

**Report to:** Council

**Report Ref:** C1902  
**Meeting Date:** 3<sup>rd</sup> June 2019  
**Agenda Item:** 16  
**Prepared By:** Town Clerk



**Subject:** Member Code of Conduct

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## **1.0 BACKGROUND**

The Town Council is required to promote and maintain high standards of conduct by its members and co-opted members and to adopt a Code of Conduct. The Localism Act 2011 set out that the council may determine its own code or may adopt that of its principal authority. The Town Council's Code of Conduct forms part of its Standing Orders. In 2012 the Town Council adopted the Cheshire East Council Code of Conduct.

In 2018 Cheshire East Council adopted a new code for its members and is encouraging parish and town councils in the borough to adopt the same code. This convention is ordinarily followed because the Monitoring Officer of Cheshire East Council is, in law, responsible for dealing with Code of Conduct complaints made against parish and town councillors and for simplicity and consistency, it makes sense for all members to be subject to the same code. All town and parish councils in Cheshire East have been following this convention.

The main change to the Code was the reintroduction of a class of interests known as "personal interests". The Code provides guidance on when a personal interest becomes a "prejudicial" interest, and what steps a member should take if they discover that they have a personal or prejudicial interest. It also offers some guidance on predetermination and bias.

The code reintroduces the requirement for members to leave the room for prejudicial and disclosable pecuniary interests – the Town Council's Standing Orders do not currently require this. It also requires the publication of positions of management or control in community organisations, political parties, charities etc.

## **3.0 RECOMMENDATION**

It is recommended that Council considers:

- a) the adoption of a revised Code of Conduct
- b) Whether to require members with a prejudicial and disclosable pecuniary interest to leave the room

## **ANNEX A: REVISED CODE OF CONDUCT**

- 1 Knutsford Town Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its Members and co-opted Members (referred to collectively in this Code as “Members”).
- 2 The Code has been adopted under the Localism Act 2011 and is based on the following core principles of public life:
  - 2.1 Selflessness
  - 2.2 Integrity
  - 2.3 Objectivity
  - 2.4 Accountability
  - 2.5 Openness
  - 2.6 Honesty
  - 2.7 Leadership
- 3 The Code sets out general obligations about the standards of conduct expected of Members and co-opted Members of Knutsford Town Council, together with provisions about registering and declaring interests.

### **2.0 General obligations**

- 4 Whenever you are acting as a Member or co-opted Member of this Parish/Town Council you must act in accordance with the following obligations:

#### *Selflessness*

- 4.1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

#### *Integrity*

- 4.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

#### *Objectivity*

- 4.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- 4.4 You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the Clerk into consideration.

- 4.5 You should exercise independent judgement. Although you may take account of the views of others, you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

#### *Accountability*

- 4.6 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including appropriate scrutiny by local residents.

#### *Openness*

- 4.7 You must be open and transparent where possible about your decisions and actions and the decisions and actions of Knutsford Town Council. You should be prepared to give reasons for those decisions and actions.

#### *Honesty*

- 4.8 You must declare any personal, pecuniary and non-pecuniary interests that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Part 2 below.

- 4.9 You must only use or authorise the use of Knutsford Town Council's resources in accordance with the authority's requirements. You must, when using or authorising the use of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity in force from time to time.

#### *Leadership*

- 4.10 You must promote and support high standards of conduct when serving as a Member of Knutsford Town Council, by leadership and example, championing the interests of the community.
- 4.11 You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

#### *Respect for Others*

- 4.12 You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.

- 4.13 You must not:

- (i) do anything which may cause Knutsford Town Council to breach any equality laws
- (ii) compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, Knutsford Town Council
- (iii) bully <sup>(1)</sup> any person, including other Councillors, officers of Knutsford Town Council or members of the public
- (iv) intimidate or attempt to intimidate any person who is or is likely to be a

complainant, a witness, or involved in the administration of an investigation or proceedings in relation to an allegation that a Member (including yourself) has failed to comply with his or her local council code of conduct.

#### *Information*

- 4.14 You must not 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: (2)
- (i) you have the written consent of a person authorised to give it
  - (ii) you are required by law to do so
  - (iii) the disclosure is made to a professional 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 reasonable, in the public interest; and made in good faith and in compliance with the reasonable requirements of the Parish/Town Council.
- 4.15 You must not prevent another person from gaining access to information to which that person is entitled by law.

#### *Gifts and Hospitality*

- 4.16 You must within 28 days of receipt, notify the Town Clerk in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a Member from any person or body other than the Authority. The Town Clerk will place your notification on a public register of gifts and hospitality.

### **3.0 Registering and Declaring Interests**

#### *Registering and Declaring Interests – General Requirements*

- 5 You must, within 28 days of:
- 5.1 the adoption of this Code
  - 5.2 taking office as a Member
  - 5.3 becoming aware of any new interest not already registered
  - 5.4 becoming aware of any change to any interest already registered

notify the monitoring officer in writing of any disclosable pecuniary interest, or other type of interest as defined by this Code.

- 6 If you become aware of any such interest not already registered (or the subject of pending notification) during the course of any meeting of the authority at which you are in attendance then you must disclose the interest to meeting, take the action required by the Code depending on the nature of the interest and notify the monitoring officer of the interest in accordance with the provisions of this Code.

### *Sensitive Interests*

- 7 A 'sensitive interest' is described in the Localism Act 2011 as an interest the nature of which is such that the Member and the Cheshire East monitoring officer consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation.
- 8 Where you consider that you have a sensitive interest, and the monitoring officer agrees, that part of the register recording that interest will be will not be published or made available for public inspection. A declaration of interests must still be made at a meeting where relevant, but the sensitive information need not be disclosed.

### *Disclosable Pecuniary Interests*

- 9 A disclosable pecuniary interest is defined by statute and is subject to change from time to time.
- 10 Unless dispensation has been granted, if you are present at any meeting of ..... Parish/Town Council and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, you must leave the meeting while any discussion or voting on that matter takes place. You may not participate in any discussion of the matter at the meeting and you may not participate in any vote taken on the matter at the meeting.
- 11 You must not discharge or participate in the discharge of any function related to any matter in which you have a disclosable pecuniary interest.
- 12 Failure to comply with these requirements of the Code may amount to a criminal offence.

### *Other Interests – Personal Interests*

- 13 In addition to disclosable pecuniary interests referred to above, you must also declare personal interests.
- 14 You have a personal interest in any business of the council where the business of the council relates to or is likely to affect 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 Knutsford Town Council.
- 15 You will also have a personal interest in any business of Knutsford Town Council where the business of Knutsford Town Council relates to or is likely to affect any body exercising functions of a public nature, which is directed to charitable purposes or whose principle purposes includes influencing public opinion or policy where you are a member of that body or in a position of general control or management.
- 16 The CE Audit and Governance Committee may, from time to time, prescribe certain bodes the membership of which amounts to a personal interest which parish councils may wish to have regard to.
- 17 You will also have a personal interest in any business of the Knutsford Town Council where a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

- 18 For the purposes of this Code, a relevant person is:
- 18.1 a member of your family or any person with whom you have a close association, or
  - 18.2 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, or
  - 18.3 any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body.
- 19 Unless your personal interest also amounts to a prejudicial interest, a disclosable pecuniary interest or pre-determination, you may remain in the meeting and take part in the debate and vote.

#### *Other Interests – Prejudicial Interests*

- 20 You will have a prejudicial interest if you have a personal interest in any business of the authority and where that personal 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 and where that business:
- 20.1 affects your financial position or the financial position of a relevant person or body described in paragraph 14 or 15 above, or
  - 20.2 relates to the determination of any approval, consent, licence, permission or registration in relation to you or any relevant person or body described in paragraph 14 or 15 above.
- 21 Where you have a prejudicial interest, you may not participate in any discussion of the matter at the meeting or in any vote taken on the matter at the meeting. You are also required to leave the room where the meeting is taking place during the discussion and vote. However you may attend the meeting and make representations, answer questions or give evidence provided that the public are also allowed to attend the meeting for the same purpose and you leave the meeting immediately after having done so.

#### **4.0 Pre-Determination and Bias**

- 22 Separately from considerations as to personal, prejudicial or disclosable pecuniary interests, Members must be mindful of falling foul of the general obligations of this code by taking part in decisions where they are biased or have pre-determined the matter in question.
- 23 Simply put, a Member will be biased or will have pre-determined a matter if they have approached a matter with a closed mind. That is to say if they have made up their mind which way they will decide a matter before all of the relevant considerations are presented and debated in the appropriate decision making forum.
- 24 Previous actions or statements of a Member will not be taken by themselves as proof of predetermination. A Member may be predisposed to a certain point of view, however notwithstanding any predisposition, Members need to be careful to ensure they approach and, insofar as is possible, are seen to approach decisions with an open mind.

- 25 Particular scenarios to be mindful of are where a Member, in some other role, is seen to be a promoter or advocate for a proposal which later comes before them for decision. A risk arises when there has been significant personal involvement in preparing or advocating the proposal such that a Member may become or may be perceived by the public as being no longer able to approach the decision with an open mind.
- 26 If you feel that you have pre-determined a matter you should say so. You should not speak or vote on the proposal. You may, however, make representations on the proposal if a member of the public also has the right to do so. You are not legally obliged to withdraw from the meeting for the remainder of the debate and vote but in most circumstances doing so will counter any suggestion that you influenced the remaining Members by your continued presence. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 27 If in any doubt you should seek advice from the Monitoring Officer, Town Clerk Clerk or ChALC.

## **5.0 Further Information**

- 28 The Monitoring Officer, in consultation with the Chairman of the Cheshire East Council Audit and Governance Committee, will publicise from time to time arrangements for dealing with complaints made against Members that their conduct has breached the requirements of this code.

## **6.0 Dispensations**

- 29 The Town Clerk may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial or disclosable pecuniary interest.

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1. "Bullying" may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes "cyber bullying". It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum and in an appropriate way. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.
  2. It is your responsibility to ensure that any judgement you make in relying on any exception will stand up to rigorous objective scrutiny. In the case of any doubt advice should be sought from the Monitoring Officer or an independent qualified legal advisor.

Extract from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- “M” denotes the relevant Elected Member
- The regulations apply if the disclosable pecuniary interest is yours, your spouse’s or civil partner’s or is the pecuniary interest of somebody with whom you are living as a husband or wife or as if you were civil partners

<b><i>Subject</i></b>	<b><i>Prescribed description</i></b>
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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M.</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(1).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

Land	Any beneficial interest in land which is within the area of the 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 M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either—  (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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



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AWARD SCHEME  
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