

HULLBRIDGE PARISH COUNCIL
CODES AND PROTOCOLS August 2012
MEMBERS' CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Introduction and interpretation

As a Member you are a representative of Hullbridge Parish Council ("the Authority") and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code complies with Section 28 of the Localism Act 2011 and the principles contained in that section, which are set out in the appendix to this Code. In this Code-

"meeting" means any meeting of:-

- (a) the Authority
- (b) the Executive of the Authority
- (c) any of the Authority's or its Executive's Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Community Forums.
- (d) any briefings by officers and site visits organised by the Authority

"relevant period" means the period of 12 months ending with the day on which you give notification to the Authority's monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

"profit or gain" includes any payments or benefits in kind which are subject to Income Tax.

"beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale

"Member" includes a co-opted Member.

1. Who does the Code apply to?

- (1) This Code applies to all Members of the Authority, including co-opted Members.
- (2) It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of the Authority, or
 - (b) you are acting, or claim to act, or give the impression you are acting as a representative of the Authority.

3. General obligations

- (1) You must treat others with respect.
- (2) You must uphold the law
- (3) You must not:-
 - (a) do anything which may cause the Authority to breach any of the equality enactments
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be a complainant; a witness; or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct;
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

(e) Conduct yourself in a manner which could be reasonably regarded as bringing your Authority into disrepute.

4. Confidential Information

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 to 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 is made in good faith and in compliance with the reasonable requirements of the Authority;

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an advantage or disadvantage

You must--

(a) 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;

(b) when using or authorising the use by others of the resources of the Authority-

(i) act in accordance with the Authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes);

(c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2 MEMBERS' INTERESTS

6. Disclosable Pecuniary Interests

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

(a) An interest of yours; or

(b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as a "Relevant Person").

6.2 A Pecuniary Interest is an interest which relates to or is likely to affect:-

(a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;

(b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

(c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;

(d) A beneficial interest in any land in the Authority's area

(e) a licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer

(f) any tenancy where to your knowledge (a) the landlord is the Authority and (b) the tenant is a body in which you or a Relevant Person has a beneficial interest

(g) Any beneficial interest in securities of a body where:-

I. that body (to your knowledge) has a place of business or land in the area of the Authority and

II. 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. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

7. Other Pecuniary Interests

You have a pecuniary interest in any business of the Authority where it relates to, or is likely to affect:-

(a) any person or body who employs or has appointed you; or

(b) a decision in relation to any business of the Authority that might reasonably be regarded as affecting your financial position or the financial position of a related person to a greater extent than the majority of other Council Tax payers, rate payers or inhabitants of your Authority's area.

8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect:-

(a) 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;

(b) any Body:-

I. exercising functions of a public nature;

II. directed towards charitable purposes; or

III. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which you are a member or in a position of general control or management;

(c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

(d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing 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;

or

II. (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.

9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting

9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you

notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter.

9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 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. 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

10. Effect of Interests on participation

10.1 Disclosable Pecuniary Interests

(a) If you are present at a meeting of the Authority or of any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:

(i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting

(ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's Proper Officer

(b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:

(i) exercise executive functions in relation to that business; and

(ii) seek improperly to influence a decision about that business

(c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself)

10.2 Other Pecuniary Interests

If you have an Other Pecuniary Interest in any business of the Authority 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 judgment of the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:-

(a) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3) and

(b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

PART 3 REGISTER OF MEMBERS INTERESTS

11. Registration of Members' Interests

Subject to paragraph 12, you must, within 28 days of—

(a) this Code being adopted by or applied to the Authority; or

(b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:-

i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time

ii. Pecuniary Interests referred to in paragraph 7 that you have

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary

Interest registered under paragraphs 11.(a) (i) or (ii) above by providing written notification to your Authority's Monitoring Officer

12. Sensitive Information

12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer

12.3 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 subject to violence or intimidation.

13. Register of Gifts and Hospitality

13.1 You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.

13.2 The monitoring officer will place your notification on a public register of gifts and hospitality

13.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

APPENDIX

THE PRINCIPLES CONTAINED IN SECTION 28(1) OF THE LOCALISM ACT

2011

SELFLESSNESS

To serve only the public interest and never improperly confer an advantage or disadvantage on any person.

INTEGRITY

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

OBJECTIVITY

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

ACCOUNTABILITY

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

OPENNESS

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

HONESTY

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

LEADERSHIP

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

PROTOCOL FOR OUTSIDE BODIES

MEMBERS' AND OFFICERS' RESPONSIBILITIES & LIABILITIES

Members and officers acting on outside bodies may attract personal liability depending on the legal nature of the body and the role fulfilled by the Member or officer. The Council may only delegate its functions to Committees or employees of the Council. This means that Members can only represent the Council on outside bodies as observers or facilitators assisting in the exchange of information. Members cannot make decisions binding the Council unless it is with the authority of the Council in order to implement a decision that the Council has made. Members are therefore not allowed to represent the Council in an Executive capacity on an outside body. Members may serve on outside bodies in their personal capacity, provided that there is no conflict of interest with their duties as a Member.

The following is intended to provide some useful guidelines. It is a Member/officer's responsibility to ensure that they are aware of their liabilities and any insurance arrangements where they participate on outside bodies. Where uncertainty exists, seek guidance from the Clerk to the Council or independent legal advice

1 The Council may only indemnify Members and Officers in Certain Circumstances as Prescribed by the Local Authorities (Indemnity for Members & Officers) Order 2004.

The Council will provide an indemnity in relation to any action or failure to act by any Member or officer which:-

- (a) is authorised by the Council and/or;
- (b) forms part of, or arises from, any powers conferred or duties placed upon that Member or officer at the request, or with the approval of, the Authority, including acting as the Council's representative on an outside body;
- (c) arises in respect of the cost of defending any claim for an allegation of defamation by a Member or officer acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
- (d) is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the Authority or the Insurer for their costs incurred in relation to those proceedings.

The indemnity includes an act or omission subsequently found to be beyond the powers of the Member or officer in question, but only to the extent that the Member or officer reasonably and genuinely believed that the act or omission was within his/her powers at the time he/she acted.

The indemnity does not apply to the defence of any criminal proceedings brought against a Member or officer unless specifically approved by the Council and then only on similar basis to that relating to proceedings for breaches of the code with regard to reimbursement.

2 A Member's Role on an Outside Body may Occasionally Give Rise to a Conflict of Interest.

If a Member is a director or on the management committee of an outside body, it is likely that their prime duty is to the outside body. Where the Member has been appointed by the Authority as its representative this will not necessarily exclude the Member from participating in Council decision making, even when the outside body is directly affected, as membership of an outside body need not be regarded as a prejudicial interest under the terms of the Code of Conduct. However, there may be circumstances where a prejudicial interest might arise and Members should seek advice if they are unsure of their position.

In some instances a Member may also find that they are unable to properly carry out their functions as a Member of Council and a Member of the outside body. In such a case the Member may consider resigning from one or other body. Members are advised to seek advice from the Clerk to the Council before taking such action.

3 There are General Duties that Apply to Members and Officers Whether They Act in the Role of Company Director or Trustee or Member of an Unincorporated Body.

The Member or officer is under a duty to exercise independent judgment in the interest of the organisation in which they are involved. If the Member or officer is involved in the outside body in a representative capacity, this must be declared to the outside body. A mandate from the Council to vote in one way or another would put the Member or officer in breach of the duty to the organisation.

Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They must make sure that they have regard to all appropriate reports and papers. They are expected to seek professional advice where appropriate.

The Member/officer must act in accordance with the rules, Constitution and framework set by the outside body.

At all times Members and officers must behave ethically, taking an informed role in the outside body's affairs.

Members must represent the Council and not the political party to which they owe their loyalty.

4 Before Accepting a Role in a Decision-Making Capacity in Any Outside Organisation Consider the Following:-

How onerous are the responsibilities likely to be? Do you have the time and capacity to take them on?

Is there likely to be any significant conflict of interest between your role in the outside organisation and your Council role? If so, consider refusing the office.

Assess the risk of things going wrong, which might give rise to personal liability. Things to consider include the nature and function of the body and the amount of money with which it deals. Always be aware of the added risks where an organisation employs staff.

In each case the issue of insurance should be considered. Find out if the external body has insurance and if so whether it would cover the key risks of the organisation as well as yourself. Find out if your liability is limited or unlimited.