

Document 4.1

COUNCILLORS' CODE OF CONDUCT

(A Mandatory Code)

Review by July 2015

1. What is the Code of Conduct?

1.1 This Code of Conduct has been adopted by Hertford Town Council to regulate your conduct as a Councillor and where you act as a representative of your Authority. The adoption of a Code is mandatory as set out in the Localism Act 2011. In accordance with s.28 of the 2011 Act, every Council must adopt a Code of Conduct which:-

- i. Is consistent with the Nolan principles of conduct in public life which are selflessness, integrity, objectivity; accountability; openness; honesty; and leadership and
- ii. Includes provisions which the authority considers appropriate in respect of the registration and disclosure of 'pecuniary interests' and 'interests other than pecuniary interests'.

The 2011 Act provides no definition of pecuniary or non-pecuniary interests and this may result in local variations.

2. Does the Code apply to me when I act in a personal capacity?

2.1 Generally the provisions of the Code only apply when you are acting in an official capacity as a Hertford Town Councillor. However, there are two provisions of the code that apply at all times namely that: -

1. You must treat others with respect.
2. You must not disclose confidential information except in the specified circumstance.

3. Are all councils bound by the same code?

3.1 All councils had to adopt a local Code of Conduct not later than 30th June 2012. Hertford Town Council adopted the model code approved by the National Association of Local Councils, with minor additions. The Code of Conduct is set out below and Councillors are bound by it by virtue of their undertaking when making their declarations of acceptance of office.

4. What happens if I breach the provisions in the Code?

4.1 If you breach the provisions in the Code, a complaint may be made about your conduct to the local Standards Committee operated by East Herts. Council who will investigate the case.

5. I understand that the Code places 'general obligations' on me when I am acting in an official capacity. What are these?

5.1 The Code places a number of general obligations on Councillors namely: -

- ▶ To treat others with respect
- ▶ To promote equality by not discriminating unlawfully against any person
- ▶ Not to bully anyone
- ▶ Not to intimidate or attempt to intimidate anyone in relation to an allegation that a member (including yourself) has failed to comply with the code of conduct
- ▶ Not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Authority
- ▶ Not to disclose confidential information without consent or unless required to do so by law
- ▶ Not to prevent anyone else to gain access to any information to which that person is entitled by law

- ▶ Not to use your position to secure for yourself, or anyone else, an advantage or disadvantage
- ▶ To act in accordance with any requirements of the Authority when using or authorising the use of Council resources
- ▶ Not to use Council resources for political purposes unless such use is directly related to your duties as a Councillor.

6. When do I need to declare an interest?

- 6.1 Pursuant to s.30 of the 2011 Act, you must, within 28 days of becoming a Member or Co-opted Member, notify the Monitoring Officer of any 'Disclosable Pecuniary Interests' (DPI). Upon re-election or re-appointment, you must also within 28 days notify the Monitoring Officer of DPIs not already included in your register of interests. S.30 (3) confirms that these will relate to a Member and a Co-opted Member's interests and his/her spouse or civil partner or the person with whom he/she lives as if they were a spouse or civil partner. When notification of a DPI is received by the Monitoring Officer, it will be entered to your register of interests. Failure to register a DPI will be a **criminal offence**. You do not need to declare these interests again at each meeting.

If you become aware during a meeting of a DPI which has not been registered, you must declare it, withdraw from the room and inform the Monitoring Officer within 28 days. If you become aware of a 'Declarable' interest during the meeting, you should declare it but you may participate and vote in any debate.

7. How do I know if I have a Declarable Pecuniary or other Interest?

- 7.1 Appendix A of the Code specifies the statutory DPIs and Appendix B specifies interests which Hertford Town Council considers to be DPIs. Appendix C contains guidance on what Hertford Town Council considers to be a 'Declarable' interest.

8. Is there any definition of relatives or friends?

- 8.1 Relatives are defined as a spouse, partner, parent, parent in law, son, daughter, stepson, stepdaughter, child of partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece or their spouse or partner. There is no clear definition of friend and ultimately this will be a matter of judgement for the individual Councillor depending on the closeness of the friendship. Prior to its abolition, Standards Board for England provide the following advice:

"Our view is that 'friendship' connotes a relationship going beyond regular contact with colleagues in the course of employment or council duties (we do not consider that Councillors are automatically friends of all the members of their political group). Social contact is likely to be a strong indicator of friendship but not necessarily the only one".

- 8.2 Councillors and Monitoring Officers might wish to consider the following questions when considering if a friendship exists.

- ▶ How many times do the two people meet?
- ▶ Where do they meet?
- ▶ Do they regularly attend the same social events?
- ▶ Do they know each other's families?
- ▶ Do they visit one another's homes?
- ▶ Are they close or connected in other ways?

- 8.3 These questions should not be taken in isolation, as it is the cumulative evidence of a close relationship that will establish a friendship. A certain amount of caution should also be

exercised. Most Councillors know each other and will often attend the same functions because of their positions in the community. A level of relationship above and beyond that which usually exists between colleagues and political associates will be required to establish the existence of a “friendship”.

9. What should I do if I decide that I have a ‘Declarable’ interest?

9.1 If you decide that you have a declarable interest you must declare the existence of the interest at the meeting at which the matter is considered. You are allowed to speak and vote on the matter.

10. What do I need to do if I decide that I have a DPI?

11.1 If you decide that you have an ‘Appendix A’ DPI that has already been recorded on your register of interests but you should also withdraw from the room for the duration of the item. In addition, you should not seek in any way to influence improperly any decision about the matter. If you have an ‘Appendix B’ DPI you may speak on the matter before withdrawing from the room for the duration of the item. Participation in the discussion or voting on a matter in which you have a DPI is a **criminal offence under s.34**.

12. Can I stay in the meeting as an ordinary member of the public where I have a DPI but I am not a Member of the Committee making the decision?

12.1 No. The case of R v Richardson ex parte North Yorkshire District Council made it clear that a member of an authority attending a meeting could not, simply by declaring that he was attending in his private capacity, thereby divest himself of his official capacity as a Councillor. He is still to be regarded as conducting the business of his office and only by resigning can he shed that role.

13. Can I get a dispensation to speak and vote where I have a DPI?

13.1 S.33 of the 2011 Act permits a member or Co-opted Member of the Council with a DPI to submit a written request to the Proper Officer of the Council to grant a dispensation to relieve him/her of the restrictions in s. 31(4), namely to participate in a discussion or vote on a matter in which he/she has a DPI. Full Town Council will consider the request and may grant a dispensation if, having had regard to all relevant circumstances, it considers that;

- a) Without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- b) Granting the dispensation is in the interests of persons living in the authority's area.
- c) It is otherwise appropriate to grant a dispensation.

CODE OF CONDUCT

1. INTRODUCTION

- 1.1 Pursuant to section 27 of the Localism Act 2011, Hertford Town Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.
- 1.2 This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

2. DEFINITIONS

- 2.1 For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- 2.2 For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.
- 2.3 For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

3. MEMBER OBLIGATIONS

- 3.1 When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.
- a) He/she shall behave in such a way that a reasonable person would regard as respectful.
 - b) He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
 - c) He/she shall not seek to improperly confer an advantage or disadvantage on any person.
 - d) He/she shall use the resources of the Council in accordance with its requirements.
 - e) He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

4. REGISTER OF INTERESTS

- 4.1 Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she

shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

- 4.2 Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.
- 4.3 A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
- 4.4 A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

5. DECLARATIONS OF INTERESTS AT MEETINGS

- 5.1 Where a matter arises at a meeting which relates to an interest in Appendix A the member shall withdraw from the chamber for the duration of the item. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
- 5.2 Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
- 5.3 Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the room for the duration of the item. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.
- 5.4 A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
- 5.5 Where a matter arises at a meeting which relates to a declarable interest, the member shall declare the existence and nature of the interest but may participate in the debate and vote on the matter.

6. DISPENSATIONS

- 6.1 On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

APPENDIX A

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	<p>Any contract made between the member or between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director of an incorporated body or holds the beneficial interest in securities*) and the Council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the member's knowledge)—</p> <p>(a) the landlord is the Council; and</p>

	<p>(b) the tenant is a body in which the member, or his/her spouse or civil partner/ the person with whom the member is living as if they were spouses/civil partners has a beneficial interest.</p>
<p>Securities</p>	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the member’s knowledge) has a place of business or land in the area of the Council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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.</p> <p>*‘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.</p>

APPENDIX B

An interest which relates to or is likely to affect:

(i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;

(ii) any body—

- (a) exercising functions of a public nature;
- (b) directed to charitable purposes; or
- (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which the member of the Council is a member or in a position of general control or management;

(iii) any gifts or hospitality worth more than an estimated value of £25 which the member has received by virtue of his or her office.

APPENDIX C – DECLARABLE INTERESTS

A member is likely to have a 'Declarable Interest' when

(a) A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of the member or a member of his/her family, employer or a person or body with whom he/she has a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants within the parish boundary.

(b) It relates to or is likely to affect any of the interests listed in the table in Appendix A and B to this Code but in respect of a relative (other than a 'relevant person') or his/her employer or a person or body with whom he/she has a close association

and that interest is not a Disclosable Pecuniary Interest. A member declaring an interest of this nature is entitled to participate and vote in the debate. For further guidance refer to paragraph 8 of the Introduction to the Code and to 'Councillors Guide to Integrity in Planning' (Council Constitution 4.2).