

This document is not a part of the constitution, but is guidance provided for the assistance of members

## **Guidance on Wiltshire Council's Code of Conduct for Councillors**

This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.

You are encouraged to seek advice from the Monitoring Officer [contact details below] if you are unclear about any aspect of the Code or how it applies in your particular situation.

The statutory framework for standards in local government is contained in Part 7 of the Localism Act 2011, which can be found at:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

### **Principles of Public Life**

The Council's Code of Conduct must, when viewed as a whole, be consistent with the following principles:

**Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

**Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

**Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership** - Holders of public office should promote and support these principles by leadership and example.

You should conduct yourself in accordance with these principles, which underpin the purpose and provisions of the Code of Conduct.

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## **Duty to promote and maintain high standards of conduct**

The Council has a duty under section 27 Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council. The Council's Code of Conduct therefore requires you to promote and support high standards of conduct when serving in your public post.

The obligations set out in paragraphs 1-7 of the Code of Conduct reflect the Principles of Public Life and the duty to promote and support high standards of conduct.

'Promoting and supporting high standards of conduct' also includes:

- Treating others with respect;  
*This is not intended to stand in the way of lively debate, which is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through argument and public debate are an essential part of the cut and thrust of politics. However, conduct which involves an unreasonable or excessive attack on a person and their personal characteristics will amount to disrespect.*
- Promoting equality by not discriminating unlawfully against any person on the grounds of their race, age, religion, gender, sexual orientation or disability;
- Not bullying or intimidating any person;  
*Bullying may be defined as offensive, intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or misuse of power or authority, which attempts to undermine an individual or group. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, or when the behaviour by both the complainant and the member contributed equally to the breakdown in relations.*  
  
*An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.*
- Not disclosing 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:
  - you have the consent of a person authorised to give it;
  - you are required by law to do so;
  - the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees in writing not to disclose the information to any other before the information is provided to them; or
  - the disclosure is:
    - reasonable and in the public interest; and
    - made in good faith; and
    - in compliance with the reasonable requirements of your Council.
- Not preventing or attempting to prevent another person from gaining access to information to which that person is entitled by law.

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## **Behaviours Framework and Role and Responsibilities of Wiltshire Councillors**

The Council's Code of Conduct requires you to have regard to the Council's Behaviours Framework and the Role and Responsibilities of Councillors in carrying out your duties as a councillor. These documents may be used to assist with the interpretation of the Code but do not themselves create obligations which are directly enforceable.

### **Use of Social Media**

Social media is a useful tool for councillors, but unwise or inappropriate use can give rise to difficulties and lead to complaints under the Code of Conduct.

Guidance is attached at Appendix 1 to help you use social media effectively.

### **Registration and Declaration of Interests**

Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.

The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.

You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

Your register of interests is a public document available on the Council's web site and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.

To ensure openness and transparency, in addition to the interests you are required to register by law you are strongly encouraged to include details of the following on your register of interests:

- Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- Any body exercising functions of a public nature of which you are a member or in a position of general control or management;
- Any body directed to charitable purposes of which you are in a position of general control or management;
- Any body whose principal purposes include the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.
- Details of any gift, benefit or hospitality with a value in excess of £ 50 which you have accepted as a member from any person or body other than the Council.

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### **Openness and transparency on personal interests**

The Department for Communities and Local Government (DCLG) has issued guidance on the registration and declaration of interests in September 2013 - 'Openness and transparency on personal interests'.

A copy of the guidance is attached at Appendix 2.

### **Bias and Predetermination**

Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the councillor was biased. In particular, under the Council's Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect councillors against allegations of bias and predetermination.

The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a councillor advice should be sought at an early stage and in any event before the decision concerned is made.

### **Complaints Procedure**

The Council's arrangements for dealing with complaints under the Code of Conduct are set out in Protocol 11 of the Council's Constitution, which may be found at this [link](#).

### **Local Assessment Criteria**

Complaints under the Code are assessed or reviewed in accordance with the criteria attached at Appendix 3.

If you need advice on any of the above please contact the Monitoring Officer

[lan.gibbons@wiltshire.gov.uk](mailto:lan.gibbons@wiltshire.gov.uk)

## Wiltshire Council

# Social media guidance for councillors.

### Introduction

Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This guidance covers social media issues over the internet and by email, smart phones, social networking sites, blogging, and tweeting.

Social media increases our access to audiences and improves the accessibility of our communication. It enables us to be more active in our relationships with citizens, partners and stakeholders and encourages people to be involved in local decision making, enabling better engagement and feedback, ultimately helping to improve the services we provide.

For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance.

Wiltshire Council acknowledges social media as a useful tool however, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the council to security risks or breach the Data Protection Act.

### Purpose

This guidance applies to councillors in respect of their personal use of social media. It sets out how to use social media, how to effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Social engineering attacks (also known as 'phishing').
- Discrimination, bullying, harassment or witch-hunting.
- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.

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- Breach of the Wiltshire Council Members Code of Conduct through inappropriate use.

In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the council's employees, partners and the people it serves. As such this guidance aims to ensure:

- Council information and computer systems/networks remain secure and are not compromised through the use of social media.
- Users operate within existing policies, guidelines and relevant legislation..

Councillors must ensure that they use social media sensibly and responsibly and that their use will not adversely affect the council or its business.

## **Responsibilities of councillors**

You are personally responsible for the content you publish on any form of social media, in the same way that you are responsible for letters or emails you send. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action.

Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the council's Data Protection Policy Statement.

Safeguarding issues are paramount because social media sites are often misused by offenders. Everyone has a responsibility for protecting and safeguarding children and adults who may be vulnerable. If you have concerns that a child or adult is suffering or is likely to suffer from any form of maltreatment (whether financial, physical, sexual, emotional or neglect) this should be reported in the following ways:

- (a) if a child or vulnerable adult is in immediate danger or left alone, contact the police or call an ambulance on 999;
- (b) in all other cases involving children, referrals should be made to Wiltshire social care services via the Council's 'Multi-Agency Safeguarding Hub'

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(MASH) on 0300 456 0108 (or out of hours via the 'Emergency Duty Service' on 0845 607 0888);

(c) in all other cases involving adults, referrals should be made to the Council's customer advisers on 0300 456 0111 (or out of hours via the 'Emergency Duty Service'), e-mail [customeradvisors@wiltshire.gov.uk](mailto:customeradvisors@wiltshire.gov.uk).

Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or are Part 2 reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985).

Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.

Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.

The council will not promote councillors' social media accounts during the pre-election period.

In any biography, the account should state the views are those of the councillor in question and may not represent the views of the council.

Do not use the council's logo, or any other council related material on a personal account or website.

Social media must not be used for actions that would put councillors in breach of the Wiltshire Council Members Code of Conduct For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.

Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, Democratic Services and/or the police.

It is recommended that in the case of Facebook, councillors wishing to keep their personal life and role as a councillor separate create a Facebook page which members of the public can like rather than using their personal profiles.

## **Conduct**

Councillors are reminded that in respect of social media, they are governed by the Wiltshire Council Members Code of Conduct and relevant law.

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This guidance is not exhaustive and if you have any queries you should contact the monitoring officer.

Breaches of this guidance may amount to a breach of the Wiltshire Council Members Code of Conduct. Other violations of this guidance, such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the council or the individual(s) involved.

The council reserves the right to request the removal of any content that is deemed to be in breach of the Wiltshire Council Members Code of Conduct.

### **Principles for using social media**

You should follow these five guiding principles for any social media activities:

**Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people’s confidentiality – do not disclose non-public information or the personal information of others.

**Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.

**Be honest about who you are** – it’s important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.

**Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can’t. Respond to questions and comments in a timely manner..

**Be confident** – don’t be scared of participating. Follow this advice and seek further guidance if you need it. If you’re about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

### **Guidance on capturing social media posts**

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the council - posts can be deleted by site administrators without knowledge or consent of the council. In exceptional circumstances, copies of posts may be made and retained by the council, (e.g. as evidence of inappropriate posts) in line with relevant council procedures, (depending on the nature of the allegation). These copies will be held for a period dependent on the type of investigation they are subject to, (e.g. disciplinary, audit, criminal, etc).

Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts (before they might be deleted). Copies should be made (press, 'alt+Prt Scrn,' and copy into MS Word) and reported to both



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the relevant authority within the council as well as following the social media sites own reporting procedures where appropriate. Please note that this is just one means of gathering evidence of inappropriate use; it does not preclude the gathering of other types of evidence, e.g. witness statements.

### **Relationship with other council information**

This guidance should be read in conjunction with:

- Wiltshire Council Constitution Protocol 7 – Media Relations
- Information Security Social Media and Blogging Policy
- Information Security Policy
- Members Code of Conduct
- Data Protection Policy Statement
- Information Assurance Acceptable Usage Policy for email, internet and computer use



Department for  
Communities and  
Local Government

APPENDIX 2

# Openness and transparency on personal interests

A guide for councillors

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# The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011<sup>1</sup>.

## Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.<sup>2</sup>

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

## Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

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<sup>1</sup> The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

<sup>2</sup> The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

## How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.<sup>3</sup>

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

## What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

## What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that '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

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<sup>3</sup> <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**<sup>4</sup>.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose<sup>5</sup> this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

## What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

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<sup>4</sup> <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

<sup>5</sup> If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

## Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

## Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

## Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

## Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

## Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

## When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

## What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

## Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

## Do I need a dispensation to take part in the business of setting council tax or a precept?



Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

## When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

## What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

## Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

# Annex A

## Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or 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. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## **STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

The Monitoring Officer and Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

### **1. Relevance**

1.1 The criteria and procedures set out in this document only apply to complaints made against individual members that fall within the relevant code of conduct. It is likely that complaints will be received by the Monitoring Officer which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by councils; matters relating to the council as a corporate body (including decisions made by the council); or matters which should be dealt with under a council's complaints procedure. They may be complaints relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee.

1.2 Where complaints are received that are outside the scope of these procedures, the Monitoring Officer will advise the complainant that they cannot proceed under local codes of conduct, but that the complainant should contact the relevant council in order to bring a complaint under the appropriate alternative complaints procedure, where available.

### **2. Alternative resolution**

2.1 The Monitoring Officer or Assessment Sub-Committee will always consider whether an alternative means of resolving the complaint would be appropriate.

### **3. Initial Tests**

3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that:

- a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
- b) That the member was a member at the time of the incident giving rise to the complaint;
- c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;

- d) That a Code of Conduct for the relevant council is in force and has been provided;
- e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

#### **4. Sufficiency of information**

4.1 As any assessment will be conducted solely on the papers provided, it is essential that the complainant provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with consideration of the complaint. It is the responsibility of the complainant to provide any supporting evidence for their complaint to justify a full investigation.

4.2 If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Officer will consider the complaint and provide a report and recommendation on it to the Assessment Sub-Committee, together with copies of the original complaint ( and any supporting documentation) and the Subject Member's response.

4.3 At this assessment stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the complainant or subject member.

#### **5. Seriousness of the Complaint**

5.1 A complaint will not be referred for investigation if, on the available information, it appears to the Assessment Sub-Committee to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5.2 A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.

5.3 Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in

cases where a subject member is no longer a member of a relevant council.

## **6. Length of Time Elapsed**

6.1 A complaint will not be referred for assessment when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint. Any such complaint will be dismissed by the Monitoring Officer, and will not be referred to the Assessment Sub-Committee, although the Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time, in exceptional circumstances.

6.2 In any event, the Assessment Sub-Committee may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

## **7. Anonymous Complaints**

7.1 Anonymous complaints will not be accepted for consideration unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

## **8. Multiple Complaints**

8.1 A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Assessment Sub-Committee at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

## **9. Confidentiality**

9.1 All information regarding the complaint will remain confidential to the parties until determined otherwise by the Monitoring Officer, Assessment Sub-Committee or Hearing Sub-Committee.

## **10. Withdrawing Complaints**

10.1 A complainant may ask to withdraw their complaint before it has been assessed.

10.2 In deciding whether to agree the request the Monitoring Officer will consider:

- a) the complainant's reasons for withdrawal;
- b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
- c) whether action, such as an investigation, may be taken without the complainant's participation.