



**DULVERTON**

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# **PART 1 – THE CODES PROTOCOLS and ADVICE**

## **A – MEMBERS’ CODE OF CONDUCT**

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## CODE OF CONDUCT

Dulverton Town Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members. Each member of the Council must therefore comply with this code whenever acting in an official capacity.

Your actions impact on how the Council is viewed by the public. It is important that you do not do anything when undertaking your duties something you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct. This code is based upon the Principles of Public Life:

- Selflessness** You must act solely in the public interest and should never improperly confer an advantage on any person or act to gain financial or other material benefits for you, your family a friend or close associate.
- Integrity:** You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- Objectivity:** When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- Accountability:** You are accountable for your decisions and actions to the public, and you must co-operate fully with whatever scrutiny is appropriate to your office.
- Openness:** You must be open as possible about your decisions and actions and the decisions and actions of your Council and should be prepared to give reasons for those decisions and actions.
- Honesty** You must declare any private interests both pecuniary and non-pecuniary that relates to your public duties. You must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming to the procedures set out in the following appendices.
- Leadership** You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and by example.

### Your conduct will in particular address the following statutory principles:

- When using or authorising the use by others of the resources of your council, ensure that such resources are not used improperly for any purpose. You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

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- Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing the interests of and the good governance of the Council in a proper manner.
- Exercise independent judgment at all times. Do not use your position as a member improperly by placing yourself under obligations to individuals or organisations who might seek to influence the way you perform your duties.
- When reaching decisions on any matter consider advice provided by your Councils Clerk (Proper Officer) in accordance with his or her statutory duties. Consider all relevant information but remain objective and only make decisions on merit.
- Behave in accordance with all legal obligations, alongside any requirements contained within the Councils policies, protocols and procedures including the use of the Councils resources which prohibit the use of such resources for personal purposes.
- Avoid doing anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149, Equality Act 2010)
- Avoid doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- Do not disclose any confidential information, except:
  - > with the consent of the person authorised to give it; **or**
  - > if you are required by law to do so; **or**
  - > 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. **or**
  - > the disclosure is reasonable and in the public interest, made in good faith and in compliance with the reasonable requirements of the Council.
  - > you have consulted the Monitoring Officer prior to its release.
- Do not bully, always treat others with respect.
- Do not prevent another person from gaining access to information to which that person is entitled to by law.
- Do not conduct yourself in a manner which could reasonably be regarded as bringing your Council into disrepute.

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- Do not intimidate or attempt to intimidate anyone who is involved with a complaint with the Council's Code of Conduct. For example a complainant, witness or anyone involved in the administration of any investigation or proceedings, or any other person carrying out the functions of the Council.

### **Declaration of pecuniary interests (s.30 Localism Act 2011)**

You must, within 28 days of taking office as a Member or co-opted Member, disclose and register any disclosable pecuniary interests with the councils Monitoring Officer as defined by regulations made by the Secretary of State. This applies to your pecuniary interest as well as your spouse or civil partner or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

Sitting councillors must also inform the Monitoring Officer within 28 days of any changes. For example, disclosable pecuniary and non-pecuniary interests as well as those interests that are sensitive or ones no longer sensitive.

Where any business of the Council relates to or affects a disclosable pecuniary interest whether registered or not, will always be a bar to your participation in a meeting, unless you obtain a dispensation or the interest is sensitive. When attending meetings ***you must:***

- Withdraw from the room immediately or (later) when the interest becomes apparent to you.
- Not seek to influence any decision about that business.
- Disclose to the meeting the existence and nature of that interest no later than at the start of the item of business in which you have that interest, or (if later) the time at which the interest becomes apparent to you.

It is a legal obligation to make the register available for inspection to the public. It will also appear on the websites of both Dulverton Town Council and West Somerset Council.

### **Sensitive Interests**

A sensitive interest is one which the member **and** the Monitoring Officer consider that disclosure of its details could lead to the Member, or a person connected to the Member, being subjected to violence or intimidation. Copies of the published version of the register will exclude details of that interest although the register may state that you have an interest but the details are withheld under Section 32 (2).

At meetings a Member only needs to disclose the fact of an interest not the details.

### **Receipts of gifts and hospitality**

You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25, which you have accepted as a Member from any person or body other than the Council. Such details will be placed on the Public Register of gifts and hospitality.

**Declaration of non-pecuniary interests  
(DCLG, Openness & transparency 2013)**

Your non-pecuniary interests must be guided by the Principle of Integrity – that ‘Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work’.

Your registration of non-pecuniary interests must be guided by this duty and given to the Monitoring Officer within 28 days of being elected/co-opted, along with any other information which you consider should be entered in the register. A copy of the register will be available for public inspection and will be published on the websites of Dulverton Town Council and West Somerset Council.

Sitting councillors must also inform the Monitoring Officer within 28 days of any changes to their non-pecuniary interests as well as interests that are now sensitive or ones that are no longer sensitive.

When attending a meeting of the Council and you are aware of a non-pecuniary interest that is going to be discussed at that meeting, you must disclose to that meeting the existence and nature of that interest at the start of the meeting, or when the interest becomes apparent to you. This declaration also relates to a relevant person.

If you have a non-pecuniary interest that is registered as ‘sensitive’, you must inform the meeting that you have a non-pecuniary interest, but need not disclose the sensitive information to the meeting.

***If you have a non-pecuniary interest or any other conflict of interest which relates to an item to be discussed at a committee of which you are a Member, you must consider if that interest is likely to be seen as prejudicing your impartiality or ability to meet the Principles of Public Life.***

You have a **non-pecuniary interest** in any business of the Council if it relates to or is likely to affect the following:

- A body of which you are a member or in a position of general control or management to which you have been appointed by the Council.
- A body exercising functions of a public nature.
- A body established for charitable purposes.
- a body whose principle purposes include influence of public opinion or policy or which, in your view, might create a conflict of interest in carrying out your duties as a Member of this Council (e.g. political party, trade union, a professional association etc), of which you are a member or in a position of general control or management.

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- a decision in relation to any business of the Council that might reasonably be regarded as affecting your well-being or financial position **or** the 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, as the case may be, affected by the decision.
- You must register the receipt of any gift or hospitality to the value of more than £25 per year and the identity of the donor of such gift or hospitality.

**Disclosure of interests and withdrawal from meetings.  
(s.31 Localism Act 2011)**

The duty to disclose **ALL** interests in meetings arises when you attend any meeting of the full council or any sub-committees.

If you have a disclosable pecuniary interest **or** have predetermined the matter that is being discussed **or** you appear biased in a matter being considered, for example, a committee member or a trustee, **you must leave the room whilst the item is being discussed**, unless you have obtained a dispensation allowing you to speak and/or vote.

If you have a disclosable pecuniary interest in any business discussed at a meeting of the council, and you wish **to make representations** or answer questions or give evidence at that meeting you may attend to do so. **However, after making your representation you must leave the room immediately**

*If you have a non-pecuniary interest or any other conflict of interest, which relates to an item to be discussed at a committee of which you are a member, you must consider if that interest is likely to be seen as prejudicing your impartiality or ability to meet the principles of public life. If so you must leave the room whilst the item is being discussed.*

You cannot avoid the need to disclose merely by withdrawing during from that part of the meeting when the matter that you have a disclosable pecuniary interest in is being discussed. If you attend any part of the meeting, you must have made or make the disclosure. Failure to do so is a criminal offence.

You must notify the Monitoring Officer in writing within 28 days of all interests so that it can be placed on the register.

A copy of the register will be available for public inspection and will be published on the websites of both Dulverton Town Council and West Somerset Council.

**Criminal Offence  
(s.34 Localism Act 2011)**

It is a criminal offence if you fail to comply with the requirements under s30 or s31 Localism Act 2011, to register or declare disclosable pecuniary interests, or take part in council business at meetings or when acting alone. For example:

- Failure to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of being elected.
- Failure to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- Failure 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.
- To participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- In discharging a function by acting alone and having a disclosable pecuniary interest **AND** failing to notify the Monitoring Officer.
- Knowingly or recklessly provide information that is false or misleading.

If you breach any of the above the Director of Public Prosecutions will disqualify you from being a Member of the Council for up to 5 years. In addition you will incur a penalty up to £5,000.

## Definitions of disclosable pecuniary interests

A person's disclosable pecuniary interests are your *business and financial interests*. For the purposes of the register, you need to declare, not only your own interests but also those of your spouse or civil partner, a person with whom you are living as husband and wife and a person with whom you are living as if you are civil partners. The need to declare only arises if you are aware that the other person has the interest. You are not under a legal obligation to ask.

- **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 financial benefit (other than from Dulverton Town Council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards 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.
- **Contracts**  
Any contract which is made between the Member and a body in which he has a beneficial interest (this includes directors) and Dulverton Town Council:
  - > under which goods or services are to be provided or works are to be executed **and** that has not been fully discharged.
- **Land**  
Any beneficial interest in land which is within the area of Dulverton Town Council.
- **Licences**  
Any licence (alone or jointly with others) to occupy land in the area of Dulverton Town Council for a month or longer.
- **Corporate tenancies**  
Any tenancy where (to your knowledge), the landlord is Dulverton Town Council or the tenant is a body in which a significant person has a beneficial interest.
- **Securities**  
Any beneficial interest in securities of a body where:
  - > That body (to your knowledge) has a place of business or land in the area of Dulverton; **and**

- > the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; **or**
- > 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 are subject to the following definitions:**

- **The Act:** the Localism Act 2011.
- **Body in which the relevant person has a beneficial interest:** 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 (along or jointly with another) to occupy the land or to receive income.
- **M:** a member of a relevant authority.
- **Member:** includes an appointed member and a co-opted member.
- **Relevant authority:** Dulverton Town Council of which M is a member.
- **Relevant period:** 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 M's spouse or civil partner or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners.
- **Securities:** 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 within a building society.
- **Meeting** means any meeting of the full council and/or sub-committees.
- **Bullying** means offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power.
- **Disrepute** means a lack of good reputation or respectability which can be reasonably regarded as reducing the public's confidence in that member being able to fulfil their role or adversely affecting the reputation of members generally in being able to fulfil.

## Predetermination

As a Member of Dulverton Town Council you must:

- Not have had, or to appear to have had a closed mind when making a decision if:
  - > the decision maker had previously done anything either directly or indirectly, indicating what view the decision maker took or would or might take in relation to a matter **and**
  - > the matter was relevant to the decision.
- If a Member has given a view on an issue this alone does not show that s/he has a closed mind on that issue.
- If a Member has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it **provided they do not have a closed mind.**

However, decisions are rarely challenged on the basis of predetermination alone; other factors can be:

- that the decision is irrational and failed to take relevant consideration into account **or**
- have taken an irrelevant consideration into account **or**
- have not consulted properly **or**
- have breached the principles of natural justice **or**
- have not had due regard to equality duties.

The general position remains that Members must approach decision-making with an open mind. Regard must be given to all material considerations and Members must be prepared to change their views if persuaded, otherwise decisions would still be open to challenge.

Members need to be aware that they must continue to ensure they avoid the appearance of bias and predetermination, notwithstanding that an interest under Dulverton Town Councils Code does not arise. If Members have any doubts, please seek advice from the Clerk.

### **How to obtain a dispensation**

If you seek a dispensation from a disclosable pecuniary interest (appendix 4) you must make a written request to the Clerk of the Council.

The Clerk of Dulverton Town Council may grant a dispensation to a Member to allow them to participate in a discussion and vote on a matter at a meeting even if s/he had a disclosable pecuniary interest if:

- The business of Dulverton Town Council or its committees would be impeded due to lack of members unable to vote.
- that granting the dispensation is in the interests of persons living in the council area.
- the council considers it appropriate to grant a dispensation for other reasons.

A dispensation must specify the period for which it has been given but it would be for a maximum of four years.

## **Arrangements for dealing with breaches of the Code of Conduct**

Complaints in respect of the Code should be made in writing to the Monitoring Officer at West Somerset Council. See West Somerset Councils website at:  
<http://www.westsomersetonline.gov.uk/Council---Democracy/Councillors/Complaints-about-a-Councillor>

The Council's arrangements for dealing with the breach will be proportionate to the complaint and will be timely and effective.

When a complaint is received the Monitoring officer will undertake an initial assessment in consultation with the Standards Committee. They will decide whether a complaint requires a formal investigation or any other action.

The Monitoring Officer must consult with the Independent Person before he makes a decision on an allegation that he has decided requires investigation.

The Monitoring Officer will inform you of his decision in relation to the complaint.

If you are unhappy with this decision there is no further right of appeal to the Council. It is, however, possible to write to the Local Government Ombudsman.

The Local Ombudsman acts as an independent 'referee' in disputes between individuals and their local councils. The Ombudsman is appointed by Government to investigate complaints of maladministration by local authorities.

*Note: Standing Orders Item 31, page 17 refers.*

## **The role of the Independent Person**

The Independent Person:

- District Council must appoint at least one independent person.
- must be consulted by the monitoring officer before they make a decision on an allegation that the monitoring officer has decided should be formally investigated i.e. at hearing stage.
- may be consulted by the monitoring officer in respect of a complaint in any other circumstances.
- may provide views to a Member or co-opted Member if that Member's behaviour is the subject of an allegation.