

ENGLEFIELD PARISH COUNCIL

CODE OF CONDUCT

1. INTRODUCTION

This Code of Conduct is pursuant to the Localism Act 2011 and its duty to promote and maintain High Standards of Conduct by members and co-opted members of the Council.

2. APPLICATION

2.1 This Code of Conduct applies to you as a member of this Council when you are acting or purporting to act in your role as a member and you have a responsibility to comply with the provisions of this Code.

2.2 This Code of Conduct is consistent with and based upon the Seven Principles of Public Life as set out in section 28(1) of the Localism Act 2011:

- **Selflessness**
Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and Integrity**
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity**
Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability**
Members should 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 particular office.
- **Openness**
Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- **Leadership**
Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

- 2.3 Should a complaint be made against you in your role as a Councillor it will be dealt with in accordance with the Localism Act 2011 and its supporting regulations.
- 2.4 If you need any guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.

3. GENERAL OBLIGATIONS

When acting or purporting to act in your role as a member of the Council, you must have regard to the following obligations. If you are not acting in your role as Councillor then no breach of the Code is likely to occur:

You must:

- a. Treat members, officers, members of the public and service providers with courtesy and respect.
- b. Ensure that you are aware of and comply with the requirements which the Bribery Act 2010¹ places on you in your role as a Member and on the Council.
- c. When involved in the decision making of the Council:
 - i. Have regard to any advice provided to you by the Parish Council Clerk and the District Council's Monitoring Officer pursuant to their statutory duties.
 - ii. Give reasons for the decisions in accordance with any legal requirements or reasonable requirements of the Council.
- d. When using or authorising the use by others of the resources of the Council act in accordance with the Council's reasonable requirements.
- e. Make sure that Council resources are used for and in accordance with your duties as a Councillor and are not used improperly.

You must not:

- a. engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- b. disclose information given to you in confidence by anyone or information acquired by you which you believe or are aware is of a confidential nature except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required to do so by law;

¹ The Act creates offences of offering or receiving bribes, bribery of foreign public officials and of failure to prevent a bribe

- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
 - (iv) the disclosure is reasonable and in the public interest;
 - (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or “its professional advisers”.
- c. prevent another person from accessing information if that person is entitled to do so by law;
- d. improperly use knowledge gained solely as a result of your role as a member for the advancement of your disclosable pecuniary interests;
- e. conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute.

4. DISCLOSABLE PECUNIARY INTERESTS

4.1. Disclosable Pecuniary Interests

4.1.1. By virtue of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 you must disclose and register disclosable pecuniary interests as defined in the foregoing legislation by notifying the Monitoring Officer within 28 days:

- (a) the adoption of this Code; or
- (b) becoming a member of the Council; or
- (c) becoming aware of such an interest.

4.1.2 Failure to disclose such interests may result in prosecution by which could result in a fine not exceeding £5,000.00 (Level 5 on the Standard scale).

4.1.3. A Disclosable Pecuniary Interest [DPI] is an 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). The descriptions of disclosable pecuniary interests are set out in Appendix 1 to this Code of Conduct.

4.2. Other Interests

4.2.1. You must, within 28 days of:

- (a) this Code being adopted by or applied; or
- (b) your election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

4.2.2. You have a personal interest in any business of your authority 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 authority;
- (ii) any body.
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) 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) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

4.3. Disclosure of interests

4.3.1. Subject to sub-paragraphs 4.3.2 to 4.3.5, where you have a personal interest described in paragraph 4.2 above or in paragraph 4.3.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

4.3.2. You have a personal interest in any business of your authority

- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

In sub-paragraph 4.3.2, a *relevant person* is:

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.00; or
- (d) any body of a type described in paragraph 4.2.2(a)(i) or (ii).

4.3.3. Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 4.2.2(a)(i) or 4.2.2(a)(ii)(a), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- 4.3.4. Where you have a personal interest but, by virtue of paragraph 5, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 4.3.5. Where you have a personal interest in any business of your authority 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.
- 4.4. Register of interests
 - 4.4.1. Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.
- 4.5. Non participation in case of pecuniary interest
 - 4.5.1 Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the 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 your judgement of the public interest and where that business;
 - (a) affects your financial position or the financial position of a person or body described in paragraphs 4.2.2; or
 - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.
 - 4.5.2 Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority;
 - (a) you may not participate in any discussion of the matter at the meeting.
 - (b) you may not participate in any vote taken on the matter at the meeting.
 - (c) if the interest is not registered, you must disclose the interest to the meeting.
 - (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition the Council's Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

- 4.5.3 Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 4.5.4. Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of:

- (i) an allowance, payment or indemnity given to members;
- (ii) any ceremonial honour given to members; and
- (iii) setting council tax or a precept under the Local Government Finance Act 1992.

5. SENSITIVE INTERESTS

- 5.1. Where a member is concerned that the disclosure of the details of an interest (either a DPI or any other interest which the member is required to disclose) at a meeting or on the Register of Members' Interests, and such disclosure would lead to the member or a person associated with him/her being subject to violence or intimidation, the member may request the Monitoring Officer to agree that such interest is a sensitive interest.
- 5.2. If the Monitoring Officer agrees that the interest is a sensitive interest the member must still disclose the existence of the interest at a relevant meeting but the member is not required to provide the details of the sensitive interest during the meeting. The Monitoring Officer shall also exclude the details of the sensitive interest from the published version of the Register of Members' Interests.

6. DISCLOSURE AND PARTICIPATION

- 6.1. Should you have a disclosable pecuniary interest you **MUST NOT** take part in the decision making process of the Council and in order to ensure transparency you must withdraw from such process as regards that DPI.
- 6.2. The Localism Act 2011 makes participation in such matters if you have a DPI, a criminal offence.

7. GIFTS AND HOSPITALITY

- 7.1. You must disclose and record any gift or hospitality you receive in your capacity as a member of the Council in excess of an estimated value of £25.00 within 28 days of receipt of acceptance

8. DISPENSATIONS

- 8.1. Members who have a disclosable pecuniary [or other interest] may apply for a dispensation on specific grounds.
- 8.2. In Appendix 2 paragraph 1.2 of the District Council's Code of Conduct it states that Parish Councils under the legislation are given the ability to deal with their own dispensations. The Englefield Parish Code of Conduct takes account of this.
- 8.3. It is proposed that the initial request for a dispensation should be communicated in writing or email to the Parish Council Clerk (hereafter called the Clerk). At this stage the Clerk is empowered to make a decision on the request. However, the Clerk is free to consult the District Council Monitoring Officer for a judgement if thought appropriate.

8.4 A member who has a prejudicial interest may apply to the Clerk for a dispensation if so many members of the Parish Councillors have a Prejudicial Interest would prevent the transaction of business. In practice this means that the Parish Council would be inquorate as a result.

8.5 The Clerk may allow a dispensation if it is considered that the dispensation is in the interests of persons living in the Parish.

9. Considerations in granting a dispensation

9.1. The following matters will be taken into account when assessing a dispensation application:

- (i) the Clerk should weigh up the effect of Members' prejudicial Interest(s) against the outcome of the vote if they are not participating in the vote.
- (ii) the Clerk should consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Member were allowed to vote.
- (iii) the Clerk should look at whether the interest in question is one that is common to both the Member and to a significant proportion of the population.
- (iv) account should also be taken of the expertise and knowledge of the Member and whether this justifies their participation in the item in question. For example, if members of Police and/or Fire authorities would be able to bring their expertise by addressing the meeting.
- (v) if a dispensation not being granted would mean the meeting was not quorate, this might be a reason to grant the dispensation.

10. Process for granting and recording a dispensation

- (i) a Member must apply in writing to the Clerk for a dispensation as soon as possible, setting out why it is required. The Clerk will then arrange for the request to be considered. Only written requests are acceptable, and cannot be made by someone else on behalf of the Member. Group and joint requests are not permitted. Each Member should apply individually.
- (ii) The Clerk will consult with the District Council Monitoring Officer if advice on a particular application is needed.
- (iii) the Clerk/Monitoring Officer should then determine the nature of any dispensation they are minded to grant:
 - (a) whether the applicant can speak and not vote; or
 - (b) whether the applicant can participate fully and vote.Additionally the Clerk/Monitoring Officer can also decide the length of time that the dispensation will be operative (not more than four years).
- (iv) it should be noted that the regulations do not allow for the Clerk/Monitoring Officer to grant a general dispensation to cover any situation where a prejudicial interest may arise.

- (v) if the Clerk/Monitoring Officer grants a dispensation it should do so in writing and before the meeting in question is held.
 - (vi) the Clerk/Monitoring Officer may decide to refuse an application for a dispensation. This is within their discretion under the regulations.
 - (vii) a written record of the decision taken must be recorded in the minutes of any meeting to which the dispensation relates and be kept and placed with the Register of Interests maintained under the Localism 2011.
11. Any advice on the process of granting dispensations and any questions relating to this arrangement should be directed to the Clerk.