

# Code of Conduct for Members and Co-opted Members

## Introduction

1. This Code has been adopted by Darlington Borough Council under Section 51 of the Local Government Act 2000. It complies with the requirements set out in Chapter 7 of the Localism Act 2011. This Code defines the standards of conduct which will be required of all Members and Co-opted Members of the Council.
2. Every Councillor and co-opted Member of the Authority must sign an Undertaking to observe the Authority's Code.
3. In addition to the Code of Conduct, the Council has adopted the 7 Principles of Public Life (the Nolan Principles). Members will be expected to act in a manner that is consistent with the principles and the principles will be used to help in interpreting the Code. Those principles which are set out in an **Appendix** to the Code of Conduct.
4. Any person may make a written complaint to the Standards Committee that a Member or Co-opted Member has acted in breach of the Authority's Code. Details about how to complain and the way that complaints are dealt can be found on the Council's website [www.darlington.gov.uk/Democracy/Democracy/democraticinvolvement/standards/Complaints+Against+Members.htm](http://www.darlington.gov.uk/Democracy/Democracy/democraticinvolvement/standards/Complaints+Against+Members.htm)
5. It is the personal responsibility of each Member and Co-opted Member to make sure that she/he complies with the requirements of this Code. Advice on the requirements may be sought from the Authority's Monitoring Officer, the Standards Committee or a personal legal adviser, however, ultimately it is a decision for the Member or Co-opted Member.
6. In this Code, words denoting any gender shall include all genders and the word 'Member' shall include a co-opted Member of the Authority with voting rights.

7. This Code shall be subject to any subsequent changes of law after adoption (for instance to the definition of what constitutes a pecuniary interest )

## **Part 1 - General Provisions**

### **Introduction and Interpretation**

1. 1. This Code applies to **you** as a member of an authority.
2. You should read this Code together with the 7 Principles of Public Life.
3. It is your responsibility to comply with the provisions of this Code.
4. In this Code :-

‘meeting’ means any meeting of :-

- (a) the authority;
- (b) the executive of the authority; and
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

‘Member’ includes a co-opted member and an appointed Member.

### **Scope**

2. 1. Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you :-

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

2. Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

3. In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2(c)), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
4. Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
5. Where you act as a representative of your authority :-
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **General Obligations**

**3. 1.** You must treat others with respect.

2. You must not :-

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be :-

(i) a complainant;

(ii) a witness; or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**4. You must not:-**

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where :-

(i) you have 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 advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is :-

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You :-**

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority :-

(i) act in accordance with your authority's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7.** 1. When reaching decisions on any matter you must have regard to any relevant advice provided to you by :-

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

2. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2 – Interests

### Non Pecuniary interests

8. 1. You have a non pecuniary 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 :-

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) 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;

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or the well-being of a relevant person to a greater extent than the majority of:-

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

2. In sub-paragraph (1(b)), a relevant person is :-

(a) your spouse or civil partner or

(b) a person you live with as husband wife, or

(c) a person you live with as if you were civil partners

(d) any body of a type described in sub-paragraph 8(1)(a).

## **Pecuniary interests**

**9.** 1. You have a pecuniary interest in any business of your authority where either :-

(a) it relates to or is likely to affect :-

(i) any employment or business carried on by you

(ii) any person or body who employs or has appointed you;

(iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (iv);

(vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(vii) any land in your authority's area in which you have a beneficial interest;

(viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (iv) is, the tenant;

(ix) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or



(b) a decision in relation to that business might reasonably be regarded as affecting your financial position or the financial position of a relevant person to a greater extent than the majority of:-

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

2. In sub-paragraph (1(b)), a relevant person is :-

(a) your spouse or civil partner or

(b) a person you live with as husband wife, or

(c) a person you live with as if you were civil partners, or

(d) 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;

(e) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(f) any body of a type described in sub-paragraph 9(1)(a).

## **Disclosure of Interests**

**10.** 1. Where you have an interest in any business of your authority 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.

2. Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the interest.

3. Where you have an interest but, by virtue of paragraph 13, 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 an interest, but need not disclose the sensitive information to the meeting.

4. Subject to paragraph 11(2)(b)), where you have an 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.

5. In this paragraph, 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## Effect of interests on Participation

11.1 If you have a non pecuniary interest you can remain at the meeting, take part in any discussion about the matter and participate in any vote

2. Subject to sub-paragraph (3), if you have a pecuniary interest

(a) you must withdraw from the room or chamber where a meeting considering the business is being held

(i) in a case where sub-paragraph (3) applies, immediately after making representations, answering questions or giving evidence; or

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

3. Where you have a pecuniary interest in any business of your authority you may attend the 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.

4. Subject to paragraph 11(2)(b)), where you have a non pecuniary 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.

5. In this paragraph, 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Interests that do not prevent participation

6. You can participate in a decision that relates to the functions of your authority in respect of:-

(a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(b) school meals or school transport and travelling expenses, where you 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;

(c) 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;

(d) an allowance, payment or indemnity given to members;

(e) any ceremonial honour given to members; and

(f) setting council tax or a precept under the Local Government Finance Act 1992.

### **Part 3 - Registration of Members' Interests**

## **Registration of Members' Interests**

**12.** 1. Subject to paragraph 13, you must, within 28 days of :-

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your pecuniary and non pecuniary interests where they fall within a category mentioned in paragraph 8(1)(a)) and paragraph 9(1)(b), by providing written notification to your authority's monitoring officer.

2. Subject to paragraph 13, you must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), register details of that new interest or change by providing written notification to your authority's monitoring officer.

## **Sensitive Information**

**13.** 1. Where you consider that the information relating to any of your interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

2. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

3. In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **Note**

The Council has also issued guidance to Members which does not form part of this Code, but Members are required by the Council to comply with this guidance, namely :-

Protocol of Member/Officer Relations; and  
Protocol for Councillors and Officers dealing with Planning matters.

(Section 106 of the Local Government Finance Act 1992 provides for Members in arrears of Council Tax to lose voting rights on Council Tax matters).

## The Seven Principles of Public Life

### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their 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 the wider public interest clearly demands.

### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

Holders of public office should promote and support these principles by leadership and example.