

# Part 5

## Members' Code of Conduct



### PART 1 GENERAL PROVISIONS

#### 1. PUBLIC DUTY AND PRIVATE INTERESTS: An introduction

1.1 This Code applies to you as a Member or a Co-opted Member of South Hams District Council ('the Council').

1.2 When acting in your capacity as a Member or Co-opted Member of the Council, you should have regard to the Principles of Public Life namely:

Selflessness  
Honesty/Integrity  
Objectivity  
Accountability  
Openness  
Personal judgment  
Respect for others  
Duty to uphold the law  
Stewardship  
Leadership

1.3 When acting in your capacity as a Member or Co-opted Member of the Council:

- (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate;
- (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
- (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
- (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;

## 1. PUBLIC DUTY AND PRIVATE INTERESTS: An introduction (cont'd)

- (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution;
  - (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
  - (g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;
  - (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;
  - (i) 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.
- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

## 2. DEFINITIONS

In this Code:

- 2.1 '**close associate**' includes someone you are in either regular or irregular contact with over a period of time who is more than just an acquaintance and who is someone a reasonable member the public might think you would be prepared to favour or disadvantage.

## 2. DEFINITIONS (cont'd)

- 2.2 '**family**' includes your parents, parent-in-law, son/daughter, brother/sister, son/daughter-in-law, stepson/stepdaughter, grandparent, grandchild, nephew/niece, uncle/aunt or any of the above of a partner or any partners of these people.
- 2.3 '**interest or interests**' have the meanings set out in Part 2 of this Code.
- 2.4 '**meeting**' means any meeting of:
- the Council;
  - the Executive of the Council
  - any of the Council's or its Executive's Committees, Sub-Committees or Joint Committees or Joint Sub Committees.
  - one or more Members, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council Officer.
- 2.5 '**member**' includes a co-opted member.
- 2.6 '**relevant person**' means:
- you
  - your spouse or civil partner
  - a person with whom you are living as husband and wife or as civil partners and you are aware that the other person has an interest.
- 2.7 'relevant period' means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest.
- 2.8 'the Regulations' means 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI2012/1464)' or any statutory amendment of them.

## 3 SCOPE

You must comply with this Code whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.

## 4. GENERAL OBLIGATIONS

### 4.1 You must:

- (a) treat others with courtesy and respect,
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

### 4.2. You must not:

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (d) 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 any Member has failed to comply with the Council's Code of Conduct;
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- (f) 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

#### 4. GENERAL OBLIGATIONS (cont'd)

- (f) (iv) the disclosure is:
  - (a) in the public interest; and
  - (b) made in good faith and
  - (c) in compliance with the reasonable requirements of the Council;
- (g) prevent another person from gaining access to information to which that person is entitled by law;
- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

#### 5. REGISTER OF INTERESTS

5.1. You must, within 28 days of:

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council, whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:
  - (i) any disclosable pecuniary interest as defined by Regulations, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
  - (ii) any other personal interest laid down by the Council, as set out at paragraph 7 below:

“which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: [www.southhams.gov.uk](http://www.southhams.gov.uk)”

5.2 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

5.3 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.

## 5. REGISTER OF INTERESTS (cont'd)

- 5.4 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 5.5 In relation to **disclosable pecuniary interests** in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

“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 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
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are 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

## 6. DISCLOSABLE PECUNIARY INTERESTS

- 6.1 The interests you **must** register are:

Those disclosable pecuniary interests defined by the Regulations, namely:

- (a) **Employment** - any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) **Sponsorship** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

## 6 DISCLOSABLE PECUNIARY INTERESTS (cont'd)

- (c) **Contracts** - any contract which is made between you or, so far as you are aware, a relevant person (as defined at Paragraph 2 above) (or a body in which the relevant person has a beneficial interest) and the Council:
- i. under which goods or services are to be provided or works are to be executed; and
  - ii. which has not been fully discharged
- (d) **Land** - any beneficial interest in land held by you, or so far as you are aware, a relevant person, which is within the area of the Council;
- (e) **Licence** - any licence (alone or jointly with others) to occupy land held by you, or so far as you are aware, a relevant person in the area of the Council which will last for a month or longer;
- (f) **Corporate Tenancies** - any tenancy where (to your knowledge):
- (i) the landlord is the Council; and
  - (ii) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) **Securities** - any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
- i. that body (to your knowledge) has a place of business or land in the area of the Council and
  - ii. 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 PERSONAL OR OTHER INTERESTS

7.1 Those other personal interests specified by the Council, including:

- (a) Your membership of any body to which you have been appointed by the Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.

## **7 PERSONAL OR OTHER INTERESTS (cont'd)**

- (b) In addition to those interests listed at 7.1 and 7.2 (a) above which you are required to register, you may wish also to declare membership of anybody which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, [such as membership of the Freemasons or any similar body].
  - (c) any interest where you think a reasonable person with knowledge of the relevant facts may either regard the interest itself as so significant, or otherwise as having so much greater impact upon you than upon the majority or residents or inhabitants in the affected area, that it may prejudice your judgement of the public interest; or
  - (d) any membership of any body or
  - (e) any other area which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, including but not confined to the receipt of gifts or hospitality to a value greater than £100.
- 7.2 Where a matter arises at a meeting which affects the wellbeing or financial interest or position of you, any relevant person, member of your family or close associate (other than a Disclosable Pecuniary Interest) more than it would affect the majority of people living within the ward or electoral division affected by the matter.
- 7.3 Where the Council's Monitoring Officer agrees that any information relating to your interests is "sensitive information" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.
- 7.4 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

## **8 DECLARATION OF INTERESTS AND PARTICIPATION IN MEETINGS**

- 8.1 Unless a 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 the Regulations and you must also observe any restrictions the Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Paragraph 7 above.



## **8 DECLARATION OF INTERESTS AND PARTICIPATION IN MEETINGS (cont'd)**

8.2 Where you have any interest in any business of the Council and you attend any meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest (unless it is a sensitive interest in which case you need only disclose the fact that there is a disclosable pecuniary interest in the matter concerned);
- (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (d) where you have an interest under Paragraph 7.2, you shall not take part in the discussion or vote on that matter save that you may speak on the matter before withdrawing from the meeting room if members of the public are also allowed to speak at the meeting.
- (e) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer or the Corporate Performance and Resources Scrutiny Panel.