

# SOUTHWATER PARISH COUNCIL

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## Members' Code of Conduct

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ADOPTED: November 2012

# **SOUTHWATER PARISH COUNCIL**

## **CODE OF MEMBERS' CONDUCT**

### Part 1

#### General provisions

#### **Introduction and interpretation**

This Code of Members' Conduct ('Code') is made under section 27(2) of the Localism Act 2011 and was adopted by Southwater Parish Council on 25th July 2012.

- 1(1) This Code applies to you as a member of Southwater Parish Council.
- 1(2) You should read this Code together with the general principles of public life referred to in section 28(1) of the Localism Act 2011 and set out in Part 5 of this Code.
- 1(3) It is your personal responsibility to comply with the provisions of this Code.
- 1(4) In this Code—  
'meeting' means any meeting of—  
(a) the authority;  
(b) the executive of the authority;  
(c) any of the authority's committees, or its executive's committees, sub-committees, joint committees, joint sub-committees or area committees;  
(d) members formal or informal meetings with other members and/or with officers relating to the business of the authority.  
'member' includes a co-opted member and an appointed member;  
'register of member's interests' means the authority's register of member's pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011;  
'the authority' or 'your authority' means Southwater Parish Council.
- 1(5) If you need guidance on any aspect of this code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.

## Scope

- 2(1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—
- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,
- and references to your official capacity are construed accordingly.
- 2(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2(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 in so far as it conflicts with any other lawful obligations to which that other body may be subject.
- 2(4) It is a criminal offence, without reasonable excuse, (a) to fail to notify the authority's monitoring officer of a disclosable pecuniary interest (as defined in paragraph 13(1) of this Code, (b) to fail to disclose such an interest at a meeting (where it is not registered or notified), (c) to fail to notify the monitoring officer of such an interest that is not on the register that you have disclosed at a meeting, (d) to take part in discussions or votes at meetings with such an interest, or (e) to take a decision where you have a disclosable pecuniary interest. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.
- 2(5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code the authority has the right to have regard to this failure in deciding (a) whether to take action and (b) what action to take in relation to you.

## General obligations

- 3(1) You must treat others with respect.
- 3(2) You must not—
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in the Equality Act 2010);
  - (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 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
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

- 6 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.
- 7(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- 7(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **PART 2**

### **Personal and Prejudicial Interests**

#### **Personal interests**

- 8(1) You have a personal 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—

- (aa) exercising functions of a public nature;
- (bb) directed to charitable purposes; or
- (cc) 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;

**OR**

- (b) 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 division or ward, as the case may be, affected by the decision.

8(2) In sub-paragraph (1)(b), a relevant person 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 person or 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 sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of Personal interests**

9(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority described in paragraph 8 above and you attend a meeting of your authority 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.

- 9(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9(5) Where you have a personal interest but, by virtue of paragraph 16, 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.
- 9(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority 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(7) In this paragraph 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under part 1A chapter 2 sections 9C -9GC of the Local Government Act 2000 (as inserted by the Localism Act section 21 and schedule 2).

### **Prejudicial interest generally**

- 10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial 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 judgement of the public interest.

- 10(2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) 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; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) 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;
    - (iii) 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;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- 10(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

**Prejudicial interests arising in relation to overview and scrutiny committees**

- 11 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—



- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

- 12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;  
unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- 12(2) Where you have a prejudicial interest in any business of your authority, which is not a Disclosable Pecuniary Interest as described in paragraph 13 of this Code and defined in section 30 of the Localism Act 2011, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.

## **PART 3**

### **Disclosable Pecuniary Interests**

#### **Disclosable Pecuniary Interests**

- 13(1) Subject to sub-paragraphs (2) and (3) you have a Disclosable Pecuniary Interest in any business of your authority (as defined by section 30 of the Localism Act 2011) in relation to you or your partner where it relates to or is likely to affect any of the matters within the descriptions set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464.
- 13(2) In sub-paragraph (1) your partner means:
- (a) your spouse or civil partner;
  - (b) a person with whom you are living as husband and wife; or
  - (c) a person with whom you are living as if you were civil partners.
- 13(3) In sub-paragraph (2) any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.
- 13(4) A list of the descriptions of Disclosable Pecuniary Interests referred to in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464 is set out in Part 6 of this Code.
- 13(5) There are criminal offences in relation to action you may take or fail to take concerning Disclosable Pecuniary Interests which are outlined in paragraph 2(4) of this Code and more particularly defined in section 34 of the Localism Act 2011.

#### **Disclosure of Disclosable Pecuniary Interests**

- 14(1) Subject to sub-paragraph (2) where you have a Disclosable Pecuniary Interest in any business of your authority and you attend a meeting of your authority 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.

- 14(2) Where you have a Disclosable Pecuniary Interest in any business of your authority you need only disclose to the meeting the existence and nature of the interest if the interest is not already registered on your register of member's interests.
- 14(3) If the Disclosable Pecuniary Interest is not already on your register of member's interests or the subject of a pending notification to the monitoring officer and is disclosed to the meeting you must notify the monitoring officer of the interest within 28 days of disclosure to the meeting.

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

- 15(1) Where you have a Disclosable Pecuniary Interest in any business of your authority:
- (a) you must not participate or participate further in any discussions of the matter at a meeting; or
  - (b) participate in any vote or further vote taken on the matter at the meeting; and
  - (c) must withdraw from the room or chamber where the meeting considering the matter is being held;
- unless you have received a dispensation from the monitoring officer or the standards committee.
- 15(2) You may participate in any business of your authority that 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.”

## **PART 4**

### **Registration of Members' Interests**

#### **Registration of members' interests**

- 16(1) Subject to paragraph 17, you must, within 28 days of—
  - (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 29 of the Localism Act 2011) details of (i) your personal interests where they fall within a category mentioned in paragraph 8(1)(a) and (ii) your Disclosable Pecuniary Interests where they fall within a category in paragraph 13, by providing written notification to your authority's monitoring officer.
- 16(2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new personal interest or Disclosable Pecuniary Interest or change to any personal interest or Disclosable Pecuniary Interest registered under paragraph (1), register details of that new personal interest or Disclosable Pecuniary Interest or change by providing written notification to your authority's monitoring officer.
- 16(3) You must within 28 days (beginning with the date of the disclosure at the meeting) provide written notification to your authority's monitoring officer of any Disclosable Pecuniary Interests disclosed at a meeting which is not already on the register or subject to a pending notification.
- 16(4) Any interests notified to the authority's monitoring officer will be included on the register of member's interests.
- 16(5) A copy of the register of member's interests will be available for public inspection and will be published on the authority's website.

#### **Sensitive information**

- 17(1) Where you consider that the information relating to any of your interests is sensitive information, and your authority's monitoring officer agrees, you

need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 16.

- 17(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- 17(3) In this Code, 'sensitive information' means information whose availability for inspection by the public could lead to you or a person connected with you being subject to violence or intimidation.
- 17(4) The published register may state you have a personal or disclosable pecuniary interest details of which have been withheld under section 32(2) of the Localism Act 2011.

## **PART 5**

### **The General Principles of Public Life**

The general principles governing your conduct under section 28(1) of the Localism Act 2011 are set out below:

#### *Selflessness*

- 1 Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### *Integrity*

- 2 Members should not 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*

- 3 Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *Accountability*

- 4 Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

### *Openness*

- 5 Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### *Honesty*

- 6 Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour.

### *Leadership*

- 7 Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## **PART 6**

### **The categories of Disclosable Pecuniary Interest under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464.**

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) within the following descriptions:

Interest	Description
Employment, office, trade, profession or vocation	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” excludes 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 a member of a relevant authority;

“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) or section 31(7), as the case may be, 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.

## EXPLANATORY NOTE

### (This note is not part of the Code)

The code of members’ conduct sets out the conduct which is expected of members and co-opted members of the authority.

**Paragraph 1** of the Code provides that the Code applies to any member of the authority and that it is the personal responsibility of each member to comply with the Code.

**Paragraph 2** of the Code provides that the Code applies whenever a member is acting in his or her official capacity. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority’s code, unless he or she is subject to another relevant authority’s code, or unless (in relation to any other body) it conflicts with any other legal obligations. There are also criminal offences in relation to the disclosure of pecuniary interests which are outlined in paragraph 2.



**Paragraph 3** of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimidate persons involved in code of conduct cases.

**Paragraph 4** of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

**Paragraph 5** of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

**Paragraph 6** of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

**Paragraph 7** of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

**Paragraph 8** of the Code provides a list of matters which constitute a personal interest.

**Paragraph 9** of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

**Paragraph 10** of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

**Paragraph 11** of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

**Paragraph 12** of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a

dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

**Paragraph 13** of the Code provides details of matters which constitute a disclosable pecuniary interest. Further definition is provided in Part 6 of this Code.

**Paragraph 14** of the Code provides that generally a member with a disclosable pecuniary interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered. Exceptions apply where the interest is already registered.

**Paragraph 15** of the Code provides that a member with a disclosable pecuniary interest must not participate in any discussion or participate in any vote on the matter and must withdraw from the meeting considering the matter.

**Paragraph 16** of the Code provides that a member must notify the monitoring officer of his or her personal interests and disclosable pecuniary interests and any change to those interests must also be notified. Separate notification is required to the monitoring officer where a disclosable pecuniary interest is disclosed at a meeting which is not already on the register or subject to a pending notification.

**Paragraph 17** of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public could lead to the member or a person connected with the member being subject to violence or intimidation.

\* means the member should consult the Chief Executive (Head of the Paid Service), Director of Corporate Resources (Chief Finance Officer) or the Monitoring Officer before taking a decision on whether or not to disclose confidential information.