

CHELTENHAM BOROUGH COUNCIL

CODE OF MEMBERS' CONDUCT

**Adopted on the 25th June 2012 taking effect on the
1st July 2012**

Contents and Definitions

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I. Introduction

1. This Code of Conduct (Code) is adopted pursuant to the Authority's duty to promote and maintain high standards of conduct by Members of the Council.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

II. Scope of the Code of Conduct

2. The Code applies to Members whenever acting in their official capacity as a Member of Cheltenham Borough Council, including
 - (a) when engaged in the business of Cheltenham Borough Council including Ward business or representing the Council externally;
 - (b) when behaving so as to give a reasonable person the impression of acting as a representative of Cheltenham Borough Council.

This Code of Conduct does not seek to regulate what Members do in their purely private and personal lives.

3. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the Authority and any Protocols and Policies which may be adopted from time to time by the Authority.
4. Failure to comply with the requirements within this Code of Conduct which relate to disclosable pecuniary interests and which are set out in sections V and VI and Appendix A is a criminal offence.¹

¹ Section 34 Localism Act 2011

III. General Principles of Members' Conduct

5. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct set out below. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

- *Selflessness*
- *Integrity*
- *Objectivity*
- *Accountability*
- *Openness*
- *Honesty*
- *Leadership*

IV. Rules of Conduct

6. 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.

7. Members shall observe the following rules:-

General Requirements

- (1) **Do** treat others with respect.
- (2) **Do not** bully any person.
- (3) **Do not** do anything which may cause your Authority to breach any of the equality enactments.
- (4) **Do not** use your position improperly, to confer on or secure for yourself or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which you

are excluded from participating or voting as a result of the requirements of Part VI of this Code of Conduct.

- (5) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, your Authority.
- (6) **Do not** 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) 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 Authority.
 - (v) before making any disclosure under the provision and (iv) above, the written advice of the Borough Solicitor must be sought and considered.
- (7) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (8) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.

When using the resources of the Authority, or authorising the use of those resources by others:

- (9) **Do** act in accordance with the Authority's reasonable requirements including the requirements of the Authority's IT Policy;
- (10) **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (11) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;

- (12) **Do not** use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When making decisions on behalf of, or as part of, the Authority:

- (13) **Do** ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.
- (14) **Do** have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- (15) **Do** be as open as possible about your own decisions and actions and those of your authority and be prepared to give reasons for those decisions and actions.
- (16) **Do** ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

V. Registration of Interests

8. Members shall observe the following rules when registering their interests.

- (1) **Do**, within 28 days of the adoption of this Code by the Council or within 28 days of taking office as a Member (or co-opted Member), whichever is sooner, notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other interest as defined in Appendix B.
- (2) **Do**, within 28 days of re-election as a Member or re-appointment as a co-opted Member, notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other interest as defined in Appendix B which has not already been entered in the Authority's register in accordance with (1) above.

- (3) **Do**, within 28 days of the date of a disclosure referred to in paragraph 9(1) of this Code, notify the Monitoring Officer of the interest (unless it is the subject of a pending notification).
- (4) **Do** notify the Monitoring Officer of any changes to interests required within 28 days of the date of that change to be registered under Appendix B.
- (5) **Do** approach the Monitoring Officer if you feel that your interest should be treated as sensitive because its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation.

VI. Declaration of interests and Restrictions on Participation

Members should observe the following rules:-

9. Disclosable Pecuniary Interests

Where a matter, in which you have an interest as specified in Appendix A (disclosable pecuniary interests), arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** ensure, that if your interest is not entered in the Authority's Register, you disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest in which case you do not need to disclose the nature of the interest); and that you notify the Monitoring Officer of the interest within 28 days in accordance with paragraph 8(3) of this Code.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting

(unless a dispensation has been granted) and **do not** exercise executive functions in that matter.

10. Other Interests

Where a matter, in which

either you have an interest as specified in Appendix B (other interests),

or where a decision on the matter might reasonably be regarded as affecting, to a greater extent that it would affect the majority of other council taxpayers, ratepayers or inhabitants of the ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (3) **Do** ensure that you disclose the interest to the meeting.
- (4) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), or exercise executive functions in relation to that matter if,
 - (a) it affects your financial position or the financial position of the member of your family or person with whom you have a close association described above

or

- (b) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in paragraph 10(4) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

VII. Duties in respect of the Standards Committee

11. Members shall observe the following:-

- (1) **Do** co-operate, at all stages, with any investigation into your conduct which may be carried out in accordance with the arrangements for the investigation and determination of complaints which have been put in place by the Authority pursuant to the Act² .

- (2) **Do not** seek to 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 his or her Authority's Code of Conduct.

² Section 28(b) of the Localism Act 2011

VIII. Dispensations

12. Where a Member has a disclosable pecuniary interest as described in this Code and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in paragraph 10 of this Code, the Member may apply to the Borough Solicitor for a dispensation.
13. The Authority may grant a Member a dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has a disclosable pecuniary interest as described in this Code and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in paragraph 10 of this Code.

IX. Definitions

The following are definitions which apply for the purposes of this Code of Conduct.

1. "The Act" is the Localism Act 2011.
2. "The Authority" is Cheltenham Borough Council.
3. "Meeting" is a meeting of the Authority, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Authority.
4. "Committee" includes the Cabinet of the Authority.
5. "Standards Committee" is the Standards Committee of Cheltenham Borough Council.
6. "Member" is an elected Member or a co-opted Member of the Authority.

7. "Co-opted Member" is a person who is not a Member of the Council but who is either a Member of any Committee or Sub-Committee of the Council, or a Member of, and represents the Council on any joint Committee or joint Sub-Committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.
8. "Monitoring Officer" is the Monitoring Officer to Cheltenham Borough Council.
9. "Pending notification" is an interest which has been notified to the Monitoring Officer but which has not been entered in the Authority's register in consequence of that notification.
10. "Member of your family" means:
 - Partner (spouse/civil partner/someone you live with as if a spouse or civil partner);
 - A parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; or the partners of any of these persons.
 - A brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece; or the partners of any of these persons.
11. "Close associate" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to favour/disadvantage ("close association" shall be construed accordingly).
12. "well-being" means general sense of contentment and quality of life.
13. Excepted functions are functions of the Authority in respect of

- (i) housing, where the Member is a tenant of your authority provided that those functions do not relate particularly to the Member's tenancy or lease;
- (ii) an allowance, payment or indemnity given to members;
- (iii) any ceremonial honour given to members; and
- (iv) setting council tax or a precept under the Local Government Finance Act 1992.

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Appendix A

Disclosable Pecuniary Interests

The interests set out below are "Disclosable Pecuniary Interests" in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with paragraphs 8(1)-(3) of this Code of Conduct of any interest which is an interest of **the Member or of any of the following**:

- The Member's spouse or civil partner
- A person with whom the Member is living as husband and wife
- 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.

Subject	Disclosable Pecuniary Interest
Employment, office, trade, Profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge) –
(a) the landlord is the relevant authority; and
(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where –
(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- (a) "the Act" means the Localism Act 2011;
- (b) "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;
- (c) "director" includes a member of the committee of management of an industrial and provident society;
- (d) "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;
- (e) "M" means a member of a relevant authority;
- (f) "member" includes a co-opted member;
- (g) "relevant authority" means the authority of which M is a member;
- (h) "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;

- (i) "relevant person" means M or any other person referred to in section 30(3)(b) of the Act;
- (j) "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(b) and other securities of any description, other than money deposited with a building society.

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Appendix B

Other Interests

The interests set out below are "other interests" which must be notified to the Monitoring Officer in accordance with paragraphs 8(1), 8(2) and 8(4) of this Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:-

Subject	Other Interest
Management or Control	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.
Public/Charitable and other external bodies	Any body – (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principle purposes includes the influence of public opinion or policy (including any political party or trade union) of which the Member of the Council is a member or in a position of general control or management.
Employer	Any person or body who employs or has appointed the Member.
Gifts and Hospitality	The name of any person, organisation, company or other body from whom the Member has received, by virtue of his office, gifts or hospitality worth an estimated value of £50 or more.