

EWSHOT PARISH COUNCIL
MEMBERS CODE OF CONDUCT 2012

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members¹ of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

Selflessness

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

Objectivity

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

Honesty and integrity

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

Leadership

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

¹ A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who
a) is a member of any committee or sub-committee of the council, or
b) is 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

General Obligations

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully² any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, 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/or
 - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
 - (i) you must act in accordance with the council's reasonable requirements;
 - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

Registering and declaring interests

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any 'disclosable pecuniary interest' as defined by regulations made by the Secretary of State.
17. As soon as you are aware of any changes in your 'disclosable pecuniary interests' you must, within 28 days, notify the council's monitoring officer.

² Bullying is defined as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of any of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviours, although minor isolated incidents are unlikely to be considered bullying. Nothing herein however, should be construed as meaning that it is not right to challenge or test arguments or opinions provided that it is done in an appropriate and respectful manner.

18. You must disclose the interest at any meeting of the council at which you are present, where you have a 'disclosable pecuniary interest' in any matter being considered and where the matter is not a 'sensitive interest'³.
20. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a 'disclosable pecuniary interest' as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

Other Interests

- 21 If you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 22 You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where –
 - a) A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
 - b) It relates to or is likely to affect any of the interests listed in the Table Appended to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

Gifts and Hospitality

- 23 This register of interests also includes the details of any gifts or hospitality received which was worth over £25 and received in your capacity as a Councillor.

³ A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

DISCLOSABLE PECUNIARY INTERESTS

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and it is either the interest of yourself; or your partner (which means spouse or civil partner; a person with whom you are living as husband or wife; or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, 'M' means you and the 'relevant person' means you and your partner, as above)

Subject	Prescribed description
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).
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.

These descriptions on 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 a member of a relevant authority;

“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 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;

“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.

OCTOBER 2012

LOCALISM ACT 2011 SECTION 28 – CODE OF CONDUCT

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS

I. MAKING COMPLAINTS

Any complaint that a member has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer
Hart District Council
Harlington Way
Fleet
Hants GU15 4AE

A form for making complaints is available. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

The Council will not however, investigate any complaint about the failure of a Councillor to declare a Disclosable Pecuniary Interest (DPI). The failure to declare a DPI could amount to a criminal offence. When such allegations are made the complainant should make the complaint direct to the Police.

2. INITIAL ACTION BY THE MONITORING OFFICER

On receiving the complaint the Monitoring Officer may dismiss it without further action if:

- a). The person complained about is no longer a member of the relevant Council; or
- b). The Monitoring Officer considers the complaint does not relate to behaviour in the member's official capacity as a Councillor; or
- c). The matter being complained about happened more than 12 months before the complaint was received; or
- d). The matter or issue being complained about came to the complainant's notice more than 6 months before the complaint was received.

The Monitoring Officer will inform the complainant and the member accordingly.

Where the complaint is made by a Parish/Town Council or a parish/town councillor against a councillor of the same authority, unless a matter of overriding public interest is identified, the Monitoring Officer shall use his discretion and may refer the complaint to the respective parish/town council to be dealt with as an internal matter of dispute within the parish/town council. It will not then be investigated further by the Monitoring Officer as a formal complaint.

If the Monitoring Officer does not dismiss the complaint on any of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will (except in exceptional circumstances where he/she considers that it is in the public interest not to do so) send the member complained about a copy of the complaint, and invite the member to submit initial written comments within 10 working days.

The Monitoring Officer will also ask the member any specific questions the Monitoring Officer considers will assist the initial assessment of the complaint.

3. INITIAL ASSESSMENT OF THE COMPLAINT

Initial assessment will, if practicable, take place within 20 working days of receipt of the member's written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Officer, in consultation with the Independent Person (IP) appointed under Section 28 of the Localism Act 2011 and the Chairman of Standards Committee.

Before the Monitoring Officer considers the complaint, the Monitoring Officer will send the IP and the Chairman of Standards Committee

- (a) A copy of the complaint
- (b) A copy of the member's comments in response to the complaint
- (c) Any other information in the Monitoring Officer's possession that he/she considers relevant.

The Monitoring Officer's decision on the initial assessment, with reasons, will be given in writing to the member, the complainant, and the Clerk to the Parish/Town Council (if the complaint was about a Parish/Town Councillor) within 20 working days.

There will be no right of appeal.

The decision will be available for public inspection.

4. DECISION OPTIONS AT INITIAL ASSESSMENT

The Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, may decide to take one of the following options:

- A. To take no action (Appendix A); or
- B. To attempt to resolve the matter informally between the complainant and member, either in writing, by face-to-face meeting, or by any other method the Monitoring Officer considers appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an

attempt to resolve the matter in this way is not achieved, options A, C and D will remain open; or

- C. To arrange a hearing before a Panel of 3 members drawn from the Standards Committee and the IP, at which the member and complainant can state their case and, if appropriate, call witnesses. Where the complaint relates to a Parish Councillor a Parish Member on Standards Committee must be present at the Hearing Panel. Procedures are set out at Appendix B. The hearing will form a recommendation as to whether the member breached the Code of Conduct and the Monitoring Officer will act upon any such recommendation; or
- D. If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (C). If the investigator considers that there has not been a breach of the Code, the Monitoring Officer will issue a formal finding to that effect.

NO ACTION will be taken where any of the following apply:

- (a) the Monitoring Officer, in consultation with the IP, considers that there is no prima facie evidence that the Code has been breached;
- (b) taking into account the nature of the allegation, the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that using public funds to examine the matter further would be disproportionate;
- (c) the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- (d) the conduct complained about has already been the subject of investigation or enquiry by another public body;
- (e) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that there is nothing further to be gained;
- (f) the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that there is not enough information to take the matter further;
- (g) the complaint was made anonymously;
- (h) the complainant has requested that their identity as complainant be withheld from the member, and the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that the matter cannot reasonably be taken further in these circumstances;
- (i) the member has already apologised for the action that was the subject of the complaint, and the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that this is sufficient to dispose of the complaint;
- (j) the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member(s).

PROCEDURE FOR HEARINGS

GENERAL:

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation and within 2 months of receipt by the Monitoring Officer of the investigator's report where there has been a prior investigation.

The hearing will be before a Panel of 3 members drawn from the Standards Committee. One of the members will be elected Chairman.

The Independent Person [IP] appointed under Section 28 of the Localism Act 2011 may also be present. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.

The Monitoring Officer or deputy Monitoring Officer will be present as advisor to the Panel. There will normally be no requirement to have a separate legal representative present unless the matter is peculiarly complex.

Both the member and complainant will be invited to appear. They may present their own case or they may be represented.

They may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 10 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the parties concerned.

All written evidence will be circulated to the Panel, the IP, the member and the complainant at least 5 working days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.

PROCEEDINGS:

1. The complainant can address the Panel and call witnesses (if any).
2. The member can ask the complainant and witnesses questions.
3. The Panel and IP can ask the complainant and witnesses questions.
4. The member can address the Panel and call witnesses (if any)
5. The complainant can ask the member and witnesses questions.
6. The Panel and IP can ask the member and witnesses questions.
7. The complainant can make a closing statement.
8. The member can make a closing statement.

The Panel, the Monitoring Officer, the IP, any legal advisor if present, and Clerk, will leave the room to another separate room in order to deliberate and formulate their recommendations at hearings.

The Panel's recommendations will be announced orally as soon as possible.

A written report of the hearing and recommendations, with reasons, will be prepared, usually within 10 working days. A copy will be sent to all those present at the hearing and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.

The written report will be available for public inspection.

OPTIONS OPEN TO THE PANEL:

To conclude whether:

- I. The member did comply with the Code of Conduct;

or whether

2. The member did fail to comply with the Code of Conduct, and that:

- I. No action need be taken – reasons to be given;

Or

- II. The member should be censured; and one or more of the following:

- (a) The findings of the Hearing be reported to Full Council [*or to the Parish/Town Council*] for information;
- (b) Recommendation be made to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (c) Recommendation be made to the Leader of the Council that the member be removed from Cabinet, or removed from particular Portfolio responsibilities;
- (d) Recommendation be made to the Monitoring Officer [*or recommend that the Parish/Town Council*] that training be arranged for the member;
- (e) Recommendation be made to Council [*or recommend to the Parish/Town Council*] that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish/Town Council*];
- (f) Recommendation be made to Council [*or recommend to the Parish/Town Council*] that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- (g) Recommendation be made to Council [*or recommend that the Parish/Town Council*] that it exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Panel may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct and promoting standards.