

# ESSEX COUNTY COUNCIL

## **Localism Act 2011**

### **Promoting and Maintaining High Standards of Conduct in Local Government**

#### **CODE OF MEMBER CONDUCT**

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## 1. Introduction and Interpretation

1.1. As a Member you are a representative of 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.

1.2. This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29 (1) Localism Act 2011

1.3. In this Code

“**meeting**” means any meeting of:

(a) the Authority

(b) the Cabinet

(c) any of the Authority’s or its Cabinet’s committees, sub-committees, joint committees, joint sub-committees or area panels

(d) any meetings or telephone conversations with or 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 Council’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

“**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.

1.4. This Code applies to all Members of the Authority. It is your responsibility to comply with the provisions of this Code

1.5. You must comply with this Code whenever you conduct the business of the Authority, or you are acting as a representative of the Authority.

- 1.6. Where you act as a representative of the Authority
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **2. General Obligations**

2.1. You must treat others with respect.

2.2. You must uphold the law

2.3. You must not

- (i) do anything which may cause the Authority to breach any of the provisions of the Equality Act 2010 or subsequent equality legislation
- (ii) bully any person;
- (iii) intimidate or attempt to intimidate any person who is or is likely to be
  - (a) a complainant;
  - (b) a witness; or
  - (c) 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; or
- (iv) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

### **3. Confidential Information**

3.1. You must 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 or
- (ii) you are 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-
  - (a) reasonable and in the public interest; and
  - (b) made in good faith and in compliance with the reasonable requirements of the Authority:

3.2. You must not prevent another person from gaining access to information to which that person is entitled by law.

### **4. Conferring an Advantage or Disadvantage**

4.1. You must--

- (i) 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 financial or otherwise;
- (ii) 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);
- (iii) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## 6. Disclosable Pecuniary Interests

6.1 **Disclosable Pecuniary interests** are those defined as such in the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and any subsequent amending legislation.

***For the guidance of Members the following note summarises the statutory definition at October 2012.***

A. *A member has a Disclosable Pecuniary Interest if it is of a description set out in B below and is either:*

*(1) An interest of the member; or*

*(2) An interest (of which the member is aware) of a spouse, civil partner or a person of the member or a person the member is living with as a spouse or civil partner*

*(3) 'Relevant person' means the member or any person referred to in (2) above*

B *Disclosable Pecuniary Interests are*

*(1) Any employment, office, trade, profession or vocation carried on for profit or gain;*

*(2) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the previous twelve months in respect of any expenses incurred by the member in carrying out duties as a Member, or towards 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*

*(3) Any contract for goods, services or works which has not been fully discharged between the relevant person (or a body in which the relevant person has a beneficial interest) and the Authority*

*(4) Any beneficial interest in any land in the Authority's area*

*(5) Any licence of any land in the Authority's area (alone or jointly with others) to occupy land for a month or longer*

*(6) Any tenancy where to the Member's knowledge (a) the landlord is the Authority and (b) the tenant is a body in which a relevant person has a beneficial interest*

(7) *Any beneficial interest in securities of a body where*

1. *that body (to the member's knowledge) has a place of business or land in the area of the Authority and*

2. *either:*

(a) *the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*

(b) *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*

## **7. Other Pecuniary Interests**

**7.1.** *You have an **Other Pecuniary Interest** if it is of a description set out in (i) or (ii) below but not a disclosable pecuniary interest*

(i) *Any contract for goods, services or works between you or a Relevant Person (or a body in which the relevant person has a beneficial interest) and the Authority which has been fully discharged within the last 2 years*

(ii) *Any tender bid quotation or expression of interest submitted by you or a Relevant Person (or a body in which the relevant person has a beneficial interest) to the Authority within the last 2 years*

## **8. Personal Interests**

**8.1.** You have a **Personal Interest** in any matter to be considered at a meeting where

(i) it relates to or is likely to affect 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 the Council;

(ii) It relates to or is likely to affect any body-

a. exercising functions of a public nature;

b. directed to charitable purposes; or

c. 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

(iii). a decision in relation to that matter which might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of other council tax payers or inhabitants of the electoral division, affected by the decision

## 9. Registration of Interests

9.1. Subject to Para. 10 (Sensitive Information), you are required by law and this Code, within 28 days of

- (i) this Code being adopted by or applied to the Council; or
- (ii) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Council

to 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 your

- (i) **Disclosable Pecuniary Interests**
- (ii) **Other Pecuniary Interests**
- (iii) Your **memberships** of, and positions of **general management and control** with, any body referred to in 8.1.(i) and (ii) above

9.2. You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to above within 28 days of the change occurring or becoming aware of the change.

## 10 Sensitive Information

10.1 Where you have a **Disclosable Pecuniary Interest** or an **Other Pecuniary Interest** and the nature of the interest is such that you and the Council'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.

- 10.2.. .You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 10.1 is no longer sensitive information, notify the Authority's Monitoring Officer

## 11. Declaration of Interests at Meetings

- 11.1. Subject to Paragraph 11.2. where you are present at a meeting of the Authority and have a **Disclosable Pecuniary Interest** or **Other Pecuniary Interest** in a matter to be considered you must disclose to that meeting the existence and nature of that interest and withdraw from the room or chamber where the meeting considering the matter is being held and not participate in any consideration of or voting on the matter unless you have received a dispensation.
- 11.2. Where you have an interest in any matter to be considered at a meeting which would be disclosable by virtue of Para. 11.1 but by virtue of Para. 10 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests you must declare that you have an interest but need not disclose the nature of the interest.
- 11.3. Where you are present at a meeting of the Authority and have a **Personal Interest** in a matter to be considered you must
- (i) disclose to that meeting the existence and nature of that interest and
  - (ii) if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest, withdraw from the room or chamber where the meeting considering the business is being held and not participate in any consideration of, or voting on, the matter unless you have received a dispensation.

## 12. Cabinet Members' Action

- 12.1. Where you have a **Disclosable Pecuniary Interest** an **Other Pecuniary Interest** or a **Personal Interest** in any executive matter which, were it not for this Paragraph might be discharged by you acting alone, you must take no action in relation to the matter other than to notify the Authority's Monitoring



Officer of the existence and nature of that interest. The Monitoring Officer will arrange for the matter to be considered by the Cabinet.

### **13. Effect of Interests Generally**

13.1. If you have a **Disclosable Pecuniary Interest** an **Other Pecuniary Interest** or a **Personal Interest** in any business of the Council you must not seek improperly to influence a decision about that business

### **15. Register of Gifts and Hospitality**

15.1 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 £25 which you have accepted as a Member from any person or body other than the Authority.

15.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality

15.3 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

## **MEMBERS' CODE OF CONDUCT APPENDIX**

### **THE NOLAN PRINCIPLES AND 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.