

SECTION 17

NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT FOR COUNCILLORS (AND VOTING / NON-VOTING CO-OPTÉES)

(May 2018¹)

1. INTRODUCTION

- 1.1. Trust and confidence in public office-holders and institutions are essential for the effective functioning of local authorities. This is particularly true in the case of elected office-holders. Section 27(2) of the Localism Act 2011 requires a relevant authority to adopt a code setting out the conduct that is expected of a Councillor or co-opted Councillor (“Councillor”). The Council (“the authority”) has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. Its purpose is not to inhibit legitimate representational and political activity, but to provide a framework that enables such activities to be carried out appropriately.
- 1.2. ~~The~~This Code applies to all Councillors, voting or non-voting. As a Councillor you must meet/adhere to the seven Nolan principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. They are set out in more detail in Appendix B. These principles underpin this Code and will be used for interpretation, investigation and determination purposes.
- 1.3. This Code covers the following areas:
- **Part 1** sets out general obligations regarding Councillors’ behaviour;
 - **Part 2** sets out how Councillors must behave if they have an interest in an item of authority business (“Councillors’ Interests”);
 - **Appendix A** - Description of Disclosable Pecuniary Interests;
 - **Appendix B** - Nolan principles of public life;
 - **Appendix C** - Dispensation grounds.

If in doubt about the application or interpretation of any of the provisions of this Code, you should check the NHDC Guide that supports it and/or seek advice from the Monitoring Officer.

2. WHEN DOES THE CODE OF CONDUCT APPLY?

- 2.1 In this Code “meeting” means any meeting of:
- (a) the authority;
 - (b) the executive of the authority;
 - (c) the authority, or its executive’s, committees, sub-committees joint committees, joint sub-committees, or area committees (including working groups, working parties and panels);

¹ Approved by Full Council 23 November 2017

- (d) informal meetings with other Councillors and/or Officers relating to the discharge of the authority's business.

2.2 This Code applies—

- (a) whenever you conduct the business of, or are present at a meeting of, the authority; or
- (b) whenever you act, or claim to act, or give the impression you are acting, in the role of Councillor to which you were elected or appointed; or
- (c) whenever you act, or claim to act or give the impression you are acting, as a representative of the authority; or
- (d) at all times and in any capacity, in respect of conduct described in paragraphs 3.4(a) and 3.5; or
- (e) in respect of any criminal offence of which you have been convicted or for which you have accepted an out of court disposal² during your term of office.

2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this Code, unless it conflicts with any other lawful obligations to which that other body may be subject.

PART 1
RULES OF CONDUCT

3. GENERAL OBLIGATIONS

3.1 You must comply with this Code. You fail to do so if you do not comply with any of the obligations in this Code.

3.2 *Duties and Responsibilities*

² To include: simple caution, a conditional caution, any appropriate regulatory proceedings, a punitive or civil penalty, or prosecution-related disposal.

You must:

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their race, pregnancy and maternity, gender reassignment, marriage or civil partnership, disability, sex or sexual orientation, age, religion or belief;
- (b) not do anything which may cause the authority to breach equalities legislation;
- (c) show respect and consideration for others;
- (d) not bully or harass any person;
- (e) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority.

3.3 **Information**

You must not:

- (a) disclose confidential information or information which could reasonably be regarded as being confidential without the express prior consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 **Conduct**

You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other Councillors or anyone who works for, or on behalf of, the authority;
- (c) comply with any request of the authority's Monitoring Officer, or section 151/ Chief Finance Officer, or Head of Paid Service in connection with an inquiry or investigation conducted in accordance with their respective statutory powers.

3.5 **Use of your Position**

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on, or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the authority:—
 - (i) imprudently;

- (ii) in breach of the authority's requirements;
- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority, or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

3.6 **Decision Making**

You must:

- (a) when participating in meetings or reaching decisions that are the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's Statutory Officers listed below: —
 - (i) the Head of Paid Service;
 - (ii) the s.151 Officer/ Chief Finance Officer;
 - (iii) the Monitoring Officer/ Chief legal Officer;

and give sufficient reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.
- (b) act reasonably and not prejudice or demonstrate bias, or be seen to prejudice or demonstrate bias, in respect of any decision.

3.7 **Compliance with the Law and the Authority's Rules and Policies**

You must:

- (a) (i) uphold the criminal law. You fail to uphold the criminal law if you are convicted or you have accepted an out of court disposal³ during your term of office;
- (ii) notify the Monitoring Officer within 14 days of any conviction or out of court disposal.
- (b) observe the law and the authority's rules governing the claiming of expenses and allowances in connection with your duties as a Councillor;
- (c) comply with NHDC's Members' Protocol for Gifts and Hospitality;
- (d) comply with any other policy which sets out requirements for Councillor conduct. This includes the Protocol on Member/Officer Working Arrangements and Planning Code of Good Practice for Members.

³ To include: simple caution, a conditional caution, any appropriate regulatory proceedings, a punitive or civil penalty, or prosecution-related disposal.

- (e) attend compulsory⁴ training provided by the authority or when directed to⁵ attend following the determination of a Councillor Conduct complaint.

PART 2 **COUNCILLORS' INTERESTS**

There are specific obligations on Councillors regarding the disclosure, declaration and participation in meetings which are set out in Part 2 below.

4. DISCLOSABLE PECUNIARY INTERESTS ('DPI's) AND DECLARABLE INTERESTS

DPIs

- 4.1 A Breach of the requirements relating to DPIs can constitute a criminal offence under Section 34 of the Localism Act 2011. DPIs are defined in the *Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012*, summarised at Appendix A⁶.
- 4.2 You have a DPI (as defined at Appendix A), if it is:
 - (a) your interest; or
 - (b) an interest of a "relevant person" i.e. your spouse or civil partner (or equivalent co-habitee), and you are aware of that the relevant person has that interest.
- 4.3 If you have a DPI, you must within 28 days:
 - (a) of election or appointment as a Councillor (whichever is later), notify the Monitoring Officer of your DPI on the Register of Interests form;
 - (b) notify the Monitoring Officer of any change to your DPIs on the register of interests form.
- 4.4 A copy of your Register of Interests form will (subject to paragraph 5) be available for public inspection and published on the authority's website.
- 4.5 If a function of the authority can be carried out by a Councillor acting alone and you have a DPI in any matter to be dealt with when carrying out that function, you must not take any steps, or any further steps, in relation to the matter, except to enable the matter to be dealt with by another Councillor who can carry out the function.

DECLARABLE INTERESTS

⁴ For the purposes of this Code, training will only be considered compulsory if designated as such by: a Statutory Officer 3.6 (a) i)-iii) with the agreement of Group Leaders; or decision of Full Council, Cabinet or Committee.

⁵ By the Monitoring Officer as part of informal resolution or Standards Sub-Committee both following a standards complaint, and a decision in the latter case that the Code has been breached.

⁶ From DCLG *Guide for Councillors "Openness and Transparency on Personal Interests" March 2013*

- 4.6 You have a Declarable Interest in an item of business of the authority where it relates to, or might reasonably be likely to affect:
- (a) the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of:
 - (i) the inhabitants of the ward affected by the decision; or
 - (ii) the inhabitants of the authority's administrative area where the decision affects the wider area.
 - (b) the interests listed in Appendix A to this Code, but in respect of a member of your family or your employer or a person or body with whom you have a close association; or
 - (c) the interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 (or such other figure set in the NHDC Members' Protocol for Gifts and Hospitality). You need not disclose this interest if it was received and / or registered more than six years before the date of the meeting; or
 - (d) any body of which you are a member or in a position of general control or management which:
 - (i) you are appointed or nominated to by the authority; or
 - (ii) exercises functions of a public nature; or
 - (iii) is directed to charitable purposes; or
 - (iv) includes as one of its principal purposes the influence of public opinion or policy (including any political party or trade union);and that interest is not a DPI.

- 4.7 If you have a Declarable Interest you must within 28 days:

- (a) of election or appointment as a Councillor (whichever is later), notify the Monitoring Officer of any Declarable Interest listed under paragraph 4.6 (c) and/ or (d) on the register of interests form.
- (b) notify the Monitoring Officer of any change to the Declarable Interests listed under paragraph 4.6 (c) and/ or (d) on the register of interests form.

These will be on the same register of interests and arrangements as DPIs described at paragraphs 4.3 and 4.4.

5. SENSITIVE INTERESTS

- 5.1 A DPI or Declarable Interest will not be published or made available for inspection, or the details disclosed in meetings, where the nature of the interest is such that you and the Monitoring Officer have reasonable grounds for believing that disclosure could lead to you or a person connected with you being subject to violence or intimidation. If the Monitoring Officer agrees with you, it will then be considered a

“sensitive interest” for the purposes of this Code. The obligations in relation to not participating or voting in a meeting under paragraph 6 shall still otherwise apply.

- 5.2 You must, within 28 days of becoming aware of any change of circumstances that means that information excluded under paragraph 5.1 is no longer a sensitive interest, notify the Monitoring Officer. You must then enter the information on your register of interests as per the arrangements at paragraphs 4.3, 4.4 and/ or 4.7.

6. DECLARING INTERESTS, PARTICIPATING AND VOTING AT MEETINGS

DPIs

- 6.1. If you attend a meeting and have, and are aware that you have, a DPI in any matter to be considered, or being considered, at the meeting, then:
- (a) you must orally disclose the existence and nature of your DPI before the consideration of the item of business or as soon as it becomes apparent unless paragraph 5.1 applies; and
 - (b) you must not participate in any discussion of the matter at the meeting or vote; or
 - (c) if you become aware of your DPI during the meeting, you must not participate further in any discussion in the matter or vote;
- and in all cases
- (d) you must leave the room where the meeting is being held unless you have received a dispensation from the Monitoring Officer (see paragraph 7 & Appendix C).

DECLARABLE INTERESTS

- 6.2. If you attend a meeting and have, and are aware that you have, a Declarable Interest in any matter to be considered or being considered at the meeting, then:
- (a) you must orally disclose the existence and nature of your Declarable Interest before the consideration of the item of business or as soon as it becomes apparent unless paragraph 5.1 applies;
- and
- (b) If the Declarable 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, then you must not participate in the discussion, or vote on the item, and you must leave the room, *unless*:
 - (i) you have received a dispensation from the Monitoring Officer (see paragraph 7 & Appendix C); or
 - (ii) you wish to exercise a 'Councillor Speaking Right'. To do so you must comply with 6.2 (c).
 - (c) If you wish to exercise a Councillor Speaking Right:

(i) you must declare that you intend to do so at the same time as 6.2 (a) and such right will be subject to the time limits for public speaking; and

(ii) you must move to the public area of the meeting room before exercising the Speaking Right; and

(iii) once exercised, you must then leave the room before the debate and vote.

NOTE: a Councillor Speaking Right cannot be exercised at informal meetings. This cannot be exercised in relation to a DPI.

[NB OLD WORDING 6 & 7] **7. DISPENSATIONS**

7.1 Section 33 of the Localism Act 2011 allows the authority in certain circumstances to grant a dispensation to permit a Councillor to participate in the business of the authority, even if the Councillor has a DPI relating to that business. The authority has also decided that dispensations may be applied to Declarable Interests.

7.2 If you would like the authority to consider granting you a dispensation where you have a DPI or a Declarable Interest, you must make a prior written request to the Monitoring Officer. The grounds under which such an application will be considered are detailed in Appendix C.

APPENDIX A

Description of Disclosable Pecuniary Interests (from *DCLG Guide for Councillors "Openness and Transparency on Personal Interests" March 2013*⁷).

Further assistance may be obtained from the '**Guide to NHDC Code of Conduct**' available on the authority's website: <https://www.north-herts.gov.uk/home/council-and-democracy/councillors-mps-and-meps/councillors-code-conduct-and-declaration>

If you have any of the following pecuniary interests, they are your **Disclosable Pecuniary Interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

Contracts

⁷ Updated in September 2013.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Land

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) –

- the landlord is your council or authority; and
- the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Securities

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –

(a) that body (to your knowledge) has a place of business or land in the area of your council or 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

APPENDIX B

Nolan principles of public life

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	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 declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	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.

<i>Openness</i>	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.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	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.

APPENDIX C

Dispensation grounds⁸

A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that—

- (a) without the dispensation the number of Councillors prohibited from participating in any particular business, would be so great a proportion of the body transacting the business, as to impede the transaction of the business;
- (b) 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;
- (c) granting the dispensation is in the interests of persons living in the authority's area;
- (d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

⁸ The full wording for the statutory grounds for a DPI dispensation can be found under section 33 Localism Act 2011