

Guide to Councillors' Code of Conduct



DRAFT

1. Introduction

- 1.1 This document is an annex or companion to the Councillors' Code of Conduct ("the Code") adopted by both East Hampshire District Council and Havant Borough Council. It is intended to be a simple guide. The guide will help councillors navigate the Code's obligations and explain some of the common situations that will arise in practice. Let's take out the law and the technical terms around councillor conduct and reduce it all to the basics. Let's use plain language, not legalese. Let's try and demystify the Councillors' Code of Conduct and explain its place in amongst all the other codes and protocols that govern and influence what a councillor does day-to-day.

2. Principles

"Those are my principles. And if you don't like 'em, I have others...."

- **Groucho Marx**

- 2.1 Let's not get hung up on principles. Yes, as a matter of law the Code has to be based on the Seven General Principles of Public Life. But there is no intrinsic magic in their formulation. Just as important as an awareness of principle is an understanding that the public's **perception** of your actions counts for a lot. For example, it's not enough to claim you were not biased in coming to a decision. You have to consider how your actions might appear to the general public. Perception is important. Remember it's not necessary to prove actual bias – **appearance** is important.
- 2.2 In simple terms, tell the truth and act with integrity. You're serving the public, so don't look to reward friends, relatives or yourself. Be fair and impartial. Be prepared to take decisions in an open manner and with full public scrutiny.

3. When does the Code apply?

- 3.1 The Code applies to you as soon as you sign your declaration of acceptance of the office of councillor and continues to apply to you until you cease to be a councillor.
- 3.2 The Code applies to you when you are acting in your capacity as a councillor which may include when:
- you misuse your position as a councillor
 - 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
- 3.3 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

- in electronic and social media communication, posts, statements and comments.

3.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

4. Civility and Respect

4.1 These terms mean 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 councillor, 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 councillors.

4.2 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.

5. Bullying

5.1 You must not bully or intimidate any person.

5.2 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.

5.3 In several high-profile cases of standards failures in local government, bullying behaviour which was not challenged or addressed enabled other, more serious misconduct to take place, including the failure of scrutiny and governance structures or financial misconduct.

The Gowling WLG report into Sandwell Metropolitan Borough Council in 2016 considered allegations of a councillor improperly influencing the sale and purchase of council property and attempting to gain favours for family members.

The report found that the councillor at the centre of allegations of financial impropriety had bullied and coerced a senior housing officer over a long period.

6. Impartiality of Officers of the Council

6.1 Officers work for the local authority as a whole and must be politically neutral. They should not be coerced or persuaded to act in a way that would undermine their neutrality. You 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.

7. Confidentiality

7.1 Local authorities 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.

8. Disrepute

8.1 The obligation to act in a way that does not bring your role or the Council into disrepute is something of a catchall provision. But what exactly does “disrepute” mean?

8.2 As a Councillor, 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 councillors and/or the Council and may lower the public’s confidence in your or your Council’s ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

8.3 At the same time you are able to hold the Council and fellow councillors 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 the Code.

9. Using your position (and the Council’s resources) properly

9.1 Your position as a member of the local authority 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.

9.2 You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a councillor.

9.3 Examples include:

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

9.4 These are given to you to help you carry out your role as a councillor 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.

10. Gifts and Hospitality

- 10.1 In order to protect your position and the reputation of the Council, 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. Always register any gift or hospitality with an estimated value of at least £50 or from a single source where the value exceeds £100. 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 the Monitoring Officer for guidance.

In February 2018 it was reported in the press that the Chairman of Westminster City Council Planning Committee received gifts and hospitality 514 times in three years, worth at least a total of £13,000. The councillor subsequently stood down following an internal inquiry.

11. Understanding Interests

- 11.1 You need to register your interests so that the public, Council employees and fellow councillors 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 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 councillors 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.
- 11.2 The Register of Interests comprises **two parts**. The first part covers your pecuniary (money) interests. It is important to remember that, if you have a partner, their interests count as your interests for this part of the register. "**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. You should also note that failure to register or disclose a pecuniary interest is a criminal offence.

12. Your Money Interests

- 12.1 Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within certain financial categories. Again, remember that this type of money interest means an interest not just of yourself, but also of your partner if you are aware of your partner's interest.
- 12.2 Go through the list on the form and ask for help if in doubt. For most councillors the common interests registered here will include: -

- your job (if you're in work)
- any contribution made towards your election expenses
- your home (whether you own or rent)
- any contracts with the Council
- fairly large shareholdings

12.3 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.

13. Your Money Interests – Don't Take Part

13.1 Where a matter arises at a meeting which directly relates to one of your money interests, you must disclose the interest, not participate 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, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

14. Your Other Interests

14.1 This brings us to the second part of the register. You also need to register certain "other" interests. These are just yours, not your partner's. Here you will register any position you hold, say, on a board of trustees or as a member of a charitable organisation. Your membership of a political party goes down here, as does any involvement in a lobbying organisation. If you are a member of another local authority, or any public body, you register it here, too. It is important to understand why these other interests, even though non-pecuniary, should be disclosed – and the right decision taken on participation.

At a local level, it is perhaps even more likely that non-pecuniary interests – for example, being an unpaid trustee of a local sports club – would lead to a conflict of interest than a councillor's ordinary paid employment. As the Monitoring Officer of Camden Council stated in evidence to the Committee of Standards in Public Life... "We expect that the public would consider that a member who was a long-serving unpaid trustee of a charity may not be able to consider a potential grant award by the Council to the charity entirely fairly and objectively".

14.2 If one of these "other" interests touches the business of a meeting at which you are present, you must disclose it. Should you take part in discussion? This returns us to the ever-present test of **public perception**. If a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest, you may **not** participate in any discussion or vote on the matter.

15. Useful Links

- 15.1 This guide should be seen as part of a wider framework of codes and protocols, all of which are intended to help councillors carry out their duties in a way that best reflects their public obligations. These different, but complementary, documents can be accessed here: -

<https://www.easthants.gov.uk/councillor-conduct>

<https://www.havant.gov.uk/councillor-conduct>

EHDC's and HBC's Councillor and Officer Protocols and Planning Codes of Conduct are found in Part 4 of their respective Constitutions here: -

<https://www.easthants.gov.uk/constitution>

<https://www.havant.gov.uk/constitution>

-END-

DRAFT