

**Sandwell Metropolitan Borough Council****18 October 2016****Review of the Member Code of Conduct****1. Summary Statement**

- 1.1 On the 24 May 2016, the Council approved the revised Members Code of Conduct and Declaration of Interest in accordance with good practice. Recent events at the Audit Committee have highlighted the need for the accountability provisions in the Code to be strengthened. This is in line with the Nolan principle of accountability which states that 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.
- 1.2 Accountability is key to high ethical standards and where committees have the power to scrutinize decisions and maintain financial regulation, it is important that members are held to account, and when called to attend a committee they comply with the request without any undue delay.
- 1.3 The Code has been amended to take into account the points mentioned in paragraph 1.1 and 1.2 above. The revised Code of Conduct is set out in Appendix 1.

**2. Recommendations**

- 2.1 That the Member Code of Conduct be amended as set out in Appendix 1.
- 2.2 That subject to 2.1 above, the Monitoring Officer makes arrangements to publish the revised Member Code of Conduct.

## **Contact Officer**

Pardip Sharma

Service Manager – Legal/Deputy Monitoring Officer

0121 569 3180

### **3. Strategic Resource Implications**

3.1 There are no resource implications arising from this report.

### **4. Legal and Statutory Implications**

4.1 Section 27 of the Localism Act 2011 states that a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty it must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

4.2 Section 28(1) of the Localism Act 2011 states that a relevant authority must secure that a code of conduct is, when viewed as a whole, consistent with the following principles: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. Section 28(2) states a relevant authority must secure that a code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure of pecuniary interests, and interests other than pecuniary interests.

4.3 Section 28(12) of the Localism Act 2011 states that the relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.

4.4 Section 28 (14) provides that a relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority. Any recommendations for amending the current Code of Conduct must therefore be made to the Council.

## **5. Implications for the Council's Scorecard Priorities**

- 5.1 High standards of conduct are an essential part of good corporate governance and this in turn has a direct relationship with the delivery of high quality services.

## **6. Background Details**

- 6.1 The Localism Act 2011 introduced a revised standards regime. The Council on 24 May 2016 adopted a new Code of Conduct and revised arrangements for dealing with complaints about member conduct. The arrangements for dealing with complaints have been revised recently and the Code of Conduct is now being further reviewed. The principles of good governance require the regular review of policies and processes that contribute to the ethical framework of the authority.
- 6.2 The Council should not be prevented from carrying out its responsibilities and functions to the public, and it is important that members are held to account, and submit themselves to effective scrutiny when called upon to do so by committees of the Council.
- 6.3 The Code has now been amended to ensure that members at all times facilitate and engage with the Council and its committees on probity and ethical matters, and submit themselves to the scrutiny necessary to ensure this without any undue delay.

# **Member Code of Conduct**

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**The Code of Conduct  
for Members and Co-Opted Members**

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**together with**

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**The Rules for  
Registration of Interests  
and  
Conflicts of Interest**

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# Contents

## **PART I**

Purpose of the Code  
Definitions

## **PART II**

Rules of Conduct  
Behaviour  
Registration of interests  
Declaration of interests at meetings

Appendix A – Disclosable Pecuniary Interests

Appendix B – Other Registerable Interests

Appendix C- The Seven Principles of Public Life

# **Members' Code of Conduct**

## **FOR MEMBERS AND CO-OPTED MEMBERS OF THE AUTHORITY**

### **PART I**

#### **Purpose of the Code**

1. Sandwell Council (“The authority”) has adopted the following code dealing with the conduct that is expected of members and co-opted members of the authority (“members”) when they are acting in that capacity as required by section 27 of the Localism Act 2011 (“the Act”).
2. The authority has a statutory duty under the Act to promote and maintain high standards of conduct by members and the Code sets out the standards that the authority expects members to observe.
3. The Code is not intended to be an exhaustive list of all the obligations that are placed on members. It is the responsibility of individual members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the authority. Failure to take appropriate action in respect of a disclosable pecuniary interest may result in a criminal conviction and a fine of any amount and/or disqualification from office for a period of up to 5 years.
4. The code is intended to be consistent with the seven principles as attached to this code at Appendix C and applies whenever a person is acting in his/her capacity as a member of the authority or co-opted member in the conduct of the authority’s business or acting as a representative of the authority.

## Definitions

5. In this Code “meeting” means any formal meeting of— (a) the authority; (b) the executive of the authority; (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees. It also means any informal meeting, which is not a formal meeting under the Council’s constitution but which has been arranged in advance where authority business is being discussed between members or between members and officers.
6. In this Code a ‘member of your family’ includes the following relationships of the member, the member’s spouse or the member’s civil partner or any person with whom you are living as husband and wife or as if you were civil partners: a son/daughter (including a biological son/daughter, stepson/daughter, adopted son/daughter or male/female child for which the person has custodial responsibilities), mother, father, brother or sister, a niece, nephew, aunt, uncle, grandchild, grandparent
7. In this Code ‘a person with whom you have a close association’ means someone that you are in either regular contact with over a period of time or a significant contact who is more than an acquaintance or can be considered to be a friend, a colleague, a business associate or someone whom you know through general social contacts.

## PART II

### Rules of Conduct

#### 1. Behaviour

- 1.1 You must act solely in the public interest and should never improperly seek to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a close associate, an employer or a business carried on by you.



- 1.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your duties
- 1.3 You must not disclose any information given to you as a member in breach of any confidence.
- 1.4 You must not prevent another person from gaining access to information to which that person is entitled by law.
- 1.5 You must not bring your office or your authority into disrepute
- 1.6 You must treat others with respect and must promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability
- 1.7 You must not bully any person
- 1.8 You must not intimidate or attempt to intimidate any person who is or is likely to be -
  - (i) a complainant,
  - (ii) a witness, orinvolved 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;
- 1.9 You must respect the impartiality and integrity of the authority's statutory officers and its other employees.
- 1.10 When carrying out your public duties such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, you must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- 1.11 You must only use the resources of the authority in accordance with its requirements. In particular you must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 1.12 You must promote and support high standards of conduct when serving in your office.
- 1.13 You must at all times facilitate and engage with the council and its committees on probity and ethical matters and submit yourself to the scrutiny necessary to ensure this without any undue delay.

## **2. Registration of interests**

- 2.1 You must, within 28 days of taking office as a member or co-opted member, register with the Monitoring Officer the interests which fall within the categories set out in Appendices A (disclosable pecuniary interests) and B (other registerable interests).
- 2.2 You must, within 28 days of becoming aware of it, register with the Monitoring Officer any change to interests or new interests which fall within the categories set out in Appendices A and B.
- 2.3 You must, within 28 days of taking office as a member or co-opted member, register with the Monitoring Officer the names of any members of your family or close associates who either work for the Council or have a contractual relationship with the Council, within 28 days of becoming aware of it, register with the Monitoring Officer any changes to such interests or any new such interests.

### **3. Declaration of interests at meetings and when acting alone**

- 3.1 Where a matter arises at a meeting which relates to an interest in Appendix A ('disclosable pecuniary interests') you must declare the existence and nature of the interest even where it has been entered in the authority's register, unless the matter is a 'sensitive interest' as described by the Localism Act 2011. Unless a dispensation has been granted, you must then leave the meeting room and may not participate in any discussion, vote on, or discharge any function related to the matter. Where the matter is a 'sensitive interest' you do not need to declare the nature of the interest but must still withdraw from the meeting without participating. When acting alone declare the interest and do not take any steps, or any further steps in relation to the matter.
- 3.2 Where a matter arises at a meeting which relates to or affects an interest in Appendix B ('other registerable interests') you must declare the existence and nature of the interest unless it is a sensitive interest. When acting alone declare the interest and do not take any steps, or any further steps in relation to the matter.
- 3.3 Where a matter arises at a meeting which relates to or affects either the employment with the Council or any contractual arrangement with the Council of a member of your family or close associate you must declare the existence and nature of the interest unless it is a sensitive interest. When acting alone declare the interest and do not take any steps, or any further steps in relation to the matter
- 3.4 Where a matter arises at a meeting or when acting alone which relates to or affects a financial interest of you, a family member or close associate (and it is not a disclosable pecuniary interest, other registerable interest or relating to or affecting a family member's or close associate's work for the Council or contractual

relationship with the Council) you must declare the existence and nature of the interest unless it is a sensitive interest

- 3.5 Where the matter relates to or affects the interest under paragraph 3.2 or 3.3 more than the majority of people in the area affected by the decision and a reasonable member of the public would think your view of the public interest would be so adversely affected, you must then leave the meeting room and may not vote on, or discharge any function related to the matter unless a dispensation has been granted. You may speak on the matter only if members of the public are also allowed to speak at the meeting. When acting alone declare the interest and do not take any steps, or any further steps in relation to the matter.

## Appendix A – Disclosable Pecuniary Interests

A pecuniary interest is a “disclosable pecuniary interest” in relation to a member (“M”) if it is of a description specified in this Schedule and either—

(a) it is an interest of M’s, or

(b) it is an interest of—

- (i) M’s spouse or civil partner,
- (ii) a person with whom M is living as husband and wife, or
- (iii) a person with whom M is living as if they were civil partners,

And M is aware that that other person has the interest.

Each category of person referred to above is described as the ‘relevant person’.

The duties to register, disclose and not to participate in respect of any matter in which a member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
<b>Contracts</b>	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<b>Land</b>	Any beneficial interest in land which is within the area of the relevant authority.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
<b>Securities</b>	Any beneficial interest in securities of a body where— (a) that body (to M’s knowledge) has a place of business or land in the area of the relevant 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme 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.

## Appendix B – Other Registerable Interests

Other registerable interests are:

- a) 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 authority.
- b) any body of which you are a member or in a position of general control or management and which
  - i) exercises functions of a public nature
  - ii) is directed to charitable purposes, or
  - iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).
- c) any person from whom you have received a gift or hospitality with an estimated value of at least £100 (you must register any gifts and hospitality worth over £100 that you receive personally in connection with your official duties).

Exactly as with a pecuniary interest “other registerable interest” applies in relation to a member (“M”) if it is of a description specified above and either—

(a) it is an interest of M’s, or

(b) it is an interest of—

- (i) M’s spouse or civil partner,
- (ii) a person with whom M is living as husband and wife, or
- (iii) a person with whom M is living as if they were civil partners,

And M is aware that that other person has the interest.



## Appendix C – The Seven Principles of Public Life

The principles of public life apply to anyone who is elected or works as a public office-holder. All public office-holders are both servants of the public and stewards of public services. The principles are:

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	<p>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.</p> <p>They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends.</p> <p>They must declare and resolve any interests and relationships.</p>
<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.