

# CODE OF CONDUCT FOR MEMBERS

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The Code of Conduct, adopted by Rother District Council on 4 May 2021 is set out below. It is made under Chapter 7 of the Localism Act 2011. It includes, as standing orders made under Chapter 7 of that Act and Schedule 12 of the Local Government Act 1972, provisions which require Members to leave meetings in appropriate circumstances, while matters in which they have a personal and prejudicial or disclosable pecuniary interest are being considered.

## PART 1

### GENERAL PROVISIONS

#### Introduction and Interpretation

1. (1) The Code applies to **you** as a Member of the authority, when acting in that capacity.
- (2) This Code is based upon seven principles fundamental to public service which are set out in Appendix 1. You should have regard to these principles they will help you to comply with the Code.
- (3) If you need guidance on any matter under this Code you should seek it from the authority's Monitoring Officer or your own legal advisor – but it is entirely your responsibility to comply with the provisions of this Code.
- (4) It is a criminal offence to fail to notify the authority's Monitoring Officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's Monitoring Officer.
- (5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding;
  - (a) whether to take action in relation to you; and
  - (b) what action to take.
- (6) Councillors should not seek to misuse the standards process, for example, by making trivial or malicious allegations against another councillor for the purposes of political gain.

(7) In this Code –

“authority” means Rother District Council

“Code” means this Code of Conduct

“co-opted member” means a person who is not a member of the authority but who –

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority.

and who is entitled to vote on any questions to be decided at any meetings of that committee or sub-committee.

“meeting” means any meeting of

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member.

“register of members’ interest” means the authorities’ register of members’ pecuniary and other interests established and maintained by the authority’s Monitoring Officer under section 29 of the Localism Act 2011.

## Scope

2. (1) Subject to sub-paragraphs (2) and (3), you must comply with the Code whenever you –

- (a) conduct the business of your authority (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 your authority.

and references to your official capacity are construed accordingly.

(2) this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) Where you act as a representative of your authority –

- (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 your authority’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.
  - (2) You must not –
    - (a) do anything which may cause your authority to breach any of its equality duties (in particular set out in the Equality Act 2010);
    - (b) bully or harass any person; bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;
    - (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; or
    - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
4. 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 the 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) reasonable and in the public interest; and

- (b) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You –
  - (1) 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;
  - (2) must, when using or authorising the use by others of the resources of your authority –
    - (a) act in accordance with your authority's reasonable requirements;
    - (b) ensure that such resources are not used improperly for political purposes (including party political purposes);
  - (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986; and
  - (4) must comply with any request regarding the provision of information in relation to a complaint alleging a breach of the Code of Conduct and must comply with any formal standards investigation.
- 7. (1) When reaching decisions on any matters you must have regard to any relevant advice provided to you by –
  - (a) your authority's Chief Finance Officer; or
  - (b) your authority's Monitoring Officer,where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## PART 2

### INTERESTS

#### Personal Interests

8. (1) The interests described in paragraphs 8(3) are your personal interests and the interests in paragraph 8(5) are your pecuniary interests which are disclosable pecuniary interests as defined by section 30 of the Localism Act 2011.
- (2) If you fail to observe Parts 2 and 3 of the Code in relation to your personal interests-
- (a) the authority may deal with the matter as mentioned in paragraph 1(5).
  - (b) if the failure is related to a disclosable pecuniary interest, you may also become subject to criminal proceedings as mentioned in paragraph 1(4).
- (3) You have a personal interest in any business of your authority where either –
- (a) it relates to or is likely to affect –
    - (i) any body of which you are a member or in the position of general control or management and to which you are appointed or nominated by the authority;
    - (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 you are a member or are in a position of general control or management;
    - (iii) the interest of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
  - (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 (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- (4) In sub-paragraph 8(3)(b), a relevant person is –

- (a) a member of your family or a [close] friend; 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 (3)(a)(i) or (ii).
- (5) Subject to sub-paragraphs (6) and (7), you have a personal interest which is also a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority which concerns any of the following for (i) you or (ii) your partner-

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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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(1).
Contracts	Any contract which is made between you (or a body in which you have a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
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	Any tenancy where (to your knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which you have a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and (b) either— the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

	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 I have a beneficial interest exceeds one hundredth of the total issued share capital of the class.
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These descriptions on interests are subject to the following definitions;

‘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’ includes an easement, servitude, interest or right in or 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;

‘M’ means the person M referred to in section 30 of the Localism Act 2011;

‘member’ includes a co-opted member;

‘relevant authority’ means the authority of which M is a member;

‘relevant period’ means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Localism Act 2011;

‘relevant person’ means M or any other person referred to in section 30(3)(b) of the Localism Act 2011;

‘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.

- (6) In sub-paragraph (5), your partner means –
- (a) your spouse or civil partner,
  - (b) a person with whom you are living as husband or wife, or
  - (c) a person with whom you are living as if you were civil partners,
- (7) In sub-paragraph (5), any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.

## **Disclosure of Personal Interests (See also Part 3)**

9. (1) Subject to sub-paragraphs (2) to (6), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to 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.
- (2) If the personal interest is entered on the authority's register there is no requirement for you to disclose the interest to that meeting, but you should do so if you wish a disclosure to be recorded in the minutes of the meeting.
- (3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (4) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest and, if also applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting.
- (5) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (6) 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 Interest Generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where either –
- (a) the interest is a disclosable pecuniary interest as described in paragraph 8(5), or
- (b) 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.
- (2) For the purposes of sub-paragraph (1)(b), you do not have a prejudicial interest in any business of the authority 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 your authority in respect of –
  - (i) housing, where you are a tenant of your authority 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; and
  - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

### **Interests arising in relation to Overview and Scrutiny Committees**

- 11.** You also have a personal interest in any business before an Overview and Scrutiny Committee of your authority (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 your authority’s executive or another of your authority’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 (a) and you were present when that decision was made or action was taken.

### **Effect of Prejudicial and Pecuniary Interests on Participation**

- 12.** (1) Subject to sub-paragraph (2) and (3), where you have a prejudicial and disclosable pecuniary in any matter in relation to the business of your authority –
- (a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held –

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the matter is being considered at that meeting;

unless you have obtained a dispensation from your authority's Monitoring Officer or Standards Committee;

- (b) you must not exercise executive functions in relation to that matter; and
  - (c) you must not seek improperly to influence a decision about that matter.
- (2) Where you have a prejudicial interest in any business of your authority which is not a disclosable pecuniary interest as described in paragraph 8(5), you may attend a meeting (including a meeting of the Overview and Scrutiny Committee of your authority 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.
- (3) Where you can have a prejudicial interest which is not a disclosable pecuniary interest as described in paragraph 8(5), arising solely from membership of any body described in 8(3)(a)(i) or 8(3)(a)(ii)(a) then you do not have to withdraw from the room or chamber and may make representations to the committee but may not participate in the vote.

## **PART 3**

### **REGISTRATION OF INTERESTS**

#### **Registration of Members' Interests**

- 13.** (1) Subject to paragraph 14, you must, within 28 days of-
- (a) this Code being adopted by the authority; or
  - (b) your election or appointment to office (where that is later), register in the Register of Members' Interests details of –
    - (i) your personal interests where they fall within a category mentioned in paragraph 8(3)(a) and
    - (ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph 8(5)
- by providing written notification to your authority's Monitoring Officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest falling within sub-paragraphs (1)(i) or (1)(ii) or any change to any personal interest registered under sub-paragraphs (1)(i) or (1)(ii), register details of that new personal interest or change by providing written notification to your authority's Monitoring Officer.

#### **Sensitive Information**

- 14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's Monitoring Officer agrees, the Monitoring Officer shall not include details of the interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) In this Code, "sensitive information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

#### **Dispensations**

- 15.** (1) The Monitoring Officer may, on a written request made to the Monitoring Officer of the authority by a Member, grant a dispensation relieving the Member from either or both of the restrictions in paragraph

12(1)(a) (restrictions on participating in discussions and in voting), in cases described in the dispensation.

- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer –
  - (a) considers that without the dispensation the number of persons prohibited by paragraph 12 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) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited by paragraph 12 from participating in any particular business to be transacted by the authority's executive; or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 12 does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

## The 7 Principles of Public Life

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### Selflessness

1. Holders of public office should act solely in terms of the public interest.

### Integrity

2. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### Objectivity

3. Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Accountability

4. Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### Openness

5. Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

### Honesty

6. Holders of public office should be truthful.

### Leadership

7. Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.