

Code of Conduct for Members and Co-opted Members

Introduction

1. This Code has been adopted by Darlington Borough Council in compliance 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 this Code.
3. In addition to the Code of Conduct, the Council has adopted the seven 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. It is however only the Code of Conduct that is enforceable, rather than the Principles of Conduct. The Principles are set out in an **Appendix** to this Code of Conduct.
4. Any person may make a written complaint to the Monitoring Officer that a Member or Co-opted Member has broken the 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
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, 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.
7. This Code shall be subject to any subsequent changes of law after adoption

Part 1 - General Provisions

Introduction and Interpretation

1. (1) This Code applies to **you** as a Member of the Council.
- (2) You should read this Code together with the seven Principles of Public Life.
- (3) It is your responsibility to comply with the provisions of this Code.

Interpretation

(4) In this Code :-

'meeting' means any meeting of :-

- (a) the Council;
- (b) the executive of the authority; and
- (c) any of the Council'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.

'Executive' means Cabinet

'Co-opted member' means a person who is a member of a committee or sub-committee of the Council, who is not an elected member.

Scope

2. (1) Subject to sub paragraph (2) below, you must comply with this Code whenever you :-
 - (a) conduct the business of the Council (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 the Council,

and references to your official capacity are construed accordingly.

- (2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

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 involved in any complaint about an alleged breach of this Code, or

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

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, unless :-

(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 reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council; 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 as a member or the Council 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 the Council :-
 - (i) act in accordance with the Council'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) the Council's Chief Finance Officer; or
- (b) the Council'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 the Council 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 the Council;

(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 persons of the area affected by the decision

(2) In paragraph 8(1) (b) above, 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) a member of your family

(e) any person with whom you have a close association

(f) any body of a type described in paragraph 8(1)(a) above.

Gifts and Hospitality

(3) You must within 28 days of receipt, notify the Monitoring Officer of any gift or hospitality that you have accepted with an estimated value of £25 or more, which is attributable to your position as a member of the Council.

Pecuniary Interests

9. (1) You have a pecuniary interest in any business of the Council where either :-

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

(i) your employment, office, trade, profession or vocation - any employment, office, trade, profession or vocation carried on for profit or gain;

(ii) sponsorship - any payment or provision of any other financial benefit (other than from the Council) made or provided within 12 months ending on the day you notify the monitoring officer of any disclosable pecuniary interest in respect of expenses incurred by you in carrying out your duties as a member or towards your election expenses. This includes any payment or financial benefit from a trade union;

(iii) contracts - any contract which is made between you or a relevant person (see paragraph 9 (2) below, or a body in which you or the relevant person has a beneficial interest (see paragraph 9 (3) below and the Council

(aa) under which goods or services are to be provided or works are to be executed; and

(bb) which has not been fully discharged

(iv) land - any beneficial interest in land within the area of the Council;

(v) licences - any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer;

(vi) corporate tenancies – any tenancy where (to your knowledge)

(aa) the landlord is the Council; and

(bb) the tenant is a body in which you or the relevant person has a beneficial interest (see paragraphs 9(2) and 9(3) below)

(vii) securities - any beneficial interest in securities (see paragraph 9(4)) of a body where :-

(aa) that body (to your knowledge) has a place of business or land in the area of the Council; and

(bb) either :-

(i) the total nominal value of 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 more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

(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 persons of the area affected by the decision.

(2) In Paragraph 9(1)(a) and (b) above, '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) a member of your family, or

(e) Any person with whom you have a close association

(f) any body of a type described in Paragraph 8(1)(a) above.

(3) 'a body in which you or the relevant person has a beneficial interest' means a firm in which you or the relevant person is a partner or a body corporate in which you or the relevant person is

a director, or has securities of which the relevant person has a beneficial interest.

- (4) Securities means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Disclosure of Interests

10. (1) Where you have an interest in any business of the Council and you attend a meeting of the Council 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) Paragraph 10(1) above 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 the Council'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) below, where you have an interest in any business of the Council 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 Paragraph 11(3) below, 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 Paragraph 11(3) below, 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 the Monitoring Officer;
 - (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 the Council 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) above, where you have a non-pecuniary interest in any business of the Council 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 the Council in respect of :-
- (a) housing, where you are a tenant of the Council 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

12. (1) Subject to Paragraph 13 below, 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 the Council's register of members' interests details of your pecuniary and non-pecuniary interests where they fall within a category mentioned in Paragraph 8(1)(a) above and Paragraph 9(1)(a) above, by providing written notification to the Council's Monitoring Officer.

(2) Subject to Paragraph 13 below, you must, within 28 days of becoming aware of any new interest or change to any interest registered under Paragraph 12(1) above, register details of that new interest or change by providing written notification to the Monitoring Officer.

Sensitive Information

- 13.(1)** Where you consider that the information relating to any of your interests is sensitive information, and the 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 12 above
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Paragraph 13(1) above, is no longer sensitive information, notify the Monitoring Officer asking that the information be included in the Council'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
Protocol for Councillors and Officers dealing with Licensing 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).

This Code takes account of The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 no.1464

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.