

# TENDRING DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

ADOPTED BY ELMSTEAD PARISH COUNCIL 17TH JANUARY 2019

## 1. INTRODUCTION TO THE CODE OF CONDUCT

1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct for elected Members (also referred to as "Councillors") to promote and maintain high standards of conduct in public life. It is each Member's responsibility to comply with the provisions of this Code.

1.2 The Code of Conduct applies to all elected Members, voting co-opted Members and appointed Members.

1.3 The Code covers three main areas:

- **Part 1** sets out some general obligations regarding the behaviour of elected and co-opted Members ("**Rules of Conduct**")
- **Part 2** explains how Members should behave if they have a personal/code interest in an item of Council business ("**Members' Interests**")
- **Part 3** sets out rules requiring registration of interests for public inspection ("**Register of Members' Interests**")

The Principles of Public Life are set out in the Appendix.

## 2. Interpretation of when the Code of Conduct applies?

2.1 In this Code "meeting" means any meeting of

- (a) Tendring District Council ("the Authority");
- (b) the Cabinet (also known as the Executive) of the Authority
- (c) any of the Authority's or Cabinet's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties and panels); or
- (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.

2.2 The Code of Conduct applies—

- (a) whenever a Member conducts the business, or are present at a

- meeting, of the Authority; or
  - (b) whenever a Member acts, claims to act or gives the impression they are acting in the role of Member to which they were elected or appointed; or
  - (c) whenever a Member acts, claims to act or give the impression they are acting as a representative of the Authority (including representation on outside bodies); or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
  - (e) in respect of any criminal offence for which they have been convicted during their term of office.
- 2.3 Where a Member is elected, appointed or nominated by the Authority to serve on any other authority or body they must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.
- 2.4 Where a Member is elected, appointed or nominated by the Authority to serve on any other body which does not have a code relating to the conduct of its members, they must, when acting for that other body, comply with this Code of Conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

### **3. Principles of Public Life**

- 3.1 The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These Principles are set out in the Appendix A to this Code. The Code is consistent with the Nolan Principles but any breach of the principles is not by itself a breach of the Code.

Members of Tendring District Council shall have regard to the Seven Principles of Public Life as it is these principles which underpin the Rules of Conduct set out below.

## **PART 1** **RULES OF CONDUCT**

### **3.2 In fulfilling Duties and Responsibilities**

Members must not:

- (a) breach their duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or

- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

### **3.3 Information**

Members must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

### **3.4 Conduct**

Members must:

- (a) not conduct them self in a manner which could reasonably be regarded as bringing their office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the Authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

### **3.5 Use of the Position**

Members must not:

- (a) in their official capacity or otherwise, use or attempt to use their position improperly to confer on or secure for them self, or any other person, an advantage or create or avoid for them self, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
  - (i) imprudently;
  - (ii) in breach of the Authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which they have been elected or appointed;
  - (v) improperly for political purposes; or
  - (vi) improperly for private purposes.

### **3.6 Registration of Interests**

In accordance with and subject to Part 2 of the Code, Members are required to register details of their Disclosable Pecuniary Interests and their Personal Interests within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests.

### **3.7 Decision Making**

Members must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
  - (i) the Authority's Head of Paid Service;
  - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
  - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

### **3.8 Compliance with the Law and the Authority's Rules and Policies**

Members must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with their duties as a Member;
- (b) comply with the Local Authority Code of Publicity made under the Local Government Act 1986 and any relevant guidance issued;
- (c) comply with the provisions of the Bribery Act 2010 or similar;
- (d) comply with the Authority's Gifts and Hospitality Policy;
- (e) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

## PART 2 MEMBERS' INTERESTS

Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless the Member is involved in the decision making affecting the ward they were elected to.

### 4. Disclosable Pecuniary Interests

4.1 Disclosable Pecuniary Interests (DPIs) are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are set out in Appendix B to this Code. It is important that Members understand what amounts to a DPI, that they identify carefully all DPIs relevant to them and that they take the necessary action required by law. Breach of the requirements related to DPIs is a criminal offence and are referred to the Police.

4.2 A Member will have a Disclosable Pecuniary Interest in any business of their Authority if it is of a description set out in Appendix B and is either:

- (a) their own interest,  
or that of a Relevant Person being:
- (b) an interest of their spouse,
- (c) an interest of their civil partner, or
- (d) an interest of a person with whom they are living with as a spouse or civil partner,

and in the case of paragraphs 4.2(b) – (d) the Member is aware that the Relevant Person has the interest.

### 5. Personal Interests

5.1 A Member will have a Personal Interest in any item of business of the Authority where it relates to or is likely to affect –

- (a) any person or body who employs or has appointed them;
- (b) any existing contract for goods, services or works, which has not been fully discharged or has expired within the last 2 years, and made between the Authority and
  - (i) the Member,
  - (ii) a Related Person;

- (iii) a body in which the Member has a Disclosable Pecuniary Interest; or
  - (iv) a person or body of the description specified in paragraphs 5.1 (c)-(d) below;
- (c) any body of which the Councillor is a member or in which they hold a position of general control or management and to which they are appointed or nominated by the Authority;
- (d) any other body of which the Councillor is a member and in which they hold a position of general control or management –
- (i) exercising functions of a public nature;
  - (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);
- (e) the interests of any person from whom the Member has received a gift or hospitality with an estimated value of at least £50;
- (f) a decision in relation to that business which might reasonably be regarded as affecting the financial position or wellbeing of:
- (i) the Member or
  - (ii) a Related Person (if the Member is aware of its existence)
- to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, affected by the decision;

5.2 Related Person is defined as:

- a member of the Councillor's family; or
- any person with whom the Councillor has a close business or personal association.

In the case of a Related Person, a Councillor is only required to declare those interests which they are aware or ought reasonably to be aware of the existence.

## 6. Declaration of Members' Interests

- 6.1 Subject to sub-paragraphs 6.2 to 6.3, where a Member has a Disclosable Pecuniary or Personal Interest in any business of the Authority and they are present at a meeting of the Authority at which the business is considered, they must declare to that meeting the existence and nature of that interest whether

or not such interest is registered on their Register of Interests or for which they have made a pending notification.

- 6.2 Sub-paragraph 6.1 only applies where a Member is aware or ought reasonably to be aware of the existence of the Relevant Person's (as defined in 4.2 above) Interest or the Related Person's (as defined in 5.2 above) Interest.
- 6.3 Where a Member has an interest in any business of the Authority which would be declarable by virtue of paragraph 6.1 but by virtue of paragraph 11 (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 or Personal Interest they do not need to declare the nature of the interest to the meeting.
- 6.4 Where a Member has an interest in any business of the Authority which would be declarable by virtue of paragraph 6.1 and they are acting as a Cabinet Member, making an executive decision in relation to that business they 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.

## **7. Declaration of Personal Interests generally**

- 7.1 Subject to sub-paragraphs 7.2 & 7.3 below, a Member has a duty to declare any Personal Interest, as set out in paragraph 5 above, in considering any business of the Authority, where that 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 their judgement of the public interest.
- 7.2 Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless the Member is involved in the decision making affecting the ward they were elected to.
- 7.3 A Member does not have a declarable interest in any business of the Authority where that business relates to the functions of the Authority in respect of:
- i. housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to their tenancy or lease;
  - ii. school meals or school transport and travelling expenses, where the Member is 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 the child attends;
  - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or are entitled to the receipt of, such pay;

- iv. an allowance, payment or indemnity given to Members;
- v. any ceremonial honour given to Members; and
- vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

## **8. Effect of Disclosable Pecuniary Interests on participation**

- (a) If a Member is present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and they have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and they are aware of that Interest:
  - (i) the Member 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) the Member must withdraw from the room or chamber where the meeting considering the business is being held unless they have received a dispensation from the Authority.
- (b) If a Member has a Disclosable Pecuniary Interest in any business of the Authority they 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 they have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function they 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 them self).

## **9. Effect of Personal Interests on participation**

- 9.1 If a Member has a Personal interest (not a Disclosable 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 the Member's judgement of the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered the Member must:-
  - (a) Declare the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
  - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making representations or in any other case when the business is under consideration, unless they have obtained a dispensation from the Authority.



### **PART 3**

#### **REGISTER OF MEMBERS' INTERESTS Registration of Members' Interests**

- 10.1 Subject to paragraph 11, Members must, within 28 days of—
- a. this Code being adopted by or applied to the Authority; or
  - b. their election, re-election or appointment or re-appointment to office (where that is later), or co-option 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 Disclosable Pecuniary Interests as referred to in paragraph 4, and defined in Appendix B, that they, their spouse, civil partner or person with whom they live as if they were their spouse or civil partner in so far as they are aware of their interests at that time.
- 10.2 Subject to paragraph 11, Members must, within 28 days of becoming aware of any new or amended Disclosable Pecuniary Interest as referred to in paragraph 4, and defined in Appendix B, that they, their spouse, civil partner or person with whom they live as if they were their spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to the Authority's Monitoring Officer.
- 10.3 Subject to paragraphs 10.5 and 11, Members must, within 28 days of—
- a. this Code being adopted by or applied to the Authority; or
  - b. their election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the Authority,
- register in the Authority's Register of Members' Personal Interests details of Personal Interests as referred to in paragraph 5, that the Member is aware of at that time.
- 10.4 Subject to paragraphs 10.5 and 11, Members must, within 28 days of becoming aware of any new or amended Personal Interest as referred to in paragraph 5 or change to any interest registered under paragraph 5 above by providing written notification to the Authority's Monitoring Officer.
- 10.5 The provisions of paragraphs 10.3 and 10.4 above, do not apply to any Personal Interest which concerns a Related Person, as these interests are not

required to be registered in advance and only declared at a meeting of the Authority at which the business is considered and the Member is present.

## **11. Sensitive Information**

- 11.1 Where a Member has an interest referred to in paragraphs 4 or 5, and the nature of the interest is such that the Member and the Authority's Monitoring Officer consider that disclosure of details of the interest could lead to the Member or a person connected with them 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 the Member has an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 11.2 Members 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.
- 11.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with them may be subject to violence or intimidation.

## **APPENDIX A**

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **The Nolan Principles**

<b><i>Selflessness</i></b>	Holders of public office should act solely in terms of the public interest.
<b><i>Integrity</i></b>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<b><i>Objectivity</i></b>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<b><i>Accountability</i></b>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<b><i>Openness</i></b>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<b><i>Honesty</i></b>	Holders of public office should be truthful.
<b><i>Leadership</i></b>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **APPENDIX B**

“Disclosable Pecuniary Interests” are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are:-

### **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 the Member in carrying out duties as a Member, or towards the election expenses of the Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

### **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 the Member’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 the Member’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.