

**Agenda Item 11, Notice of Motion – Proposed Changes to the Members Code of Conduct.**

# **MEMBERS' CODE OF CONDUCT AND INVESTIGATIONS PROCEDURE**

**STROUD DISTRICT COUNCIL CODE OF CONDUCT FOR MEMBERS**  
(Adopted by Council on 5 July 2012 and updated by Council on 10 April 2014)

## **PART 1: APPLICATION**

This Code applies to all members of the Council including co-opted members and appointed members (hereinafter referred to as Members).

~~It applies to Members whenever the member is acting, or appearing or purporting to act, as a member of the Council; or whenever the member is acting, or purporting to act, as a representative of the Council.~~

1. Members must comply with this Code whenever they:-
  - (a) conduct business of Stroud District Council; or
  - (b) act, claim to act or give the impression they are acting as a representative of Stroud District Council; or
  - (c) act as a representative of Stroud District Council and references to their official capacity are construed accordingly.
2. In addition to having effect in relation to conduct in an official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which they have been convicted or received a Police Caution.

Interpretation: If Members refer to themselves as councillor, the code will apply to them. This applies in conversation, in writing, or in use of electronic media, including the use of Facebook, blogs and Twitter. If they refer to their role as councillor in any way or comments they make are clearly related to their role then the code will apply to those comments. Even if they do not refer to their role as councillor, their comments may have the effect of bringing their office or authority into disrepute and could therefore breach paragraph 3 (1)(c) of the code.

## **PART 2: PRINCIPLES GENERAL OBLIGATIONS**

All Members of the Council shall aspire to uphold and promote the following principles:

**Selflessness** - members should act only in 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 impartially and 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 cooperate fully and honestly with any scrutiny appropriate to their particular 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 there are clear and lawful reasons for doing so.

**Honesty**

**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.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

~~Whilst it is important that Members do their best to uphold and promote these principles, a failure to do so will not may, in itself be a breach of this Code. Those matters which are specific breaches of the Code are set out in the next section.~~

## PART 3: REQUIREMENTS OF THE CODE

### 3.1 Members must

- (a) not use their position as a member to influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest (an interest is defined in sections 4.2, 4.3 and 4.4 of Part 4 below) and they shall comply with the requirements of this Code in relation to interests;
- (b) not use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage;
- (c) not conduct themselves in a manner which could reasonably be regarded as bringing ~~your~~ their office or authority into disrepute;
- (d) in carrying out all their duties and responsibilities pay due regard to the Public Sector Equality Duty:
  - (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - ~~(i)~~ advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (ii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- ~~(d)~~ not bully or harass or attempt to bully or harass any person;
- (e) show respect and consideration for others;
- (f) not use bullying behaviour or harass any person;
- (ge) not intimidate or attempt to intimidate any person;
- (hf) not do anything which may cause the Council to breach the Equality Act 2010;

- (ig) not disclose information given to the Council in confidence by anyone, or information acquired by the Council which the member believes, or ought reasonably to be aware, is of a confidential nature, except where -
  - (i) the member has the consent of a person authorised to give consent;
  - (ii) they are required by law to do so;

### **3.2 Members must:**

- (a) When using or authorising the use by others of the resources of the Council
  - (i) act in accordance with the Council's reasonable requirements; ensure that such resources are not used improperly for political purposes (including party political purposes);
- (b) When reaching decisions on any matter have regard to any relevant advice provided to them by -
  - (i) the Council's chief finance officer; or
  - (ii) the Council's Monitoring Officer,where that officer is acting pursuant to his or her statutory duties.
- (c) Give reasons for all decisions they make in the course of their work as a member in accordance with any reasonable requirements of the Council.

## **PART 4: INTERESTS**

### **4.1 General Requirement Regarding Interests**

A member shall not influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest. Members shall comply with the requirements of this Code in relation to interests.

### **4.2 Definition**

- (a) An interest to which this Code applies is either a disclosable pecuniary interest (DPI) or if not, an "Other Interest". These are defined at sections 4.3 and 4.4 below. One should first ascertain if the interest is a DPI. If it is not then one goes to section 4.4 to see if it is any other interest.
- (b) Members will not be considered to have an interest where it arises from an interest of a body or person other than themselves and they were not aware of that body's or person's interest.

#### 4.3 Definition of a Disclosable Pecuniary Interest (DPI)

- (a) A DPI is any of the interests described below whether it is the Member's or the interest of their spouse, civil partner, or person who they live with as if they were their spouse or civil partner (referred to as "Partner" below).
- (i) Employment: any employment or office held, or trade, profession or vocation carried on, by the Member or their Partner for profit or gain.
  - (ii) Sponsorship: any payment or financial benefit towards the Member's election expenses or expenses as a member received within the last 12 months, excluding any from the Council .
  - (iii) Contracts: any current contract between the Council and them, or their Partner, or anybody in which they or their Partner are a business partner, director, or shareholder.
  - (iv) Land: any land which is in the Council's area which they or their Partner have a right to occupy or receive the income from, including a licence to occupy land for more than a month.
  - (v) Corporate tenancies: any tenancy between the Council and a body in which the Member or their Partner are a business partner, director, or shareholder.
  - (vi) Securities:
    - any beneficial interest in any shares or other securities of any description in a body, held by the Member or their Partner, if the body has a place of business or land in the Council's area, and:
    - the total value of the securities held is over £25,000, or
    - the Member or their Partner hold more than one hundredth of the total issued share capital of the body, or
    - if the body has more than one class of shares, the Member or their Partner hold more one hundredth of the issued share capital of that class

Note: the descriptions of DPI's above are summaries of the definitions in the regulations.

- (b) A failure to disclose a DPI, or providing information regarding a DPI which is false or misleading, or taking part in the business of the Council when one has such an interest, are criminal offences in most circumstances, as set out in the Localism Act 2011. They will also be breaches of this Code.

#### 4.4 Definition of “Other Interest”

- (a) A Member has an “Other Interest” where a decision on the matter might reasonably be regarded as significantly advantaging or disadvantaging them or, their Partner to a greater extent than the majority of other council tax, business rate payers or inhabitants of your ward. In interpreting and applying this part of the Code, it is imperative that Members always act in a manner which is consistent with the key principles set out in the Code at Part 2: Principles.
- (b) Exceptions – Members do not have any Other Interest in respect of any business of the Council concerning:
  - (i) Housing, where they are a tenant of the Council provided that those functions do not relate particularly to their own tenancy or lease;
  - (ii) School meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) An allowance, payment or indemnity given to members;
  - (v) Any ceremonial honour given to members; or
  - (vi) Setting council tax or a precept under the Local Government Finance Act 1992.

#### 4.5 Disclosure of interests at meetings

- (a) Where the Member attends a meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council which considers any business in which they or their Partner have an interest, the Member must disclose to that meeting the existence and nature of that interest either
  - (i) when invited to do so at or near the commencement of the meeting; or
  - (ii) at the commencement of the consideration of that business; or (if later)
  - (iii) as soon as the interest becomes apparent.
- (b) Where a Member has an interest but, by virtue of paragraph 4.7 it is a Sensitive Interest, they must indicate to the meeting that they have an interest, but need not disclose the sensitive information to the meeting.

#### **4.6 Other Actions to be Undertaken by Members with an Interest**

- (a) Subject to paragraph 4.6 (b), in support of the general requirement of this Code that a Member shall not influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest there are the following additional requirements:
  - (i) The Member must not participate in any discussion or consideration of that matter at any meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council;
  - (ii) The Member shall withdraw from the meeting for the whole time there is a discussion or consideration of the matter; and
  - (iii) The Member shall not vote on the matter.
  
- (b) Exceptions – if the interest is solely an Other Interest (as defined in paragraph 4.4) which arises:
  - (i) Only in connection with the Member's appointment as a representative of the Council on an outside body; or
  - (ii) As a result of the Member's or their Partner's membership of any other body in which the Member or their Partner do not hold a position of general control or management

the Member may speak on the matter and stay in the meeting room, but are prohibited from voting on the matter.

#### **4.7 Sensitive Interests**

- (a) A Sensitive Interest is an interest that the Member with the interest, and the Council's Monitoring Officer, consider that disclosure of the details of which could lead to that Member or a person connected with that Member being subject to violence or intimidation.
- (b) Copies of the Council's Register of Members' Interests that are made available for inspection and any published version of the Register, must not include details of the interest but will state that the Member has an interest the details of which are withheld under the Localism Act 2011.
- (c) A Member with a Sensitive Interest, when declaring such an interest at a meeting, need not disclose details of the interest but merely the fact that they have a Sensitive Interest in the matter concerned.
- (d) A Member with a Sensitive Interest is subject to all the other provisions of this Code in relation to that interest, including those which prevent members with an interest influencing, or attempting or purporting to influence, any decision or business of the Council in which they have an interest.

#### **4.8 Dispensations**

- (a) The Monitoring Officer of the Council may grant a dispensation allowing a Member with an interest to
  - (i) participate, or participate further, in any discussion of the matter, or
  - (ii) participate in any vote, or further vote, taken on the matter at a meeting where the discussion or meeting are in the course of the Council's business.
- (b) The Monitoring Officer may only grant a dispensation if, after having had regard to all relevant circumstances, she
  - (i) considers that without the dispensation the number of persons prohibited from participating by section 31(4) of the Localism Act or this Code in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or
  - (ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or
  - (iii) considers that granting the dispensation is in the interests of persons living in the authority's area, or
  - (iv) considers that it is otherwise appropriate to grant a dispensation.
- (c) A dispensation under this Code must specify the period and matters for which it has effect, and the period specified may not exceed four years.

#### **4.9 Registration of members' DPI's**

- (a) Members must, within 28 days of either this Code being adopted by Council; or their election or appointment to office (whichever is later) register in the Council's Register of Members' Interests details of their disclosable pecuniary interests (DPI's) as defined in section 4.3.
- (b) Registration shall be by providing to the Council's Monitoring Officer a fully completed form provided by the Council for this purpose.
- (c) Members must, within 28 days of becoming aware of any new DPI or change to any such interest already registered, register details of that new interest or change by providing written notification with sufficient details of the change to the Council's Monitoring Officer for her to properly update the Register.
- (d) Where a Member has declared a DPI at a meeting which is not in the Council's Register of Member's Interests, and in respect of which no notice has already been given to the Monitoring Officer, the Member shall, within 28 days of making the declaration, provide sufficient details of the interest for the Monitoring Officer to properly update the Register.



**The Procedure for Assessing Allegations of Breaches  
of the Member's Codes of Conduct Applying to Stroud District Council  
and Parish and Town Councils within the District of Stroud**

**(Updated Nov 2016)**

**1. Initial Assessment**

- 1.1 Where a complaint regarding the conduct of a District Council Member, Town or Parish Member of one of the Councils in the Stroud District is received it shall be referred to the District Council's Monitoring Officer (MO).
- 1.2 The person referring the complaint, will provide the MO with any documents or other material accompanying or evidencing the complaint, and any associated documents and material which will assist in ascertaining if there has been a breach of the Member's Code of Conduct for the Member's Council (the Code).
- 1.3 The MO will within 10 working days of receipt of the documents and material referred to in 1.1 above ascertain if the alleged breach appears to be an offence under the Localism Act 2011 relating to Disclosable Pecuniary Interests. If it appears it is the MO will inform the complainant that the matter should be referred to the Police for investigation. The conduct of the matter will then be the responsibility of the Police, unless 1.4 applies.
- 1.4 If the Police decide not to investigate, or they or the Director of Public Prosecutions decide not to prosecute, then the process for dealing with other breaches of the Code, as set out below, will apply.
- 1.5 If it appears that the alleged breach is not an offence the MO will, within 10 working days of receipt of the documents and material referred to in 1.1 above, make an initial assessment of the evidence. If the MO considers there is a prima facie case of a significant breach of the Code the matter will be investigated. If the MO considers irrespective of the latter that the complaint should nevertheless be considered further to a limited extent (i.e. without the need for a full investigation) at that stage (e.g. because of the nature of the complaint), the MO may do so before deciding whether to refer it to a full investigation.
- 1.6 If the MO considers there is no prima facie case of a significant breach of the Code or that the complaint is repetitious or vexatious, the MO will write or email the complainant within 15 working days of the receipt of the last piece of evidence, informing them of this, and that the MO does not intend to investigate the complaint, or do anything further.

- 1.7 If the MO considers there is a prima facie case of a significant breach of the Code which is neither vexatious nor repetitious, the MO will:
- Inform the Member alleged to have breached the Code
  - Inform the complainant that an initial assessment is being made
  - Tell the complainant what documents and material the MO has received
  - Invite the complainant to submit any further evidence they have of the breach, with a deadline for such submissions
  - Inform the Member of the Independent Person's (the IP) role, as set out in the Localism Act 2011, and provide one of the IP's contact details
  - Provide the complainant and Member with a copy of this procedure
  - Inform the IP's of the complaint, and which of them is to be the contact for the member (the Member's IP)
- 1.8 If the complainant informs the MO, within 10 working days, that they are unhappy with a decision not to investigate under 1.6, the MO will refer the matter to an IP other than the Member's IP.
- 1.9 If the IP takes the view, in consultation with the MO, that there is a prima facie case of a breach of the Code the matter will be investigated. Otherwise it will not be investigated.
- 1.10 Following such a review by the IP the MO will inform the Member complained of, the complainant, and the Member's IP, whether the matter is to be investigated or not, unless they are already aware of this.

## **2. Investigation and Consideration**

- 2.1 If, after the initial assessment and subject to Paragraph 4, a complaint is to be investigated the MO will arrange for an investigation to establish if the alleged breach or breaches of the Code have occurred. The investigation is to be completed as soon as is practicable, and a written report will be provided by the investigator setting out a summary of the facts, a review of the evidence, the investigator's conclusions as to whether there has been a breach of the Code, and the investigator's recommendations. Prior to providing the MO with the report, the investigator will provide a copy of the report to the member complained of, to enable the member to comment on the findings.
- 2.2 The report will be considered by a Standards Panel (which total membership shall comprise the Chair of the District Council or in his absence the Vice-chair, a Local Councillor (which includes a district councillor who is also a parish / town councillor, preferably from the Audit and Standards Committee), two IP's (the Panel)). The Panel meeting considering a particular report shall have a least one independent member and a district councillor present; and the meeting must be chaired by an Independent Member. No member of the Panel may take part if they have any potential conflict of interest as determined by the Monitoring Officer.

Unless she is conflicted or unavailable, the Monitoring Officer shall advise the Panel.

- 2.3 The members of the Standards Panel dealing with matter shall decide whether the alleged breach or breaches are proved, on the balance of probabilities, and what sanction, if any, should be imposed. The Panel shall also make such recommendations as they think will improve the standards of conduct of the member or the member's Council.
- 2.4 Where the Panel consider that there has been a breach of the Code, but it is minor, they can decide that no sanction is imposed and the matter is addressed informally in such a manner as they feel appropriate.
- 2.5 The MO shall undertake the necessary actions to implement the Standards Panel's decisions.
- 2.6 The MO shall inform the complainant, the Member and the Member's group leader (where there is such), the clerk of the Member's council (where there is such) and the member's Full Council, of the conclusions of the Panel.

### **3. Sanctions**

- 3.1 The sanctions that can be imposed by the Standards Panel are any or all of the following:
  - Removing the Member from one or more member bodies of their Council. Where the Member is a member of a political group and the member body is politically balanced the Standards Panel will recommend this course of action to the leader of that group. Otherwise it is a matter for the Standards Panel to decide and impose this sanction.
  - Terminating the Member's appointment to any outside body where they represent the Council.
  - Censure or reprimand the Member.
  - Publish its findings in respect of the Member's conduct.
  - Direct the Member to attend training.
  - Removing any facilities which the Council provides to the Member.
  - Excluding the Member from the Council's premises, except meeting rooms for the purpose of attending those Council meetings they are entitled to attend (those open to the public and those of the member bodies of which they are still a member).
  - Suspending in whole or in part the payment of allowances payable to that Member. This provision shall also apply to travelling and subsistence allowances and other allowances/reimbursements.
- 3.2 The MO shall, on behalf of the Standards Panel, work to implement any sanction imposed or recommended by Full Council.

#### **4. Informal Resolution of Complaints**

- 4.1 In the case of complaint which would otherwise be referred for a full investigation, the Monitoring Officer may if she considers such appropriate and following consultation with an Independent Member, seek to secure an informal resolution of any complaint rather than to proceed to a full investigation.
- 4.2 In the case of complaints against Parish and Town Councillors, the Monitoring Officer may require the councils concerned to seek to resolve the complaints themselves before the complaint is referred to the Monitoring Officer for investigation.