            1. **You have received the consent of a person authorised to give it;**
            2. **You are required by law to do so;**
            3. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
            4. **the disclosure is:**
                a. **reasonable and in the public interest; and**
                b. **made in good faith and in compliance with the reasonable requirements of the local authority; and**
                c. **You have consulted the Monitoring Officer prior to its release.**

    b. **Improperly use knowledge gained solely as a result of your role as a councillor for the advancement of you, your close associates, members of your family, your employer or your business interests.**

    c. **Prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. **You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. **You must not misuse council resources.**

8. **When using the resources of the local authority or authorising their use by others you must:**

    a. **act in accordance with the authority's requirements**

    b. **ensure that such resources are not used improperly for political purposes (including party political purposes)**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

9. **You must –**

    a. **undertake Code of Conduct training provided by your principal authority**

    b. **co-operate with any Code of Conduct investigation and/or determination.**

    c. **comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.**

10. **You must not –**

    a. **intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

    b. **make any trivial or malicious complaint against any other Member alleging a breach of any of the provisions of this Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

11. **You must within 28 days of receipt, register offers of gifts or hospitality with a value of £25 or more which have been offered to you in your capacity as a Member of the authority from any person or body other than the authority.**

12. **You must not accept gifts and hospitality regardless of value where it may lead any reasonable person with knowledge of the relevant facts to believe that you might be influenced by the gift or hospitality given.**

In order to protect your position and the reputation of the authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Registration of Interests

13. **You must before the end of 28 days beginning on the day on which you become a Member of the authority or within 28 days of any change in an interest or becoming aware of any new interest notify the Monitoring Officer of:**

a. The following Pecuniary Interests of yourself, your spouse or civil partner, any person with whom you are living as husband or wife or any person with whom you are living as if they were a civil partner:

i. Any employment, office, trade, profession or vocation carried on for profit or gain.
ii. Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
iii. Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
iv. Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
v. Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
vi. Any tenancy where (to the councillor's knowledge) — (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
vii. Any beneficial interest in securities* of a body where — (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; 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 the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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 and other securities of any description, other than money deposited with a building society.

b. **The following Non-Pecuniary interests of yourself:**

   i. **Bodies to which you are appointed or nominated by the authority other than bodies in which the authority has an interest (i.e. outside body appointments).**
   ii. **Bodies exercising functions of a public nature of which you are a Member (including regional and local enterprise partnerships, other councils, public health bodies, school governing bodies).**
   iii. **Bodies directed to charitable purposes of which you are a Member (including the Lions, the Masons, a Parochial Church Council; not just bodies registered with the Charity Commission).**
   iv. **Bodies whose principal purposes include influence of public opinion of policy (including any political party or trade union) of which you are a Member.**
   v. **Any voluntary work undertaken by you.**
   vi. **Any role as a trustee.**

14. **You need only notify the Monitoring Officer of any interests of which you are aware pursuant to paragraph 13 above.**

15. **Where you become a Member of the authority as a result of a re-election or re-appointment you only need to disclose interests not already entered on the register.**

Sensitive Interests

16. **Where the nature of the interest is such that you consider that the disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation, (and the Monitoring Officer agrees) details of the interests will not be included in any published version of the register of interests save that the register will state you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a pecuniary interest as set out at paragraph 13 above is a criminal offence under the Localism Act 2011.

Action on Interests

Pecuniary Interests

17. Where a matter arises at a meeting which directly relates to one of your Pecuniary Interests as set out at paragraph 13 above, you must disclose the interest, not participate in any discussion or vote on the matter and must leave the room (or go into the lobby of a virtual meeting) unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a pecuniary interest.

Non-Pecuniary Interests

18. You have a non-pecuniary interest in any business of the authority where either-

    a. it is likely to affect any of the bodies listed in paragraph 13 (b) above;

    b. it is likely to affect any person or body from whom you have within the last six years and in your capacity as a Member accepted an offer of gifts or hospitality with a value of £25.00 or more, or

    c. the decision in relation to that business might reasonably be regarded as affecting your wellbeing, or financial position, or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, rate payers or inhabitants of the Ward affected by the decision.

19. A relevant person is:-

    a. A member of your family or any person with whom you have a close association, or

    b. A person or body who employs or has appointed such persons any firm of which they are a partner or any company of which they are Directors.

20. Where you have a non-pecuniary interest in any business of the authority and you attend a meeting of the authority at which that 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.

21. Paragraph 20 only applies where you are aware or ought reasonably to be aware of the existence of the interest.

22. Where you have an interest but by virtue of paragraph 16 it is not registered in the authority's register of interests you must indicate you have a non-pecuniary interest but need not disclose the sensitive information to the meeting.

23. Subject to sub-paragraph (a) below where you have a non-pecuniary 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

a. You do not have a prejudicial interest in any business of the authority where that business relates to the functions of your authority in respect of –

i. an allowance, payment or indemnity given to members;

ii. any ceremonial honour given to members; and

iii. setting council tax or a precept under the Local Government Finance Act 1992.

24. Where a matter arises at a meeting in which you have a prejudicial interest, you must disclose the interest, not participate in any discussion or vote on the matter and must leave the room (or go into the lobby of a virtual meeting). Where you have an interest but by virtue of paragraph 16 it is not registered in the authority's register of interests you must indicate you have a prejudicial interest but need not disclose the sensitive information to the meeting.

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