

**Wiltshire Council
Constitution
Part 12B
Wiltshire Council Code of
Conduct Guidance for
Members**

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PART 12B

WILTSHIRE COUNCIL CODE OF CONDUCT GUIDANCE FOR MEMBERS

1. Purpose

- 1.1 This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.
- 1.2 You are encouraged to seek advice from the Monitoring Officer if you are unclear about any aspect of the Code or how it applies in your particular situation.
- 1.3 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>

2. The Principles of Public Life

2.1 Selflessness

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

2.2 Integrity

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 disclose and resolve any interests and relationships.

2.3 Objectivity

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

2.4 Accountability

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.

2.5 Openness

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 so doing.

2.6 Honesty

Holders of public office should be truthful.

2.7 Leadership

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.

3. Application of the Code of Conduct

3.1 The Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Member.

3.2 This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

3.2.1 you misuse your position as a Member;

3.2.2 Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member.

3.3 The Code applies to all forms of communication and interaction, including:

3.3.1 at face-to-face meetings;

3.3.2 at online or telephone meetings;

3.3.3 in written communication;

3.3.4 in verbal communication;

3.3.5 in non-verbal communication;

3.3.6 in electronic and social media communication, posts, statements and comments.

3.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

3.5 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to your Code of Conduct.

4. Code of Conduct Guidance

4.1 This section sets out further guidance relating to your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

4.2 Guidance is included to help explain the reasons for the obligations set out in the Code of Conduct and how they should be followed.

4.2.1 Respect

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member- Officer protocol.

4.2.2 Bullying, harassment, and discrimination

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, 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 obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It 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.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

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.

4.2.3 Impartiality of officers of the council

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4.2.4 Confidentiality and access to information

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

4.2.5 Disrepute

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

4.2.6 Use of position

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

4.2.7 Use of local authority resources and facilities

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

4.2.8 Complying with the Code of Conduct

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

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.

Local Assessment Criteria

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

4.2.9 Interests

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

The Register of Interests section below sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

4.2.10 Gifts and hospitality

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

4.2.11 Taking decisions

The decisions you take whilst undertaking your public duties should be made on an objective basis, using the best information available whilst avoiding discrimination, or bias. To ensure public confidence in the decision-making process, you should be willing to make the reasons for your decisions, as well as those of Wiltshire Council, publicly available. Information about why

decisions have been taken should only be withheld in cases where there are clear and lawful reasons for doing so. As a holder of public office, you must be accountable for your decisions and actions and must submit yourself to the level of scrutiny commensurate with your position. It is important that the public are able to constructively challenge and express concern about the process by which decisions are made.

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 Member 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 Members 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 Member 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 Member 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, Members 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 Member advice should be sought at an early stage and in any event before the decision concerned is made

5. Code of Conduct Guidance

- 5.1 Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.
- 5.2 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.
- 5.3 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.

5.4 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.

5.5 Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

5.6 "**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

5.7 "**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

5.8 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

5.9 A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

5.10 Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

5.11 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5.12 Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of other registerable interests

5.13 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you

must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of non-registerable interests

5.14 Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

5.15 Where a matter arises at a meeting which affects:

5.15.1 your own financial interest or well-being;

5.15.2 a financial interest or well-being of a relative or close associate; or

5.15.3 a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

5.16 Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:

5.16.1 to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

5.16.2 a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

5.17 Where you have an Other Registrable Interest or Non-Registrable Interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Tables

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Table 1: Disclosable Pecuniary Interests	
Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

Table 1: Disclosable Pecuniary Interests

Subject	Description
Land and property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the Councillor's knowledge)—</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	<p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and (b) either— <ul style="list-style-type: none"> (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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.

Table 2

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body

- (i) exercising functions of a public nature
- (ii) directed to charitable purposes or
- (iii) 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 in a position of general control or management