

## **Chapter 1: Member Code of Conduct**

# **Forest of Dean District Council Councillors' Code of Conduct**

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# **INTRODUCTION**

## **Purpose of the Code**

The Localism 2011 requires this Council to promote and maintain high standards of conduct by its Members and Co-opted Members. In discharging this duty, the Council is required to adopt a Code of Conduct which sets out the conduct expected of councillors.

The Council's Code of Conduct is divided into 3 sections:

1. The Rules of Conduct
2. The Complaints process
3. The Investigation and Determination of complaints

The Purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the Council, their local communities and the public at large by:

- a) Establishing the standards and principles of conduct expected of all Members in undertaking their duties; and
- b) Ensuring public confidence in the standards expected of all Members and in the commitment of the Council to upholding the Code through an open and transparent process

## **Who and what does the Code apply to:**

The Code applies to Members in all aspects of their activities as a Member, including when acting on Council business, ward/division business or when otherwise purporting to act as a Member. It does not seek to regulate what Members do in their purely private and personal lives.

## **Town and Parish Councils**

This Code does not apply to town and parish councils who are required to have their own Code of Conduct.

## Part 1: Rules of Conduct

It is a Member's responsibility to comply with the provisions of the Code of Conduct and to follow any advice given to them on the interpretation or application of this Code.

### Section 1: Overarching Principles

As a Member of the Council:

- 1.1 It is your responsibility to comply with the provisions of this Code
- 1.2 You must comply with the Code wherever you –
  - a) Conduct business of the Council; or
  - b) Are acting as a representative of the Council

#### General Principles of Conduct

- 1.3 When acting in your role as a Member of the Council, you must ensure that you conduct yourself in such a manner that complies with the Seven Principles of Public Life (referred to in the Code as the "7 Principles"). These general principles of conduct were identified by the Committee on Standards in Public Life in its First Report. These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the Rules of Conduct. For the avoidance of doubt a breach of any of the 7 Principles will be seen as a breach of this Code.

#### The Seven Principles

- 1.4 The Seven Principles of Public Life are:

##### ***Principle 1. Selflessness***

Holders of public office should take decisions 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.

##### ***Principle 2. Integrity***

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

##### ***Principle 3. 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.

***Principle 4. 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.

***Principle 5. Openness***

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

***Principle 6. 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.

***Principle 7. Leadership***

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

<b>Section 2: Relationship with Others</b>
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- 2.1 Members must treat others with respect
- 2.2 Members have a duty to uphold the law, including the general law against discrimination
- 2.3 Members have a duty to act with honesty and integrity and must never attempt to mislead officers, other members or the public.
- 2.4 Members must never present or submit any information to the Council or any of its committees which they know to be false or inaccurate
- 2.5 Members shall never undertake any action which would cause significant damage to the reputation and integrity of the Council as a whole, or of its Members generally
- 2.6 Members must not undertake any act or omission that would undermine the Council's duty to promote and maintain high standards of conduct for members
- 2.7 When reaching decisions on any matter, Members must have regard to any relevant advice provided to them by the Council's Section 151 Officer and/or the Monitoring Officer.
- 2.8 It is contrary to law for a Member to accept a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in kind, in connection with the promotion of, or opposition to, any Motion, or other matter submitted, or intended to be submitted, to the Council.

- 2.9 Members should act on all occasions in accordance with the public trust placed in them. They should always behave with probity and integrity, including in their use of public resources. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
- 2.10 Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is applied for the support or in assistance of the carrying of their duties as Members.
- 2.11 Members must not use their position as a Councillor to exert influence on relations with Council Officers or attempt to undermine the independence or impartiality of Council Officers when such Officers are acting in the course of their duties.

### **Use of Resources**

- 2.12 When using Council resources, Members must ensure that they:
- a) comply with the protocol on the use of resources as set out in the constitution;
  - b) do not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
  - c) when using or authorising the use by others of the resources of the Council-
    - (i) act in accordance with the Council's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - d) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

### **Additional Codes and Protocols**

- 2.13 The obligations set out in this Code are also complementary to, and include those obligations which apply to Members falling within the scope of related Codes and Protocols of the Council, specifically.
- the Member/Officer Protocol
  - protocol for members determining planning applications (Part 2, Chapter 7.8)
  - the protocol for members determining Licensing applications (Part 2, Chapter 6.3)
  - the Information Security Policy

- the Acceptable ICT Usage Policy

2.14 For the avoidance of doubt a breach of any of these Codes/Policies/Protocols will be deemed to be a breach of the Code of Conduct

### **Section 3: Interests**

- 3.1 As a public figure, a Member's public role may, at times, overlap with their personal and/or professional life and interests, however when performing a public role as a Member, you must,
- (a) act solely in terms of the public interest and
  - (b) not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
- 3.2 All members are required to complete and keep up to date a register of interests. To assist members, annual reminders are issued however it is the responsibility of individual members to ensure their register is kept up to date.
- 3.3 It is a legal requirement that the registers of interests are published on the Council's website. If you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation you should speak to the Monitoring Officer
- 3.4 All members are required to declare interests at meetings of the district council at which they are present and for which an agenda has been produced.

### **3.5 Disclosable Pecuniary Interests**

A pecuniary interest is defined as:

***“an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person”***

**You will have a pecuniary interest in a matter if:**

- (1) the Member, or
  - (2) the Member's spouse or civil partner, or
  - (3) a person with whom the Member is living as husband and wife, or
  - (4) a person with whom the Member is living as if they were civil partners
- and the Member is aware that that other person has the interest

has any interest which fall within the table below:

Subject	Prescribed description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the relevant authority<sup>1</sup>) made or provided within the relevant period<sup>2</sup> in respect of any expenses incurred the member in carrying out duties as a member, or towards the election expenses of the member.</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>
<b>Contracts</b>	<p>Any contract which is made between the relevant person (or a body<sup>3</sup> in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; <u>and</u></p> <p>(b) which has not been fully discharged.</p>
<b>Land<sup>4</sup></b>	<p>Any beneficial interest in land which is within the area of the relevant authority</p> <p>NB This includes the property in which a member resides</p>
<b>Licences</b>	Any licence to occupy land in the area of the relevant authority for a month or longer
<b>Corporate tenancies</b>	<p>Any tenancy where to the member's knowledge</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body<sup>5</sup> in which the relevant person has a beneficial interest</p>

<sup>1</sup> "relevant authority" means the authority of which the Member is a member

<sup>2</sup> "relevant period" means a period of 12 months ending on the day on which the Member gives a notification to the Monitoring Officer of any Disclosable Pecuniary Interest.

<sup>3</sup> "body in which the member has a beneficial interest" means (a) a firm in which the Member is a partner, or (b) a body corporate of which the Member is a director, or (c) in the securities of which the Member has a beneficial interest

<sup>4</sup> "Land" excludes as easement, servitude, interest or right in or over land which does not carry with it a right for the Member to occupy the land or to receive income

<sup>5</sup> See footnote 3



<b>Securities<sup>6</sup></b>	<p>(a) Any beneficial interest in securities of a body where</p> <p>(b) that body (to the member's knowledge) that has a place of business or land in the area of the relevant authority; and</p> <p>(c) either:</p> <p>(i) the total nominal value of the securities exceeds £25000 or 1/100<sup>th</sup> of the total issued share capital of that body, or</p> <p>(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 which exceeds 1/100<sup>th</sup> of the total issued share capital of that class</p>
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A pecuniary interest must be added to the member's register of interests within 28 days of the member becoming aware of it and must be declared at any meeting of the Council at which they are present and for which an agenda has been produced.

Upon declaring a pecuniary interest the member must not take part in the debate or vote and should leave the meeting for that item of business. For the avoidance of doubt, even if a member is not a member of the committee or sub-committee etc which is considering the matter, the member is not entitled to sit within the public gallery where items are being discussed in which they have a pecuniary interest

Failure to declare a pecuniary interest is a criminal offence which is punishable by a fine of up to £5,000.

### **3.6 Other Interests**

An other interest is any interest which relates to or is likely to affect:

- 1) any body of which the Member is in a position of general control or management, and to which he / she is appointed or nominated by the Council.<sup>7</sup>
- 2) any body:
  - a) exercising functions of a public nature;
  - b) directed to charitable purposes;
  - c) one whose principal purposes include the influence of public opinion or policy (including any political party or trade union)

<sup>6</sup> "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

<sup>7</sup> Example: where a Member has been appointed to a village hall committee by the Council

of which the Member of the Council is a member or in a position of general control or management;

- 3) any gifts or hospitality worth more than an estimated value of £50 which the Member has received by virtue of his / her office.

Other interests, which includes the disclosure of membership of any secret society e.g. freemasons, should be contained within the member's register of interests and must be declared at any meeting of the Council at which they are present and for which an agenda has been produced. However, the member is entitled to remain within the meeting and to take part in the debate and vote.

### **3.7 Prejudicial Interests**

A prejudicial interest is one where the well-being or financial position of the Member, members of their family, or people with whom the Member has a close association is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.

A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners or any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

Prejudicial Interests must be declared at any meeting of the Council at which a member is present and for which an agenda has been produced. Upon declaring a prejudicial interest the member must not take part in the debate or vote and should leave the meeting for that item of business. For the avoidance of doubt, even if a member is not a member of the committee or sub-committee etc which is considering the matter, the member is not entitled to sit within the public gallery where items are being discussed in which they have a prejudicial interest.

- Do** Seek advice if you are unsure whether to make a declaration
- Do** be aware of the definitions of interests
- Do** make all decisions on merit
- Do** keep your register of interest up to date
- Do not** place yourself in situations where your honest and integrity maybe questioned
- Do not** use your position improperly for personal gain or to advantage family, friends or close associates

## **Section 4: Management of Information**

- 4.1 Information which Members receive in confidence in the course of their duties as Members should be used only in connection with those duties. Such information must never be used for the purpose of financial gain.
- 4.2 Members must not disclose information given to them in confidence by anyone, or information acquired by them which is believed, or ought reasonably to be believed to be confidential nature. Members can only do so if:
- (a) they have the express consent of the person authorised to give it;
  - (b) they are required by law to do so (Members must ensure they seek the advice of the Council's Monitoring Officer in this regard before any disclosure);
  - (c) 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
  - (d) they have sought the consent of the Monitoring Officer prior to its release
- 4.3 Members must not prevent another person from gaining access to information to which that person is entitled by law.
- 4.4 Members must ensure that they do not improperly use knowledge gained solely as a result of their role as a Member for the advancement of themselves, their friends, their family members, their employer or their business interests.
- 4.5 Members must ensure that they do not misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations.

## Part 2: Complaints Process

### Initial Assessment

- 5.1 Where a complaint regarding the conduct of a District Council Member, Town or Parish Member of one of the Councils in the Forest of Dean district is received it shall be referred to the District Council's Monitoring Officer (MO).
- 5.2 The person referring the complaint will complete a Code of Conduct complaint form (although complaints made in other forms such as by letter or email will be accepted) and will provide the MO with any documents or other material accompanying or evidencing the complaint and any associated documents and material which will assist in ascertaining if there has been a breach of the Members' Code of Conduct for the relevant Council (the Code).
- 5.3 The MO will ascertain if the alleged breach appears to be an offence under the Localism Act 2011 relating to Disclosable Pecuniary Interests. If it appears it is, the MO will refer it to the Police for investigation. The MO will inform the complainant that this has been done. The conduct of the matter will then be the responsibility of the Police, unless 5.4 applies.
- 5.4 If the Police decide not to investigate, or a decision is taken not to prosecute, then the process for dealing with other breaches of the Code, as set out below, will apply.
- 5.5 If it appears that the alleged breach is not an offence in accordance with 5.3 above the MO will:
  - Send a copy of the complaint and supporting documents/evidence to the Member alleged to have breached the Code and invite their response, either in writing or by meeting the subject member
  - Inform the complainant that an initial assessment is being made
- 5.6 The MO will make an initial assessment of the evidence to establish whether there is a prima facie case and whether the complaint falls within the scope of the remit of the Code of Conduct. If there is no prima facie case the MO will issue a 'No Further Action' decision notice. If the complaint is out of scope the MO will notify the complainant of her decision in writing. If however there does appear to the MO to be a prima facie case the MO will consult one of the Independent Persons (IP) before reaching a decision as to how to resolve the complaint. If the MO and IP consider that there is a possibility of a significant breach of the Code being found the matter will be investigated.

### Investigation

- 5.7 If, after the initial assessment, a complaint is to be investigated the MO will arrange for an investigation to establish if the alleged breach or breaches of the Code have occurred. The investigation is to be completed as soon as is practicable and a written report will be provided by the investigator setting out a

summary of the facts, a review of the evidence, the investigator's conclusions as to whether there has been a breach of the Code, and the investigator's recommendations.

- 5.8 Where appropriate the report will then be referred to the Standards Panel for determination
- 5.9 The subject member will be invited to address the Panel and to answer any questions.
- 5.10 The Panel shall decide on whether the alleged breach or breaches are proved, on the balance of probabilities. If a breach or breaches are proved then the Panel shall determine what sanction, if any, should be imposed on the subject member.
- 5.11 Following the Panel's decision the MO shall inform the complainant, the subject member and the relevant group leader (if the complaint is against a member of the District Council) or the clerk (if the complaint is against a Member of a town or parish council) of the conclusions of the Panel and any sanctions imposed. The decision will then become a matter of public record.
- 5.12 The following complaints would not normally be referred for investigation:
- a) The complaint is not considered sufficiently serious to warrant investigation; or
  - b) The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
  - c) The complaint appears to be politically motivated; or
  - d) It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor's private life or is about dissatisfaction with a Council decision; or
  - e) It is about someone who is no longer a Councillor
  - f) There is insufficient information available for a referral; or
  - g) The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
  - h) The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
  - i) The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Panel; or
  - j) It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
  - k) Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

### **Part 3: Sanctions**

Where a complaint has been determined and a member found to be in breach of the Code of Conduct the following sanctions are available:

- a) The Member is issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- b) Removal from committees or sub-committees of the Council;
- c) Removal from outside bodies, on which the Member represents the Council;
- d) Recommending to the Leader of the Council (or relevant Political Group leader as appropriate) that the Member be removed from the Cabinet/Executive or removed from particular Portfolio responsibilities;
- e) Instructing the Monitoring Officer to arrange training for the Member;
- f) Withdrawal of facilities provided to the Member such as emails access;
- g) Recommendation to Full Council that the Member is excluded from the Council Offices, with the exception of attending for Council and Committee meetings
- h) Instructing the Monitoring Officer to apply the informal resolution process;
- i) Recommending that the Council issue a press release or other form of publicity
- j) Publishing the findings in respect of the Member's conduct in such manner as considered appropriate.

Neither the Monitoring Officer nor the Standards Panel has any power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.