

**Part 5.1 - Members’ Code of Conduct**

Members of Winchester City Council have a responsibility to represent the community and work constructively with officers and partner organisations to secure better social, economic and environmental outcomes for all.

**Introduction and Interpretation**

1. This Code applies to you as a member of the City Council (‘the authority’).
2. It is your personal responsibility to comply with it. You should read this Code together with the general principles of public life on which it is based and which are set out at in the Code.
3. In this Code: ‘meeting’ means any meeting of:

a) The authority, the executive, any Committees, Sub-Committee, joint Committee, area or local Committee;

b) Members in formal or informal meetings with other members and/or with officers relating to the business of the authority;

1. ‘Member’ includes a co-opted member and an appointed member.

If you need guidance on any aspect of this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

In accordance with the Localism Act 2011 provisions and the Seven Principles of Public Life (known as the Nolan Principles), when acting in this capacity members must commit to behaving in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in this authority.

**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 material 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.

**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.

The Act further provides for registration and disclosure of interests and in Winchester City Council this will be done as follows. The Monitoring Officer is responsible for maintaining the register of Members’ interests as set out in Section 29 (1) of the Localism Act 2011. Members are required to complete a register of Members’ Interest form which should record the information set out below. In addition, Members have an obligation to declare interests as set out below:

**1. Interests**

1.1 Interests – Disclosable Pecuniary Interests

A Member, present at a meeting of the Council, or any Committee, Sub-Committee, joint Committee or joint Sub-Committee of the Council, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

a) Must not participate in any discussion of the matter at the meeting;

b) Must not participate in any vote taken on the matter at the meeting;

c) Must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;

d) If the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;

e) Must leave the room while any discussion or voting takes place, unless they have requested and obtained a written dispensation from the Council’s Monitoring Officer in advance of the relevant meeting.

**2. Register of interests**

2.1 Disclosable Pecuniary Interests

Within 28 days of becoming a Member of the Council, each Member must register any Disclosable Pecuniary Interests (DPIs) they may have for publication in the Register of Members’ Interests (and notify the Council’s Monitoring Officer of any changes thereafter within 28 days). (See Appendix A to this Code.)

2.2 Non-Pecuniary Interests

Within 28 days of becoming a member of the Council, each member must register any Non-Pecuniary Interests (NPIs) (and notify the Council’s Monitoring Officer of any changes thereafter within 28 days). These are such Non-Pecuniary Interests as from time to time are referred to on the Register of Members’ Interest form. (These requirements are determined by the Council in its discretion or by legislation and statutory guidance. Members may participate in any discussions or debates relating to or concerning any NPIs after the date of registration. (See Appendix A to this Code)

2.3 Further General Guidance

a) Each member must declare any DPIs or NPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.

b) Each member must register, within 28 days, any gifts or hospitality received in accordance with the instructions issued within the Council by the Monitoring Officer.

c) The Council’s Register of Interests will be available for inspection at the Council offices during normal office hours, and will be published on the Council’s website.

**3. Sensitive interests**

Where a Member considers that disclosure of an interest could lead to that Member, or a person connected with them, being subject to violence or intimidation, and the Monitoring Officer agrees, the interest may be excluded from the register. The register may state that the member has an interest, the details of which are withheld.

**4. Member Conduct**

4.1 Each member of Winchester City Council should ensure that their conduct addresses the statutory principles of the code of conduct by:

a) Championing the needs of all residents – the whole community and in a special way their constituents, including those who did not vote for them - and putting the interests of residents first.

b) Dealing with representations or enquiries from residents, Members of our communities and visitors fairly, appropriately and impartially.

c) Not allowing other pressures, including the Member’s financial interests or financial interests of others connected to them, to deter from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.

d) Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way in which the member performs their duties.

e) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

f) Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents.

g) Contributing to making the Council’s decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding members to account, but restricting access to information when the wider public interest or the law requires it.

h) Behaving in accordance with all legal obligations, alongside any requirements contained within the Council’s policies, protocols and procedures, including those relating to the use of the Council’s resources.

i) Valuing member colleagues and officers and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government.

j) Always treating people, organisations and the public with respect.

k) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

l) Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

* 1. Members must not:

a) Do anything which may cause the Council to breach any of the Council’s duties under the Equality Act 2010

b) Bully any person;

Examples of bullying behaviour include:

1. Spreading malicious rumours, insulting someone by word or behaviour
2. Copying memos that are critical about someone to others who do not need to know
3. Ridiculing or demeaning someone – picking on them or setting them up to fail
4. Exclusion or victimisation
5. Unfair treatment
6. Overbearing supervision or other misuse of power or position
7. Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
8. Making threats or comments about job security without foundation
9. Deliberately undermining a competent worker by overloading and constant criticism
10. Preventing individuals progressing by intentionally blocking promotion or training opportunities

c) Intimidate or attempt to intimidate any person who is or is likely to be:

i) A complainant,

ii) A witness, or

iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including myself) has failed to comply with their Council’s code of conduct; or

d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council. For the avoidance of doubt, any breach of the Member /Officer Protocol may be regarded as a breach of this Code.

e) Disclose information provided in confidence by anyone, or information acquired which the member believes, or ought reasonably to be aware, is of a confidential nature, except where:

i) The member has the consent of a person authorised to give it;

ii) The member is required by law to do so;

iii) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

iv) The disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council; or

f) Prevent another person from gaining access to information to which that person is entitled by law

g) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

h) Use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and

i) When using or authorising the use by others of the resources of the Council

1. Act in accordance with the Council’s reasonable requirements;
2. Ensure that such resources are not used improperly for political purposes (including party political purposes).

j) Publically criticise any member or officers’ competence, conduct, judgement or performance of duties.

**5. Contact with external bodies and contractors**

Members should note the following guidance and comply accordingly.

1.1 On occasions, a Member may be involved not only in business meetings of external bodies to which they have been appointed by the Council but also with third party contractors and developers with which the Council has a relationship or is seeking to have one. Members may also be approached by speculative developers. Members must be mindful of the scope and nature of any interventions with which they initiate or are involved in. There is a line between fact finding and awareness raising, and being drawn into a position of negotiating on behalf of the Council. Should the latter occur, or be necessary, the Member should ensure that an appropriate Council officer is in attendance to ensure a consistent and fair approach is taken across the Council. In some scenarios, a Member could potentially jeopardise contractual negotiations already underway or even expose the Council to legal challenge.

1.2 The officer in attendance should take brief notes of the purpose of the meeting, who was in attendance, when and where it took place, what was discussed and a note of actions arising from it. This should be made available to all parties as soon as possible after the meeting, and a central record kept that the meeting took place.

**6. Decision Making**

6.1 When reaching decisions on any matter Members must have regard to any relevant advice provided to them by:

a) The Council's s151 Officer; or

b) The Council’s Monitoring Officer, where that officer is acting pursuant to their statutory duties.

6.2 Members must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

**Appendix A - Part 1.**

Description of categories of Disclosable Pecuniary Interests

A member has a Disclosable Pecuniary Interest in any business of the

Council if it is of a description set out in 1 - 7 below and is either:

a) An interest of the Member

b) An interest of the Member’s spouse or civil partner

c) An interest of a person with whom the Member is living as husband and wife or as civil partners

And, in the case of paragraphs (b) and (c), the Member is aware that they have the interest.

In these descriptions the term “relevant person” is used to mean the individual as Member and any such person as set out in paragraphs b) and c).

1. Any employment, office, trade, profession or vocation carried on for profit or gain.

2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out their duties as a Member, or towards their 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.

3. Any beneficial interest in securities of a body where –

i) That body (to their knowledge) has a place of business or land in the area of the Council and

ii) Either:

a) The total nominal value of the securities exceeds

£25,000 or one hundredth of the total issued share capital of that body; or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

4. Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council:

i) Under which goods or services are to be provided or works are to be executed; and

ii) Which has not been fully discharged.

1. Any beneficial interest in any land in the Council’s area.

6. Any tenancy where to the Member’s knowledge:

a) The landlord is the Council and

b) The tenant is a body in which a relevant person has a beneficial interest.

7. Any licence (alone or jointly with others) to occupy land in the Council’s area for a month or longer.

**Part 2 - Description of categories of Non Pecuniary Interests**

1) Membership of any body of which they are a member or in a position of general control or management and to which they were appointed or nominated by the Council;

2) Membership of any body

a) Exercising functions of a public nature (such as another Local Authority);

b) Directed to charitable purposes; or

c) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which they are a member or in a position of general control or management

d) Any close friend or relative entering or seeking to enter into a contractual arrangement in any capacity with the Council

3) Any person from whom the Member has received a gift or hospitality with an estimated value of at least £50.

**Part 5.2 – Protocol for Member/Officer Relations**

**1. Introduction and Principles**

1.1 The objectives of this Protocol are to guide Members1 and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.

1.2 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.

1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members’ and Employees’ Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.

1.4 This Protocol should be read in conjunction with the Members’ and Employees’ Codes of Conduct, the Council’s Constitution and any guidance issued by the Audit and Governance Committee and/or Monitoring Officer.

1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.

1.6 Details of the resources provided to members and officer will be provided subsequently in a separate document.

1.7 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

**2. The Role of Members**

2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

**1** Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co- opted Members as well as elected Councillors.

2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.

2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority’s policy framework, strategic plans and budget.

2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

2.5 Every Member represents the interests of, and is an advocate for, their ward and individual constituents. They represent the Council in the ward, respond to the concerns of constituents, and often serve on local bodies.

2.6 Some Members have roles relating to their position as members of the Cabinet, Overview and Scrutiny Committees, and other public bodies.

2.7 Members serving on Scrutiny Committees monitor the effectiveness of the Council’s policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.

2.8 Members who serve on other Committees and Sub-Committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.

2.9 Some Members may be appointed to represent the Council on local, regional or national bodies.

2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.

2.11 Members are not authorised to instruct officers to undertake work or disclose information other than:

a) Through the formal decision-making process where for example the individual member has a need to know or a role in the decisions to be made under delegated powers;

b) To request the provision of consumable resources provided by the Council for Members’ use4.

2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Where the Council is conducting negotiations formally or having informal discussions with a view to financial transactions, it is not appropriate for individual members to conduct parallel discussions outside the remit conducted by officers and nominated members under delegated powers.

2.13 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.

2.14 Members must have due regard to the impartiality and integrity of the authority’s statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change their professional advice or making public criticism of officers without first referring the matter to the officer’s line manager and following the Council’s procedures.

2.15 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance. Members should take into account that where officers are involved in commercial transactions at a preliminary to or part of delegated decision making then it is not open to an individual member to conduct parallel discussions or negotiations or to seek disclosure of financial information where there is not a demonstrated need to know that relates to the member’s specific exercise of their Councillor duties in each case.

**3. The Role of Officers**

3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors. Officers will inform ward members of any Local Authority meeting, consultation or officer meetings relevant to their ward.

3.2 Under the direction and control of the Council, officers manage and provide the Council’s services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council’s constitution, and duly minuted.

3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council’s formal decisions.

3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers’ involvement in political activities.

3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

**4. The Relationship**

4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council’s work under the direction and control of their line manager and the Council. Accordingly, where officers are implementing Council decisions, it is inappropriate for individual members to seek to instruct officers to conduct work outside the remit of the delegated decision being implemented or on parallel proposals initiated by the individual member.

4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other’s roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.

4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers**.** To protect both Members and officers, officers should address Members as ‘Councillor X/Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Portfolio Holder.

4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long- standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.

4.8 A Member who feels they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an officer should:

a) Avoid personal attacks on, or abuse of, the officer at all times,

b) Ensure that any criticism is well founded and constructive,

c) Never make a criticism in public, and

d) Take up the concern with the officer privately.

4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, they should raise the matter with the respective Strategic Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council’s Disciplinary Rules and Procedures.

4.10 Robust challenge is important in ensuring that policies and service performance are meeting the Council’s strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Committee except in relation to Council functions. A Scrutiny Committee may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.

4.11 Where an officer feels that they have been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, they should raise the matter with their Director5, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

**5. Breaches of the Protocol**

5.1 In relation to Members, failure to comply with the Members’ Code of Conduct may lead to a complaint to the Monitoring Officer, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

5.2 Allegations of breaches by officers will be referred to the employee’s line manager for consideration of appropriate action including disciplinary investigation under the Council’s Disciplinary Rules.

**6. Monitoring and Interpretation**

6.1 The Monitoring Officer will report to the Council regarding any proposals for amendment to this protocol.

6.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.