

35 COUNCILLOR CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Introduction and interpretation

As a Councillor you are a representative of the Parish Council and the public will view you as such. Therefore, your actions impact on how the Parish Council as a whole is viewed and your actions can have both positive and negative impacts on the Parish Council.

This Code as a whole is consistent with the 'Nolan Principles', which are appended, and the provisions of S28 (1) Localism Act 2011.

In this Code:-

'meeting' means any meeting of:-

- (a) The Parish Council.
- (b) Any of the Parish Council's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Councillors.
- (c) Any briefings by officers and site visits organised by the Parish Council.

'Councillor' includes a co-opted Councillor.

1. Who does the Code apply to?

- (1) This Code applies to all Members of the Parish Council including co-opted Councillors.
- (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 your Parish Council, or
 - (b) you are acting, or claim to act, or give the impression you are acting as a representative of the Parish Council.

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 your Parish Council 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:-
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Councillor (including yourself) has failed to comply with his or her Parish Council'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, your Parish Council.
- (e) Conduct yourself in a manner which could be reasonably regarded as bringing your Parish Council 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:-
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Parish Council.
- (b) Prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an advantage or disadvantage

You:-

- (a) must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of your Parish Council:-
 - (i) act in accordance with your Parish Council's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must 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 your Parish Council if it is of a description set out in 6.2 below and is either:-

- (a) An interest of yours.
- (b) An interest of your spouse.
- (c) An interest of your civil partner.
- (d) An interest of a person you are living with as a spouse or civil partner (known as a "Relevant Person").

And, in the case of paragraphs 6.1 (b) – 6.1 (c), you are aware that that other person has the interest

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 out by you on or a Relevant Person for profit or gain;
- b) Any payment or provision of any other financial benefit (other than from the Parish Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Councillor, 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 Parish Council or a body in which you or they have a beneficial interest;
- d) A beneficial interest is any land in the Parish Council's area.
- e) A licence of any land in the Parish Council'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 Parish Council 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 Parish Council 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 Parish Council where it relates to, or is likely to effect:

- (a) any person or body who employs or has appointed you; or
- (b) a decision in relation to any business of the Parish Council 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 Parish Council's area.

8 Non-Pecuniary Interests

8.1 You have a non-pecuniary interest in any business of your Parish Council where either:-

- (a) It relates to or is likely to affect:-
 - (i) 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 Parish Council;
 - (ii) any body:-
 - 1. exercising functions of a public nature;
 - 2. directed to charitable purposes; or
 - 3. 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) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50; or
- (b) A decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
 - (a) (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
 - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of your Parish Council'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 9.5, where you have a Disclosable Pecuniary Interest, any other Pecuniary Interest or a Non-Pecuniary Interest in any business of your Parish Council and you are present at a meeting of your Parish Council 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 your Parish Council 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 your Parish Council's published Register of Members' Interests and that 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 your Parish Council and a function of your Parish Council may be discharged by you acting alone in relation to that business, you must ensure you notify Rochford District Council'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 your Parish Council 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. Effects of Interest on Participation

10.1 Disclosable Pecuniary Interests

- (a) If you are present at a meeting of your Parish Council or of any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of your Parish Council 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 your Parish Council's Proper Officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of your Parish Council 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 your Parish Council may be discharged by a Councillor 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 enabling 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 your Parish Council 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 and you are present at a meeting of your Parish Council 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 your Parish Council'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 your Parish Council; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Parish Council.

Register in your Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 28(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.
- (c) 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(b) (i) or (ii) above, register details of that interest or change by providing written notification to Rochford District Council'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 your Rochford District 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.
- 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 your Rochford District Council'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 Rochford District Council'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.
- 13.2 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes with any description approved by the Authority for this purpose.

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