

## **COUNCIL'S CONSTITUTION, PART 9.1**

### **LOCAL CODE OF CONDUCT FOR COUNCILLORS**

#### **1. PREAMBLE**

- 1.1** The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- 1.2** The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- 1.3** This Preamble and Annex 1 do not form part of the Code, but you should have regard to them, as they will help you to comply with the Code.
- 1.4** If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- 1.5** In accordance with Section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
- a) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
  - b) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered, or is not the subject of a pending notification to the Monitoring Officer;
  - c) Fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - d) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it, at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - e) Take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;

- f) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

**1.6** Any written allegation, received by the Authority, that you have failed to comply with the Code, will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## **THE CODE**

### **1. INTERPRETATION**

#### **In this Code:**

**1.1** **‘Associated Person’** means (either in the singular or in the plural):

- a) A family member or any other person, or body, with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- b) Any person or body who employs or has appointed you or such persons, any firm in which you or they are a partner, or any company of which you or they are directors; or
- c) Any person or body in whom you or such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- d) Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- e) Any body in respect of which you are in a position of general control or management:
  - i. exercising functions of a public nature; or
  - ii. directed to charitable purposes; or
  - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**1.2** **‘Authority’** means the District Council of Folkestone and Hythe.

**1.3** **‘Authority Function’** means any one or more of the following interests that relate to the functions of the Authority:

- a) Housing – where you are a tenant of the Authority, provided that those functions do not relate particularly to your tenancy or lease; or

- b) 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 your child attends;
- c) 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;
- d) An allowance, payment or indemnity given to members of the Authority;
- e) Any ceremonial honour given to members of the Authority;
- f) Setting council tax or a precept under the Local Government Finance Act 1992.

**1.4** ‘**Code**’ means this Code of Conduct.

**1.5** ‘**Co-opted Member**’ means a person who is not an elected member of the Authority but who is a member of:

- a) Any committee or sub-committee of the authority; or
- b) Represents the Authority on any joint committee, or joint sub-committee, of the Authority; and
- c) Who is entitled to vote on any question that falls to be decided at any meeting.

**1.6** ‘**Disclosable Pecuniary Interest**’ means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time), as set out in Annex 2, and where either it is:

- a) Your interest; or
- b) An interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and provided you are aware that the other person has the interest.

**1.7** ‘**Interests**’ means Disclosable Pecuniary Interests and Other Significant Interests.

**1.8** ‘**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 and/or joint sub-committees.

**1.9** ‘**Member**’ means a person who is a member of the Authority and includes a Co-opted Member.

**1.10** **‘Other Significant Interest’** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the authority which:

- a) Affects the financial position of yourself and/or an Associated Person to a greater extent than the majority of:-
  - i. 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 other cases) other council tax payers, ratepayers or inhabitants of the Authority’s area; or
- b) Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

**1.11** **‘Register of Members’ Interests’** means the Authority’s register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**1.12** **‘Sensitive Interest’** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## **2. SCOPE**

A member must comply with this Code whenever he/she acts in their capacity as a Member or Co-opted Member of the Authority.

## **3. GENERAL OBLIGATIONS**

**3.1** A member must, when using or authorising the use by others of the resources of the Authority:

- a) Act in accordance with the Authority’s reasonable requirements; and
- b) Ensure that such resources are not used improperly for political purposes (including party political purposes).

**3.2** A member must not:

- a) Bully any person;
- b) 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 has failed to comply with this Code;

- c) Do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- d) Disclose information given to the member in confidence by anyone, or information acquired by the member which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:
  - i. he/she has the written consent of a person authorised to give it; or
  - ii. he/she is required by law to do so; or
  - 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;
- e) Prevent another person from gaining access to information to which that person is entitled by law;
- f) Conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the Authority into disrepute;
- g) Use or attempt to use his/her position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

#### **4. REGISTERING DISCLOSABLE PECUNIARY INTERESTS**

- 4.1** A member must, before the end of 28 days beginning with the day he/she becomes a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- 4.2** In addition, a Member must, before the end of 28 days beginning with the day that he/she becomes aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- 4.3** Where the Member has a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by him/her acting alone in the course of discharging a function of the Authority (including making a decision in relation

to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, he/she must notify the Monitoring Officer before the end of 28 days beginning with the day he/she becomes aware of the existence of the interest.

## **5. DECLARING INTERESTS**

**5.1** Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, the member must comply with the disclosure procedures set out below.

**5.2** Where the member is present at a meeting and has a Disclosable Pecuniary Interest or Other Significant Interest (and he/she is aware that they have such an interest) in any matter to be considered, or being considered, at the meeting, the member must:

- a) Disclose the Interest; and
- b) Explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
- c) Not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- d) Not seek improperly to influence a decision about that business; and
- e) Withdraw from the meeting room in accordance with the Authority's procedure rules whenever it becomes apparent that the business is being considered.

**5.3** Where a member has an Other Significant Interest in any business of the Authority, he/she may:

- a) In accordance with the Authority's procedure rules attend and observe the meeting from the place reserved in the meeting room for the public but he/she may not participate in any discussions of, or vote taken on, the matter at the meeting (subject to the provisions of sub-paragraph b) below;
- b) Make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purposes. Having made his/her representations, given evidence or answered questions he/she must:
  - i. not participate in any discussions of, or vote taken on, the matter at the meeting; and
  - ii. withdraw to the place in the meeting room reserved for the public in accordance with the Authority's procedure rules.

**5.4** Where a member has a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where he/she is acting alone in the

course of discharging a function of the Authority (including making an executive decision), the member must:

- a) Notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
- b) Not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
- c) Not seek improperly to influence a decision about the matter.

## **6. SENSITIVE INTERESTS**

**6.1** Where the member considers that the information relating to any of his/her Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

**6.2** The member must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

**6.3** The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that the member will not be required to disclose the nature of the Sensitive Interest, but merely the fact that they hold an interest in the matter under discussion.

## **7. GIFTS AND HOSPITALITY**

**7.1** The member must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by him/her (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which he/she has been elected or appointed or when he/she are acting as representative of the Authority. The member must also register the source of the gift, benefit or hospitality.

**7.2** Where any gift, benefit or hospitality the member has received or accepted relates to any matter to be considered, or being considered at a Meeting, he/she must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to him/her and how the business under consideration relates to that person or body. The member may participate in the discussion of the matter and in any vote taken on the matter,

unless he/she has an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.

**7.3** The member must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date he/she first registered the gift, benefit or hospitality.

**7.4** The 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.

## **8. DISPENSATIONS**

**8.1** The Audit and Governance Committee may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a member with an Interest, grant a dispensation relieving the member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

**8.2** A dispensation may be granted only if, after having had regard to all relevant circumstances, the Audit and Governance Committee, considers that:

- a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
- b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
- c) granting the dispensation is in the interests of persons living in the authority's area; or
- d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
- e) it is otherwise appropriate to grant a dispensation.

**8.3** The Monitoring Officer may also grant dispensations to members, to speak only, or to speak and vote where:

- a) so many members of the decision-making body have Disclosable Pecuniary or Other significant Interests in a matter that it would impede the transaction of the business; or
- b) without a dispensation, no member of the executive would be able to participate on a particular item of business;

**8.4** The Monitoring Officer may, in consultation with the Chairman (or in his/her absence the Vice-Chair) of the Audit and Governance Committee, grant

dispensations to speak and/or vote, where it is not possible to convene a meeting of that committee and where the application for dispensation is made on any of the following grounds:

- a) Without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- b) That the Authority considers that the dispensation is in the interests of persons living in its area; or
- c) Where the Authority considers that it is otherwise appropriate to grant a dispensation.

**8.5** In making the decision, the Monitoring Officer shall have regard to the following criteria:

- a) The nature of the member's interest and whether allowing them to participate would damage public confidence in the conduct of the authority's business.

If public confidence would be damaged then such an application would be likely to be refused. It is unlikely that it would be appropriate, therefore, to grant a dispensation to a member who has an interest arising as a result of an effect on their personal financial position or on that of a relative.

- b) The interest is common to the member and a significant proportion of the general public.
- c) The participation of the member, in the business that the interest relates to, is justified by the member's particular role or expertise.
- d) The business that the interest relates to is about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee, and the member's interest is not a financial one.

**8.6** In circumstances such as these, the committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

**8.7** Any dispensations granted shall be reported back to the next meeting of the Audit and Governance Committee.

**8.8** A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

**8.9** Paragraph 5, above, does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

## **ANNEX 1 – THE SEVEN PRINCIPLES OF PUBLIC LIFE**

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, members are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**SELFLESSNESS:** Members should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, a friend or close associate.

**INTEGRITY:** Members should exercise independent judgment and not compromise their position by placing themselves under obligations to outside individuals or organisations who might seek to influence him/her in the performance of their official duties. Members should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. Members should value their colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. Members should treat people with respect, including the organisations and public they engage with and those they work alongside.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, members should make choices on merit. Members should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. Members should champion the needs of the whole community and especially their constituents, including those who did not vote for them.

**ACCOUNTABILITY:** Members are accountable to the public for their decisions and actions and should fully co-operate with whatever scrutiny is appropriate to their office.

**OPENNESS:** Members should be as open and as transparent as possible about all the decisions and actions that they take to enable residents to understand the reasoning behind those decisions and to be informed when holding them and other Members to account. Members should give reasons for their decisions and restrict information only when the wider public interest or the law clearly demands it. Members should listen 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.

**HONESTY:** Members have a duty to declare interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. Members should not allow other pressures, including the financial interests of themselves or others connected to them, to deter them from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example members should promote and support high standards of conduct when serving in their public post. Members should provide leadership through behaving in accordance with these principles when

championing the interests of the community with other organisations as well as within this Authority.

**ANNEX 2 – DISCLOSABLE PECUNIARY INTERESTS, AS PRESCRIBED BY REGULATIONS, ARE AS FOLLOWS:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**‘the Act’** means the Localism Act 2011

**‘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

**‘director’** includes a member of the committee of management of an industrial and provident society

**‘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

**‘M’** means the person M referred to in section 30 of the Act

**‘member’** includes a co-opted member

**‘relevant authority’** means the authority of which M is a member

**‘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

**‘relevant person’** means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**‘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>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body 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; and</p> <p>b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>a) the landlord is the relevant authority; and</p> <p>b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth 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 exceeds one hundredth of the total issued share capital of that class.</p>