

MEMBERS' CODE OF CONDUCT

Foreword, Statement and Purpose

(this Foreword, Statement and Purpose does not form part of the Members' Code of Conduct. It is intended to set out the background, purpose, and importance of the Code)

The role of Councillor is a vital part of democracy and it is important that Councillors can be held accountable and adopt the behaviours and responsibilities associated with the role.

Councillors represent local residents, work to develop better services and deliver local change. The public trust Councillors to represent the local area and take decisions fairly, openly, and transparently. There is both an individual and collective responsibility to meet the expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, Councillors should be able to undertake their role without intimidation, abuse, bullying or threatening behaviour from anyone, including the general public.

The Council's Code is designed to encourage good conduct and safeguard the public's trust in local government.

The Council will undertake an annual review of its Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

The **purpose of the Code of Conduct** is to assist Councillors in modelling the behaviour that is expected, to provide check and balance, and to set out the type of conduct that could lead to action being taken. The Code is also there to protect Councillors, the public, fellow Councillors, Local Authority Officers and the reputation of Local Government. It sets out general principles of conduct expected of all Councillors and specific obligations in relation to standards of conduct.

Induction and training on Governance issues, including this Code of Conduct is important and the Council will provide this with updates as required. It is incumbent on Councillors to endeavour to attend.

PART 1: GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

1.1. This Code applies to you as a Member or a Co-opted Member of Devon County Council *(For the purposes of this Code, a “Co-opted Member” means a person who is not a member of Devon County Council but who:*

(a) is a member of any committee or sub-committee of Devon County Council; or

(b) is a member of, and represents Devon County Council on, any joint committee or joint sub-committee of Devon County Council,

irrespective of whether or not that person is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.)

1.2. When acting in your capacity as a Member or Co-opted Member of the County Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.

1.3. When acting in your capacity as a Member or Co-opted Member of the County Council –

(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;

(b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;

(c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

(d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;

(e) you must be as open as possible about your decisions and actions and the decisions and actions of the County Council

and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council or contained in its Constitution,

- (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
 - (g) you must declare any offered gift or hospitality over the value of £25 and whether this was accepted or declined, in line with the Council's Policy Statement on the Proper Conduct of Business and [Financial Regulations](#). Declarations will be published on the Council's website.
 - (h) you must, when using or authorising the use by others of the resources of the County Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the County Council's reasonable requirements;
 - (i) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the County Council;
 - (j) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- 1.4. Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5. Do nothing as a Member which you could not justify to the public.
- 1.6. The reputation of the County Council depends on your conduct and what the public believes about your conduct.
- 1.7. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8. It is your responsibility to comply with the provisions of this Code and also any formal Standards processes, investigations or sanctions that may occur.

Definitions

2. In this Code –

- *“interest or interests”* have the meanings set out in Part 2 of this Code
- *“Relevant person”* means:
 - you or
 - your spouse or civil partner, or
 - a person with whom you are living as husband and wife or as if they were civil partners or in a same sex marriage and you are aware that that other person has an interest
- *“relevant period”* means a period of 12 months ending with the date on which you notified the Monitoring Officer of an interest
- *“meeting”* means any meeting of –
 - the County Council;
 - the Cabinet of the County Council;
 - any of the Council’s or the Cabinet’s, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area Committees;
 - one or more Members, formal or informal and with or without officers, relating to the discharge of the County Council’s functions where a formal record is made by a Council Officer.
- *“member”* includes a co-opted member

Scope

3. You must comply with this Code.....

3.1. whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the County Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the County Council.

3.2 noting that the Code applies to all forms of communication and interaction, including;

- face-to-face
- online / telephone meetings
- written / verbal communication
- non-verbal communication and electronic & social media communication, posts, statements and comments

General obligations

4. You **must** –

- (a) treat others with courtesy and respect, including the public, fellow Councillors, Local Authority employees and also employees and representatives of partner organisations and those volunteering for the local authority; and
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the County Council.

(Respect means politeness and courtesy in behaviour, speech, and in the written word. Having different views is part of a healthy democracy and Councillors can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. However, there should be no subjecting individuals, groups of people or organisations to personal attack.

Contact with the public should always be polite and courteous.

In return, you have a right to expect respectful behaviour from the public. If this is not the case and Councillors are being subjected to abusive, intimidatory or threatening behaviour, they should seek support and assistance from the Monitoring Officer)

5. You **must not** –

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the County Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010, **which places specific duties on Local Authorities**);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear. **It can happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be noticed by others**);

- (d) harass any person (the Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence. It must involve such conduct on at least two occasions and can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person).
- (e) 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 any Member has failed to comply with the Council's Code of Conduct; or

- (f) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council;
- (g) 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:
 - a. in the public interest; and
 - b. made in good faith and
 - c. in compliance with the reasonable requirements of the Council;
- (h) prevent another person from gaining access to information to which that person is entitled by law;
- (i) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

[NB: A complaint may be made to the Monitoring Officer or Standards Committee where any person thinks they have evidence which they think shows that a councillor has not followed the Council's Code of conduct; see http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm]

PART 2: INTERESTS

Registration of Interests

6. You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the County Council;
or
- (b) your taking office as a Member or Co-opted Member of the County Council,

whichever is the later, and annually thereafter, provide written notification to the County Council's Monitoring Officer of:

- i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife; and
- ii) any other personal interest laid down by the County Council, as set out at paragraph 7 below;

which will be recorded in the County Council's Register of Members' Interests and made available for public inspection including on the Council's website.

- 6.1.** Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the County Council's Monitoring Officer.
- 6.2.** Whether or not an interest within paragraphs 7.1. and 7.2 below has been entered onto the County Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.
- 6.3.** Following any disclosure of an interest not on the County Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 6.4.** In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

“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 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
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
“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

7. The interests you **must** register are:

7.1. - those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) any payment or provision of any other financial benefit (other than from Devon County Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the County Council:
 - 1) under which goods or services are to be provided or works are to be executed; and
 - 2) which has not been fully discharged

- (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the County Council;
- (e) any licence (alone or jointly with others) to occupy land in the administrative area of the County Council for a month or longer
- (f) any tenancy where (to your knowledge):
 - 1) the landlord is Devon County Council; and
 - 2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
 - 1) that body (to your knowledge) has a place of business or land in the administrative area of the County Council and
 - 2) either:
 - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - b) 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.

- 7.2. - those other personal interests laid down by the County Council, namely your membership of any body to which you have been appointed by the County Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.
- 7.3. In addition to those interests listed at 7.1 and 7.2 above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a County Councillor, such as membership of the Freemasons or any similar body, **including any unpaid Directorships.**
- 7.4. Where the County Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

- 7.5. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the County Council's Monitoring Officer asking that the information be included in the County Council's Register of Members' Interests.

Declaration of Interests

8. Unless a dispensation has been granted*, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) and you must also observe any restrictions the County Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Para 7 above.

*[*See explanatory note appended to this Code, below].*

- 8.1. Where you have any interest in any business of the County Council and you attend any meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the interest but merely the fact that there is a disclosable pecuniary interest in the matter concerned;
 - (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you; and
 - (d) not seek to influence improperly any decision about that business.
- 8.2. You also have an interest where a reasonable person with knowledge of the relevant facts would regard you, your relative, or your close friend as having an interest in any business of the County Council that is being considered at a meeting that you attend where the matter affects the financial interest or well-being of yourself, your relative or your close friend to a greater extent than it affects the financial interests of the majority of residents of the area affected by the decision such that it is likely to prejudice your view of the wider public interest.

unless you have obtained a dispensation from the County Council's Monitoring Officer.