

Tonbridge and Malling Borough Council

Members' Code Of Conduct

Adopted: _____ 2007

Part 1: General provisions

Introduction and interpretation

- 1.1 This Code applies to you as a member of an authority.
- 1.2 You should read this Code together with the general principles prescribed by the Secretary of State, which are set out in an annex to this Code.
- 1.3 It is your responsibility to comply with the provisions of this Code.
- 1.4 In this code—
"council" means Tonbridge and Malling Borough Council;
"meeting" means any meeting of—
 - (a) the council;
 - (b) the executive of the council;
 - (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.

Scope

- 2.1 Subject to sub-paragraphs 2.2 to 2.5, you must comply with the 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.
- 2.2 Subject to sub-paragraphs 2.3 and 2.4, this Code does not have effect in relation your conduct other than where it is in your official capacity.
- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2(c), 5.0 and 6.0(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.3) includes a criminal offence for which you have been convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- 2.5 Where you act as a representative of the council—

- (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 the council'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.

3.2 You must not—

- (a) do anything which may the council 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;
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

4.0 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;
 - (bb) made in good faith and complies with any reasonable requirements of the council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5.0 You must not conduct yourself or herself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.

6.0 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;

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

7.1 A member when reaching decisions on any matter you must have regard to any relevant advice provided to you by —

- (i) the Director of Finance; or
- (ii) the Monitoring Officer,

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

7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

Part 2: Interests

Personal interests

- 8.1 You have a personal interest in any business of the council where either—
- (a) it relates or is likely 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;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) 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;
 - (vi) any person or body which has a place of business or land in the council'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);
 - (vii) any contract for goods, services or works made between the council 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 (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in the council's area in which you have a beneficial interest;

- (x) any land where the landlord is the council 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 (vi) is the tenant;
- (xi) any land in the council'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 well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of —
 - (i) other council tax payers, ratepayers or inhabitants of the ward affected by the decision; or
 - (ii) other council tax payers, ratepayers or inhabitants of the council's area.

8.2 In sub-paragraph 8.1(b), a relevant person is –

- (a) a member of your family or any person with whom you have a close association; or
- (b) 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;
- (c) 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
- (d) any body of a type described in sub-paragraph 8.1(a)(i) or (ii).

Disclosure of personal interests

- 9.1 Subject to sub-paragraphs 9.2 to 9.7, where you have a personal 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.
- 9.2 Where you have a personal interest in any business of the council which relates to or is likely to affect a person described in paragraph 8.1(a)(i) or 8.1(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9.3 Where you have a personal interest in any business of the council of the type mentioned in paragraph 8.1(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9.4 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9.5 Where you have a personal interest but, by virtue of paragraph 14, 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 a personal interest, but need not disclose the sensitive information to the meeting.

- 9.6 Subject to paragraph 12.1(b), where you have a personal 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.
- 9.7 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.

Prejudicial interests generally

- 10.1 Subject to sub-paragraph 10.2, where you have a personal interest in any business of the council you also have a prejudicial interest in that business where the 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.
- 10.2 You do not have a prejudicial interest in any business of the council where that business —
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of the council in respect of —
 - (i) housing, where you are a tenant of the council provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) 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;
 - (iii) 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;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; or
 - (vi) setting council tax under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11.0 You also have a prejudicial interest in any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where —
- (a) that business relates to a decision made (whether implemented or not) or action taken by the council's executive or another of the council's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.0(a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.1 Subject to sub-paragraph 12.2, where you have a prejudicial interest in any business of the council –
- (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 12.2 applies, immediately after making representations, answering questions or giving evidence;
 - (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 council'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.
- 12.2 Where you have a prejudicial interest in any business of the council, you may attend a meeting (including a meeting of an overview and scrutiny committee of the council or of a sub-committee of such a committee) 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.

Part 3: Registration of Members' Interests

Registration of Members' Interests

- 13.1 Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to the council; or
 - (b) your election or appointment to office (where that is later),
- register in the council's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8.1(a), by providing written notification to the monitoring officer.
- 13.2 Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in sub-paragraph 13.1 register details of that new personal interest or change by providing written notification to the monitoring officer.

Sensitive information

- 14.1 Where you consider that the information relating to any of your personal 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 13.
- 14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify the monitoring officer asking that the information be included in the council's register of members' interests.

14.3 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.

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Annex: The General Principles of Conduct in Public Life

The Relevant Authorities (General Principles) Order 2001 specifies the principles which are to govern the conduct of members of relevant authorities in England and police authorities in Wales. The definition of a relevant authority includes a district council. The general principles are as follows:

Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.