

# CODE OF CONDUCT FOR MEMBERS (Adopted: 22.04.2021)



## A. Introduction

**This Code applies to you, if you are an elected councillor or a co-opted member of the Council** (together referred to as “Members”).

A “co-opted member” is a person who is not an elected member of the Council but who is a member of:

- (a) any committee or sub-committee of the Council; or
- (b) a member of, and who 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 of the Council, including joint committees.

## B. Purpose of this Code

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, Council officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Members and local government.

## C. General Principles

Everyone in public office at all levels, all who serve the public or deliver public services (including ministers, civil servants, councillors and local authority officers) should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These principles are:

1. **Selflessness:** Holders of public office should act solely in terms of the public interest.
2. **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

3. **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty:** Holders of public office should be truthful.
7. **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

Building on these principles, the following general principles have been developed specifically for the role of Members. In accordance with the public trust placed in Members, on all occasions you must:

- act with integrity and honesty;
- act lawfully;
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in your role as a councillor or co-opted member.

In undertaking the role of a Member, you must:

- impartially exercise your responsibilities in the interests of the local community;
- not improperly seek to confer an advantage, or disadvantage, on any person;
- avoid conflicts of interest;
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest.

#### D. **Application of the Code**

This Code of Conduct applies to you if you have signed your declaration of acceptance of the office; or if you are a co-opted member, as soon as you attend your first meeting as a co-opted member. The Code continues to apply to you until you cease to be a Member.

This Code of Conduct applies when you are acting in your capacity as a councillor or co-opted member which may include when:

- You misuse your position as a councillor or co-opted member; or

- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor or co-opted member.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at online or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor or co-opted member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

## **E. Standards of Conduct**

**The remainder of this Code sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.**

Guidance is included below each of the requirements to help explain the reasons for them and how they should be followed.

## **1. RESPECT**

**You must:**

- (a) treat other Members and members of the public with respect; and**
- (b) treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the police. This also applies to fellow councillors or co-opted members, where action could then be taken under this Code of Conduct and Council employees where concerns should be raised in line with the Council's Member / Officer Protocol.

## **2. BULLYING, HARRASSMENT AND DISCRIMINATION**

- (a) You must not bully any person.**
- (b) You must not harass any person.**
- (c) You must promote equalities and not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. IMPARTIALITY OF OFFICERS OF THE COUNCIL**

**As a Member you must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.**

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. A Member can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. CONFIDENTIALITY AND ACCESS TO INFORMATION**

##### **4.1 You must not disclose information:**

- (a) given to you in confidence by anyone; or**
- (b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature unless (i) you have received 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 reasonable and in the public interest, made in good faith and in compliance with the reasonable requirements of the Council and you have consulted the Monitoring Officer prior to its release.**

**4.2 You must not improperly use knowledge gained solely as a result of your role as a Member for the advancement of yourself, your friends, your family members, your employer or your business interests.**

**4.3 You must not prevent anyone from getting information that they are entitled to by law.**

Councils must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5 DISREPUTE**

**You must not bring your role or the Council into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your / its functions. For example, behaviour that is considered dishonest and / or deceitful can bring your council into disrepute.

You are able to hold the Council and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.



## **6. USE OF POSITION**

**You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.**

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. USE OF COUNCIL RESOURCES AND FACILITIES**

**7.1 You must not misuse Council resources.**

**7.2 You must, when using the resources of the Council or authorising their use by others:**

- (a) act in accordance with the Council's requirements; and**
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a Member. Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

## **8. COMPLYING WITH THE CODE OF CONDUCT**

**8.1 You must undertake Code of Conduct training provided by the Council.**

**8.2 You must cooperate with any Code of Conduct investigation and / or determination.**

**8.3 You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 You must comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with your Monitoring Officer at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk).

## **9. GIFTS AND HOSPITALITY**

- 9.1 You must not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.**
- 9.2 You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 9.3 You must register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, 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. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk) .

Gifts and hospitality may be registered by sending details to [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk).

## 10. INTERESTS

**You must register and disclose your interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council. At the Council, your notification of registration should be sent to [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) .

You need to register your interests so that the public, Council employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in the Appendix to this Code, is a criminal offence under the Localism Act 2011.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the Appendix to this Code. The interests are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. For the purposes of Disclosable Pecuniary Interests the term **“partner”** means a spouse or civil partner, or 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 detailed provisions on registering and disclosing interests are set out below. If in doubt, you should always seek advice from your Monitoring Officer at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk) .

### REGISTERING INTERESTS

1. Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer Disclosable Pecuniary Interests and Other Registerable Interests.

“Disclosable Pecuniary Interests” are defined above. **“Other Registerable Interests”** means your other personal interests which fall within the categories set out in the Appendix under the heading Other Registerable Interests.

2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

A '**sensitive interest**' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

### **NON PARTICIPATION IN THE CASE OF DISCLOSABLE PECUNIARY INTERESTS**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests (see Appendix), you must:
  - (a) disclose the interest;
  - (b) not participate in any discussion or vote on the matter; and
  - (c) not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest' (see paragraph 3 above), you do not have to disclose the nature of the interest, just that you have an interest. Dispensations may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must:
  - (a) notify the Monitoring Officer of the interest; and
  - (b) not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **DISCLOSURE OF OTHER REGISTERABLE INTERESTS**

6. Where a matter arises at a meeting which **directly relates** to one of your 'Other Registerable Interests' (see Appendix), you must disclose the interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **DISCLOSURE OF NON-REGISTERABLE INTERESTS**

7. Where a matter arises at a meeting which **directly relates** to:

- (a) your financial interest or well-being (and is not a Disclosable Pecuniary Interest); or
- (b) a financial interest or well-being of a relative or close associate,

you must disclose the interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects**:

- (a) your own financial interest or well-being; or
- (b) a financial interest or well-being of a friend, relative, close associate; or
- (c) a body included in those you need to disclose under Disclosable Pecuniary Interests

you must disclose the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter affects your financial interest or well-being:

- (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

- (c) Where you have a personal interest in any business of your Council and you have made an Executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.