

[Text in square brackets, as here, is explanatory for the benefit of those reviewing the draft – to be omitted from the definitive version. Text between ligatures {EHDC: ... } and {TP: ... } are variants respectively for the District or as a model code for the Towns and Parishes, the intention being that the Code given to a member will have only the forms of words appropriate to that member's council.]

## **[DRAFT] MEMBERS' CODE OF CONDUCT**

### **Introduction**

1. Section 27 of the Localism Act 2011 lays upon authorities *a duty to promote and maintain high standards of conduct*. Section 28 requires each authority to have a Code of Conduct. You are accountable to the Council for compliance with the Code when you act, or purport to act, or might reasonably be believed by others to be acting, in your role as a member. Your role as a member includes any additional council duties or offices undertaken by you. The accountability does not extend to conduct in private life.
2. Subsection 28(1) of the Act requires the Code to be consistent with the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. To those, the Council adds other general requirements derived by extension from those principles: Regard for others, Independence of judgement, Respect for the law, and Stewardship of the Authority's resources.
3. The Code is in two parts. The first deals with general provisions and obligations. The second relates to the Act's requirements (Sections 29 to 34) regarding members' *interests other than pecuniary interests* and *pecuniary interests*. This categorisation replaces the earlier *personal interests* and *personal and prejudicial interests*. Failures to register or to declare interests or otherwise to fail to observe the related provisions of the Act are now potentially criminal offences. Some obligations in the first part of the Code also relate to potentially unlawful conduct. The Code aims both to discourage conduct that might make members or the Council itself liable in law; and also to signal the unacceptability of breaches that do occur and are below the threshold for legal action. Members cannot be required, as a condition of office, to be bound by the Code, but you will be deemed to have read the Code and to be aware that {EHDC: the Council is required, by Subsection 27(6) of the Act, to provide for complaints alleging breaches of the Code to be determined, after, if necessary, investigation}{TP: East Herts District Council, as the Principal Authority for this Council, has the duty to receive and to determine, after any necessary investigation, complaints alleging breaches of this Code by members of this Council}. The procedures for making a complaint and for the subsequent handling of a complaint, including actions that might follow a finding that the Code has been breached, are published on the EHDC website, and are available from the EHDC Offices, and from the Clerk of each of those Town or Parish Councils for which EHDC is the Principal Authority.

### **Part 1**

#### **General provisions and obligations**

4. When you represent the Council —
  - (a) on another 'relevant authority', as defined in Subsection 27(6) of the Act, you must, in the conduct of that authority's business, comply with any necessary

provisions of that authority's code of conduct; *or*

(b) on any body other than a 'relevant authority', you must, when acting for that other body, comply with this Council's Code of Conduct, except and insofar as it conflicts with any over-riding lawful obligations of that other body. If such a conflict arises or seems likely to arise, the guidance of this Council's Monitoring Officer should be sought.

5. By leadership and example, you should assist the Council to fulfil its duty in law to promote and maintain high standards of conduct. To that end you must—
  - (a) aim to uphold the law and not do, or connive with or at others in doing, anything unlawful;
  - (b) comply with the Council's standing orders and with any relevant guidance that may be issued from time to time, including codes and protocols;
  - (c) at no time, in your role as a member and in the performance of your Council duties, conduct yourself in a manner that might reasonably be regarded as bringing, or being likely to bring, into disrepute you yourself, in your office of member, or the Council.
6. You should aim to promote equality and must treat others with respect and with due regard for them and to their rights as individuals.

In particular, you must not—

  - (a) in any way discriminate, or indicate a disposition to discriminate, on grounds of sex or sexual orientation, or of nationality, race, creed, disability or age. Nor should you do anything that might cause the Council itself to be liable under any of the provisions of the Equality Act 2010);
  - (b) bully, harass or treat in an oppressive manner any person or persons;
  - (c) intimidate or attempt to intimidate any person who is or might be (i) a complainant that any member has breached the Council's Code of Conduct, or (ii) a witness or potential source of other material evidence regarding such an allegation, or (iii) in any other way actually or potentially involved in the administration of any investigation or proceedings in relation to an allegation of misconduct;
  - (d) do anything that compromises or is likely to compromise the impartiality, integrity and objectivity of those who work for, or on behalf of, the Council.
7. You must not disclose information, whether communicated to you or that comes to your notice in any other way, that is explicitly confidential or that you ought reasonably to be aware is of a confidential nature, unless—
  - (a) you have the consent of an appropriately authorised person; or
  - (b) disclosure is required by law; or
  - (c) the disclosure is necessarily made to a third party for the purpose of obtaining professional advice and provided that the third party agrees not to disclose the information to any other person; or
  - (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the Council's policies or protocols on whistle-blowing and confidential information. For protection by the Public Interest Disclosure Act 1988 to apply, you must first have raised your concerns through the appropriate internal machinery {**EHDC**: see the Council's Disclosure Code}.
8. You must not impede or prevent another person from gaining access to information

to which that person is entitled by law.

9. You must not use, or attempt to use, your position to gain financial or other material benefits for yourself, your family, or your friends.
10. You must not to place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
11. When using, or authorising or agreeing to others' use, of the resources of your authority, you must—
  - (a) act in accordance with the Council's reasonable requirements and so far as possible ensure that the Council uses its resources prudently and in accordance with the law.;
  - (b) ensure that the Council's resources are not used improperly for political purposes (including party political purposes).
12. When reaching decisions on any matter you must—
  - (a) exercise independent judgement and act solely in the public interest;
  - (b) have in mind that a Council decision might be open to challenge on grounds of predetermination if a member (or members) involved in the decision had, or might reasonably been thought by a disinterested observer to have, a closed mind at the time the decision was taken. To avoid predetermination, even if beforehand you have expressed a strong view on the matter or indicated how you were minded to vote, you should keep an an open mind about matters for decision, having regard for all the facts and advice from officers and weighing others' views, and ideally demonstrate that open-mindedness in discussion;
  - (c) heed any relevant advice provided to you by the {EHDC: Council's Chief Executive, Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to his or her statutory duties}{PT: the Council's Clerk}.
13. As a holder of public office, you are accountable to the public and you should—
  - (a) aim to be open about decisions and actions that you take or to which you are a party;
  - (b) restrict such communication only when required by law or the confidentiality of information or justified by the wider public interest;
  - (c) make clear In communication with members of the public and especially with representatives of the media, whether you are expressing personal views or speaking in any way on behalf of the Council;{EHDC: (d) have regard to the Council's Code of Publicity, in particular if you initiate the communication by, for example, writing a letter to a newspaper.}

## Part 2

[To be inserted when/if regulations are issued.]