

## **ESSENTIAL REFERENCE PAPER 'B'**

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

#### **Introduction**

1. The Localism Act 2011 requires councils to promote and maintain high standards of conduct. Each council must have a Code of Conduct. As a member of this Council, you are accountable to it for compliance with this Code when you act, or claim to act, or might reasonably be thought 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 your conduct in private life.
2. The Act requires the Code to be consistent with the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
3. The Code is in two parts. The first deals with general provisions and obligations. The second relates to the Act's requirements 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 pecuniary 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 warn against conduct that might make you or the Council itself liable in law, and also to signal the unacceptability of breaches that do occur but are below the threshold for legal action.
4. 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 the Council is required to provide for complaints alleging breaches of the Code to be determined, after any necessary investigation. The procedures for making a complaint and for the subsequent handling of a complaint are published on the EHDC website and are available from the EHDC Offices.

#### **Part 1**

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

5. When you represent the Council on another body, you should, as a member of that body, comply, in the conduct of that authority's business, with any necessary provisions of that body's code of conduct; but you should also comply with this Council's Code of Conduct, except if and to

the extent that it conflicts with any over-riding lawful obligations of that other body. Such conflicts are improbable, but, if any arise the guidance of this Council's Monitoring Officer should be sought.

6. By leadership and example, you should assist the Council in its duty 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.
  
7. 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 show prejudice, 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 liable under any of the provisions of the Equality Act 2010;
  - (b) bully, harass or treat any person or persons in a manner that might be felt to be oppressive;
  - (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 involved in any investigation or proceedings in relation to an allegation of misconduct;
  - (d) do anything that compromises or might compromise the impartiality, integrity and objectivity of those who work for, or on behalf of, the Council.
  
8. You must not disclose information, whether given to you or coming to your notice in any other way, that is confidential or that you ought reasonably to be aware is of a confidential nature, unless—

- (a) you have the consent of a person who has the authority to give such consent; 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, and 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, you must first have raised your concerns through the appropriate internal machinery, as set out in the Council's Disclosure Code.
9. You must not impede or prevent someone else from gaining access to information to which he or she is entitled by law.
10. You must not use, or attempt to use, your position to gain financial or other material benefits for yourself, your family, or your friends.
11. You must not 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.
12. 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).
13. When reaching decisions on any matter you must—
- (a) exercise independent judgement and act solely in the public interest;
  - (b) remember 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 have been thought by a disinterested observer to have had, a closed mind at the time the decision was taken. To avoid predetermination, if beforehand you have expressed a strong view on the matter for decision or indicated how you were minded to vote, you should keep an open

mind and have regard for all the facts, advice from officers and others' views, and ideally demonstrate that open-mindedness in discussion at the meeting;

- (c) heed any relevant professional advice from the Council's Chief Executive, Chief Finance Officer or Monitoring Officer.
14. 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 involve you;
  - (b) be less open only when the law or confidentiality requires or if in the wider public interest;
  - (c) make clear, in any communications 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;
  - (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.]