

**The Code of Conduct for Members and Co-Opted
Members together with**

**The Rules for Registration of Interests and
Conflicts of Interest**

*Approved by the Council on
19th July 2012*

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Part 1 The Code of Conduct for Members of Bath and North East Somerset Council

I. Purpose of the Code

1. The purpose of this Code of Conduct is to assist Members (including co-opted Members) in the discharge of their obligations to the Authority, their local communities and the public at large by:
 - (a) setting out the standards of conduct that are expected of Members and co-opted Members of the Authority when they are acting in that capacity, and in so doing
 - (b) providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those activities.

Members should have regard to the Councillor Role Descriptions that have been adopted. Any Councillor complaints considered by the Standards Committee may use these as information.

II. Scope of the Code

2. The Code applies to Members in all aspects of their activities as a Member, including when acting on Authority business, ward/division business or when otherwise purporting to act as a Member. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the Authority and the rulings of the Chair

III. Public Duties of Members

4. Members have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in them.
5. Members have an overriding duty to act in the interests of the Authority's area as a whole, but also have a special duty to represent the views of the residents and communities of their ward.

IV. General Principles of Conduct

6. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Member, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

“Selflessness Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material

benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.”

V. Expectations of Conduct

7. 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.
8. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
9. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, or its Members or officers generally, into disrepute.

VI. Rules of Conduct

10. Members shall in particular observe the following rules when acting as a Member or co-opted Member of the Authority:

(1) **Do** treat others with respect and courtesy.

(2) **Do not –**

(a) do anything which may cause your authority to breach any of its the equality duties (in particular as set out in the Equality Act 2010);

(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 member (including yourself) has failed to comply with his or her authority's code of conduct; or

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

(3) Do 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; and

Do be aware of the requirements of the Bribery Act 2010 and that offences under the Act include the situation where a Member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, any function of a public nature, any activity connected with the Authority or any activity to be performed by or on behalf of the Authority or others should be performed improperly.

(4) **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

(5) **Do not** prevent another person from gaining access to information to which that person is entitled by law.

(6) **Do not** conduct yourself in a manner which could reasonably be regarded as

bringing your office or authority into disrepute.

11. Members shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others:
 - (1) **Do** act in accordance with the authority's reasonable requirements;
 - (2) **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
 - (4) **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your own interests.

12. Members shall observe the following rules when making decisions on behalf of or as part of the Authority:

- (1) **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.
 - (2) **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

VII. Registration and Declaration of Interests

13. Members shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers as required in Part 2.

VIII. Duties in respect of the Authority's Standards Committee and the Monitoring Officer

14. The application and guidance on the application of this Code shall be a matter for the Authority and for the Authority's Standards Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
15. Members shall co-operate, at all stages, with any investigation into their conduct by or under the authority of those persons and shall 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.
16. No Member shall lobby a member of the Authority's Standards Committee in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code otherwise than in accordance with the arrangements laid down by the Authority.

Part 2 - Registration, Disclosure and Duties on Interests Held by Members and Co-Opted Members

I. Registration of Interests

- 1 **DO** fulfil the requirements of the law and the Authority in registering your interests in the Register of Members' Interests.
- 2 **DO** draw attention to any relevant interest, where it is required or appropriate to do so, in any proceeding of the Authority or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member
- 3 **DO** approach the Authority's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation

PART A: Disclosable Pecuniary Interests

Non-disclosure of a pecuniary interest is a potential criminal offence.

1. **DO** comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest.
2. **DO** ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests.
3. **DO** make verbal declaration of the existence and nature of an disclosable pecuniary interest at any meeting at which you are present at which an interest of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

[Meeting" means any meeting organised by or on behalf of the authority, including –

- (i) any meeting of the Council, or a Committee or Sub-Committee of Council
- (ii) any meeting of the Cabinet and any Committee of the Cabinet
- (iii) in taking a decision as a Ward Councillor or as a Member of the Cabinet
- (iv) at any briefing by officers; and
- (v) at any site visit to do with business of the authority]

PART B: Other Interests

1.In addition to the requirements of the preceding section, 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;-

DO make a verbal declaration of the existence and nature of that interest at or before the consideration of that item of business or as soon as the interest becomes apparent.

In such circumstances:-

DO consider whether your participation in the consideration of that item of business would be reasonable, particularly if the interest may give rise to a perception of a conflict of interests in that item of business.

2. You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business where; -

2.1 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

2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, in respect of yourself, a relevant person, a member of your family or a person with whom you have a close association and that interest is not a disclosable interest.

II. Councillors' Gifts and Hospitality Guidance

1. Meaning of gifts and hospitality

- (a) The expressions 'gifts' and 'hospitality' have wide and evolving meanings and no conclusive definition is either possible or desirable
- (b) The Council shall interpret gifts and hospitality to include:
 - Gifts of any goods or services.
 - The opportunity to acquire any goods or services freely or at a discount or other terms not available to the general public;
 - The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
- (c) Where the gift or hospitality has an estimated value in excess of £25 (in accordance with Paragraph 5 of this Guidance), it must be registered. Where the gift or hospitality has an estimated value below £25, you should consider whether a declaration would be appropriate in the circumstances.
- (d) When considering whether to declare, you should:
 - (i) define gifts and hospitality widely; and
 - (ii) ask yourself "would I have been given this if I was not a member of the Council"? and "what was in the mind of the giver"; and
 - (iii) always register a gift or hospitality if it could be seen as something given because of your position.
- (e) If you are in doubt as to the motive behind a gift or hospitality, it is recommended that you register it or speak to Bath & North East Somerset Council's Monitoring Officer.
- (f) You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family.

2. General Caution

- (a) The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care and carefully considered.
- (b) Your prime duty as a Councillor is to ensure that there is no conflict of interest in the performance of your duties.
- (c) Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- (d) You should consider carefully all the circumstances surrounding the offer of a gift or hospitality, including:
 - the scale
 - amount of the offer
 - potential frequency
 - the source

- (e) Also be sensitive to the timing of the offer in relation for example to decisions which the Council may be taking, affecting those making the offer.
- (f) You should usually avoid hospitality in situations where you would be the sole guest or at the least treat such situations with particular care.

3. Councillor's decision

- (a) The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public.
- (b) The rules within this guidance do not cover every circumstance as to what is appropriate or inappropriate.
- (c) To refuse may cause misunderstanding or offence. However to accept may give rise to questions of impropriety or conflict of interest, which are likely to be of more significance to you when making your decision.
- (d) When you need to decide whether to accept hospitality, you must ask yourself some basic questions, for example:
 - is there a benefit to the Council in accepting the invitation?;
 - is the entertainment is lavish?;
 - are you accepting too much hospitality from the same source?;
 - whether just your attendance at an event might be open to interpretation as a signal of support?
- (e) In any case of doubt, advice should be sought from the Monitoring Officer.

4. Requirements

- (a) The Councillors' Code of Conduct incorporates this document and you are required to comply with its terms.
- (b) You must register, the receipt any gifts or hospitality with an estimated value of £25 or more, which are received and accepted by you:
 - in the conduct of the business of the Council, or
 - the business of the office to which you have been elected; or
 - appointed or when you are acting as representative of the Council.
- (c) You must also register the source of the gift or hospitality.
- (d) You must register the gift or hospitality within 28 days of its receipt/acceptance.
- (e) You must ensure that your register of interests sets out all relevant declarations covering both the current and immediate previous terms of the Council. Entries older than this may be removed at the Councillors' discretion, but should be retained if considered relevant.

- (f) If you are dealing with Council business at a meeting (or otherwise) where the donor of the gift or hospitality is affected, you need to consider whether to make a declaration of the gift or hospitality to the meeting for the purpose of complete transparency. Declaration will not mean that you cannot participate in the Council business; however you may consider it appropriate not to participate depending on the circumstances.
- (g) Where any gift (no matter the value) is accepted, it may be advisable (depending on the circumstances) to inform the donor is advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

5. Series of gifts or hospitality adding up to £25 or more in value

- (a) If you receive:
 - a gift or hospitality; or
 - a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on the Register of Interests as an accumulation in a municipal year
- (b) You may have to estimate the value of the gifts or hospitality.

6. Cumulative impact of Gifts and Hospitality from numerous third parties

Councillors can accept gifts and hospitality when it is appropriate and in furtherance of their role in the Council. While it is accepted therefore that the numbers of gifts and numbers of occasions when hospitality could be accepted will vary according to role, there will be a point where Councillors will, in accepting either gifts or hospitality even from different third parties, be in breach of the Code of Conduct. The excessive receipt of gifts and hospitality could undermine the selflessness of the role of councillor and could be considered to have brought the Council into disrepute. Culmulative gifts which would add up to over £100 should be declined.

7. Gifts and hospitality below the £25 threshold

You can still register any gift or hospitality you receive which you estimate to be below the £25 threshold should you consider that in all the circumstances this would be appropriate and in your best interests.

8. What to avoid

- (a) In deciding whether it is appropriate to accept any gift or hospitality, you may want to apply the following principles:
 - (i) do not accept a gift or hospitality as an inducement or reward for anything you do as a Councillor. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee;
 - (ii) do not accept a gift or hospitality of significant value or whose value is excessive in all the circumstances;

- (iii) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence;
 - (iv) do not solicit any gift or hospitality and avoid giving any perception of doing so;
 - (v) be very cautious in accepting a gift or hospitality, if acceptance might be open to misinterpretation e.g. from persons in litigation with the Council, bidding for work from the Council or applying for any sort of license or consent.
- (b) **It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council.** It is therefore particularly important that great caution is exercised in receiving any hospitality or gifts from contractors of the Council.
- (c) Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.
- (d) It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place him/her under an obligation.

9. Chair

- (a) There are no special rules for those who serve as Chair.
- (b) However, gifts that are clearly made to the authority, for example a commemorative goblet which is kept on display in the authority's offices, do not need to be registered in the member's register of gifts and hospitality. However, such gifts ought to be recorded by the authority for audit purposes. Although the Chair may attend many social functions the office holder is not exempt from the requirement to register hospitality.
- (c) Where the Chair is invited to social functions or gifted with presents in the capacity of the "Chair", he/she will not be required to register the gifts or hospitality received/accepted in this role. Where the Councillor acting as Chair, receives any gifts or hospitality in his/her capacity of a Councillor, there is a requirement to register such gifts and hospitality. The question a Councillor needs to ask themselves is "Would I have received this hospitality even if I were not the chair?" If the answer is yes, then it must be registered.

10. Gifts and hospitality declined

There is no requirement to register gifts and hospitality offered but declined. However, as a matter of good practice, it would be advisable to inform the Monitoring Officer particularly if they are of value. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council, which prevent the gift or hospitality from being accepted.

11. Reporting of inappropriate gifts and hospitality offered

- (a) It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council.
- (b) You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.

III. Appendix – 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 as follows –

| <i>Interest</i> | <i>Prescribed description</i> |
|---|---|
| Employment, office, trade, profession or vacation | 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.

For this purpose –

- “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 namely your spouse or civil partner,a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners;
- “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.