

Localism Act 2011

Promoting and Maintaining High Standards of  
Conduct in Local Government

## **CODE OF MEMBER CONDUCT**

adopted by  
Ongar Town Council  
at its meeting on 19<sup>th</sup> March 2015  
and 2 June 2016

## **COUNCILLOR CODE OF CONDUCT**

### **PART 1 GENERAL PROVISIONS**

#### **Introduction and interpretation**

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

This Code as a whole is consistent with the “Nolan Principles” which are set out in Appendix 1 and the provisions of S29(1) Localism Act 2011

In this Code-

“meeting” means any meeting of:

- (a) the authority
- (b) the Executive of the authority
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees or areas committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members
- (d) any briefings by officers and site visits organised by the authority

“relevant period” means the period of 12 months ending with the day on which you give notification to the authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“profit or gain” includes any payments or benefits in kind which are subject to Income Tax.

“beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale

“member” includes a co-opted member.

#### **1. Who does the Code apply to?**

- (1) This Code applies to all members of Ongar Town Council, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

## **2. What does the Code apply to?**

- (1) You must comply with this Code whenever you –
  - (a) conduct the business of your authority, or
  - (b) you are acting as a representative of your authority,
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of your authority -
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **3. General obligations**

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not –
  - (a) do anything which may cause your authority to breach any of the equality enactments
  - (b) bully any person;
  - (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 yourself) has failed to comply with his or her authority'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, your authority.

#### **4. Confidential Information**

You must not --

- (a) 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 advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is--
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (c) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. Conferring and advantage or disadvantage**

You --

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority -
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## PART 2 MEMBERS INTERESTS

### 6. Disclosable Pecuniary Interests

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours
- (b) An interest of your spouse
- (c) An interest of your civil partner
- (d) An interest of a person you are living with as a spouse or civil partner

And in the case of paragraphs 6.1 (b) – 6.1 (d) (“relevant persons”) where you are aware that that relevant person has the interest

6.2 It relates to or is likely to affect:

- i. Any employment, office, trade, profession or vocation carried on by you or a relevant person for profit or gain;
- ii. Any payment or provision of any other financial benefit (other than from your authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 other than from a registered political party;
- iii. Any beneficial interest in securities of a body where-
  - 1. that body (to your knowledge) has a place of business or land in the area of your authority and
  - 2. 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. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class
- iv Any contract for goods, services or works which has not been fully discharged between you or a relevant person and your authority or a body in which you or they have a beneficial interest;
- v. A beneficial interest in any land in your authority's area

- vi. any tenancy where to your knowledge (a) the landlord is your authority and (b) the tenant is a body in which you or a relevant person has a beneficial interest
- vii. a licence of any land in your authority's area (alone or jointly with others) that you or a relevant person occupy for a month or longer;

## **7. Other Pecuniary Interests**

- 7.1 You have a pecuniary interest in any business of your authority where either it relates to or is likely to affect:
- i. any person or body who employs or has appointed you; or
  - ii. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(iii) which has been fully discharged within the last 12 months;

## **8. Non-Pecuniary Interest**

- 8.1 You have a non-pecuniary interest in any business of your authority where either:-
- (a) it relates to or is likely to affect-
- 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 your authority;
  - ii. any body-
    - 1. exercising functions of a public nature;
    - 2. directed to charitable purposes; or
    - 3. 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;
  - iii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
  - iv. a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
    - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

- (b) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's areas

## **9. Disclosure of Interests**

- 9.1 Subject to sub-paragraphs 9.2 to 9.6, where you have a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your register of Interests or for which you have made a pending notification
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary or non pecuniary interest
- 9.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 14 (sensitive interests) details of the interest are not registered in your authority's published register of members' interest and that the interest is a disclosable pecuniary interest (if that is the case) but you need not disclose the nature of the interest to the meeting
- 9.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 9.5 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 9.1 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
- 9.6 In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

## **10. Disclosure of Interests generally**

- 10.1 Subject to sub-paragraph 10.2 where you have a pecuniary interest in any business of your authority you also have a disclosable pecuniary interest in that business where the 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 judgment in the public interest.
- 10.2 You do not have a disclosable pecuniary interest in any business of your authority where that business-

- i. does not affect your financial position or the financial position of a person or body described in paragraph 8.1 (a) i. and ii.;
- ii. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8.1 (a) i and ii; or
- iii. relates to the functions of your authority in respect of-
  - a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - c) 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;
  - d) an allowance, payment or indemnity given to members;
  - e) any ceremonial honour given to members; and
  - f) setting council tax or a precept under the Local Government Finance Act 1992

## **11. Effect of Disclosable Pecuniary Interests on participation**

11.1 You may not-

- a. if present at a meeting of the authority or of any committee, sub- committee, joint committee or joint sub-committee of the authority and
- b. you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and
- c. you are aware that sub-paragraph 11.1.b is met:
  - i. participate, or participate further, in any discussion of the matter at the meeting, or
  - ii. participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the authority's proper officer
- d. exercise executive functions in relation to that business and
- e. seek improperly to influence a decision about that business

11.2 If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable

the matter to be dealt with otherwise than by yourself).

11.3 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority 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 you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-

11.3.1 Disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3)

11.3.2 Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority's proper officer in a case where paragraph 11.3 applies immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority's proper officer.

## PART 3 REGISTER OF MEMBERS' INTERESTS

### 12. Registration of Members' Interests

Subject to paragraph 13, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. disclosable pecuniary interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time
  - ii. pecuniary interests referred to in paragraph 7 that you have
- (c) Subject to paragraph 13, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any disclosable pecuniary interest registered under paragraphs 12. i. or ii above

by providing written notification to your authority's Monitoring Officer.

### 13. Sensitive Information

- 13.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 13.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 13.1 is no longer sensitive information, notify your authority's monitoring officer
- 13.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

## **CODE OF CONDUCT**

### **APPENDIX 1**

#### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

##### **SELFLESSNESS**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

##### **INTEGRITY**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

##### **OBJECTIVITY**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

##### **ACCOUNTABILITY**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

##### **OPENNESS**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

##### **HONESTY**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

##### **LEADERSHIP**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.