

Code of Conduct for Members of Swynnerton Parish Council

INTRODUCTION

This Code applies to you as a member of this Council when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

You are a representative of this Council and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council.

INTERPRETATION

In this Code—

“meeting” means any meeting of—

- (a) the Council;
- (b) any of the Council’s committees or sub-committees, whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

“member” includes a co-opted member and an appointed member.

“disclosable pecuniary interest” means an interest defined as such by regulations made for that purpose under the Localism Act 2011.

GENERAL PRINCIPLES

The following principles of conduct in public life are set out in the Localism Act 2011 as the basis of the Code of Conduct and members should have regard to them in their conduct as members of the Council:-

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership

GENERAL OBLIGATIONS

1 When acting in your role as a member of the Council:-

1.1 **Do** treat others with respect.

1.2 **Do not** conduct yourself in a manner which is contrary to the Council’s duty to promote and maintain high standards of conduct of members.

1.3 **Do 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—

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional *legal* advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is—
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted the Monitoring Officer prior to its release; or

1.4 **Do not** prevent another person from gaining access to information to which that person is entitled by law.

2 When using or authorising the use by others of the resources of the authority—

- 2.1 **Do** act in accordance with the Council's reasonable requirements including the requirements of the Council's Information Systems Policy, copies of which have been provided to you and which you are deemed to have read;
- 2.2 **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
- 2.3 **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

GIFTS AND HOSPITALITY

- 3 There is no requirement for you to declare or register any gifts and hospitality. In deciding whether to accept a gift or hospitality a member should consider what a member of the public would think about the gift. If a member of the public might think that the gift or hospitality was given to influence a decision or to gain some benefit from the member's actions it should not be accepted. The following is guidance on what may or may not be acceptable:-
- Modest gifts or hospitality in the context of meetings, conferences or events where it is offered to all or a range of participants is acceptable.
 - Lavish or repeated hospitality, particularly if given only to a member or the members family is unacceptable.
 - Small gifts in thanks for assistance given are acceptable.
 - A gift or hospitality given in anticipation of a decision of the Council by a person interested in the outcome of the decision is unacceptable.
 - A gift or hospitality given after a decision of the Council by a person who has benefitted from the decision is unacceptable.

INTERESTS

4 Notification of interests

- 4.1 In addition to the disclosable pecuniary interests under the Localism Act 2011, you must, within 28 days of this Code being adopted by the Council; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your personal interests, where they fall within the following descriptions, for inclusion in the register of interests:-
- (i) 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;
 - (ii) any body of which you are a member or in a position of general control or management exercising functions of a public nature;
 - (iii) any body of which you are a member or in a position of general control or management directed to charitable purposes;
 - (iv) any body of which you are a member or in a position of general control or management 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; or
- 4.2 You must within 28 days of becoming aware of the relevant facts notify the Monitoring Officer in writing if you have a personal interest in a matter of business of the Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward affected by the decision
- 4.3 A relevant person for the purpose of this Code is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in paragraph 4.1(i)-(iv)

4.4 You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph 4.1, or registered as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

5 Disclosure of interests

5.1 Subject to sub-paragraphs 5.2 to 5.3, where you have a personal interest described in paragraph 4.1 to 4.4 above in any business of the Council, and where you are aware or ought reasonably to be aware of its existence, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

5.2 Where you have a personal interest but, by virtue of paragraph 7, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

5.3 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

6 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the Council's website.

7 Sensitive interests

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

8 Non participation in case of pecuniary interest

8.1 Where you have a personal interest in any business of the Council you also have a pecuniary interest in that business where the interest is one which:-

(a) affects the financial position of you or a relevant person; or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any relevant person; and

a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest.

8.2 Subject to paragraph 8.3 and 8.4, where you have a pecuniary interest in any business of the Council—

(a) You may not participate in any discussion of the matter at the meeting.

(b) You may not participate in any vote taken on the matter at the meeting.

(c) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days. Note: In addition Standing Order 58 requires you to leave the room where the meeting is held while any discussion or voting takes place.

8.3 Where you have a pecuniary interest in any business of the Council which is not a disclosable pecuniary interest, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

8.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of the Council in respect of—

- (i) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
- (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iii) an allowance, payment or indemnity given to members;
- (iv) any ceremonial honour given to members; and
- (v) setting council tax or a precept under the Local Government Finance Act 1992.

8.5 Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

9 Pre-determination or bias

9.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however **Do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

9.2 When making a decision, **Do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

Re-adopted by Swynnerton Parish Council August 2020

DISCLOSABLE PECUNIARY INTERESTS

This is not part of the Code of Conduct but is an explanation of the law on Disclosable Pecuniary Interests under the Localism Act 2011. Breach of these provisions is not dealt with as a breach of the Code of Conduct but by the criminal law. Breaches of the law may also be breaches of the Code of Conduct and if no action is taken under the criminal law action may be taken on the breach of the Code.

This note explains the requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July 2012.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

'Disclosable pecuniary interest' - Any employment, office, trade, profession or vocation carried on for profit or gain

'Sponsorship' - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992

'Contracts' - 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—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

'Land' - Any beneficial interest in land which is within the area of the relevant authority

'Licences' - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer

'Corporate tenancies' - Any tenancy where (to 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.

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;
“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
“M” means the person M referred to in section 30 of the Act which reads;

30 Disclosure of pecuniary interests on taking office

(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.

(2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.

(3) For the purposes of this Chapter, a pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either—

(a) it is an interest of M's, or

(b) it is an interest of—

(i) M's spouse or civil partner,

(ii) a person with whom M is living as husband and wife, or

(iii) a person with whom M is living as if they were civil partners,

and M is aware that that other person has the interest.

(4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

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

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

2 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 Non participation in case of disclosable pecuniary interest

(A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting.

2. You may not participate in any vote taken on the matter at the meeting.

3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Order 58 requires you to leave the room where the meeting is held while any discussion or voting takes place.

(B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5 Dispensations

The authority 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 disclosable pecuniary interest.

6 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.