

CODE OF CONDUCT FOR MEMBERS

Part 1: General Provisions and Interpretation Introduction

This Code of Conduct is adopted by Gosport Borough Council ("the Council") pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members ("Members") and individually ("Member") of the Council.

Members accept and agree to comply with the Constitution upon commencing their term of office, including this Code of Conduct in Chapter 2.03.01 of the Constitution. For clarification this includes compliance with the consideration of a complaint made against them, or another Member, as set out in Appendix 1 to this Schedule 17 of the Constitution to enable the facilitation of the complaints process within the timeframes set out in Appendix 1.

This Code is based on and is consistent with the Seven Principles of Public Life (also known as the Nolan Principles).

SELFLESSNESS: Holders of public office should act solely in terms of the public interest.

INTEGRITY: 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. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY: Holders of public office should be truthful.

LEADERSHIP: Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

Obligations of Members

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected

characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

a. given to me in confidence by anyone

b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

i. I have received the consent of a person authorised to give it;

ii. I am 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:

1. reasonable and in the public interest; and

2. made in good faith and in compliance with the reasonable requirements of the local authority; and

3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined

circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any

interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Part 2, is a criminal offence under the Localism Act 2011. Parts 2 -7 set out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact the Monitoring Officer for guidance.

Scope

This Code applies to all Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council.

Where a Member is a member of more than one local authority, but acting on behalf of the Council, such Member is, for the avoidance of doubt, bound by this Code of Conduct.

Part 2: Disclosable Pecuniary Interests ("DPI")

Introduction

A DPI is an interest falling within the Schedule set out at Paragraph 3 below of:

- 2.1 Yourself; or
- 2.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

Interpretation

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.3 'the Act' means the Localism Act 2011;
- 2.4 '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;
- 2.5 'director' includes a member of the committee of management of an industrial and provident society;
- 2.6 '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;
- 2.7 'Member' includes a co-opted member;
- 2.8 'relevant authority' means Gosport Borough Council of which the councillor is a member;
- 2.9 'relevant period' means the period of 12 months ending with the day on which the councillor gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;
- 2.10 '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 2001 and other securities of any description, other than money deposited with a building society.

DPI Schedule

Subject	Prescribed description	h i s i n c l u
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 the councillor in carrying out duties as a Member, or towards the election expenses of the councillor. des any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(2).	
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 the Councillor'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 the Councillor'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.

Part 3: Registration and Disclosure of Disclosable Pecuniary Interests ("DPI")

Obligations

- 3.1 You must, within 28 days of taking office as a Member of the Council, supply the Council's Monitoring Officer with details of any DPI as set out at Part 3 of this Code.
- 3.2 You must also, within 28 days of becoming aware of any new DPI notify Gosport Borough Council's Monitoring Officer of any change.
- 3.3 If you have an interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the Council, its Committees at which you are present and participating in the business.
Where an interest is a 'sensitive interest'² you need only disclose the fact that you have a DPI in the matter being considered and do not need to disclose details of the interest itself.
- 3.4 If you have not yet registered a DPI, then you must also disclose the interest to any meeting of Gosport Borough Council, its Boards or Committees at which you are present where you have such a DPI in any matter being considered.
- 3.5 Unless a dispensation has been granted, you may not participate in any meeting where that DPI is required to be disclosed (this would include making a deputation), discussed, voted on, or discharge any function related to any matter in which you have a DPI and must withdraw from the room where the meeting considering the business is being held, unless a dispensation³ has been granted by the Monitoring Officer.

² A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest (disclosable pecuniary interest or otherwise), and the nature of the interest being such that the Member or Co-Opted Member, and the Authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the Member or Co-Opted Member, or a person connected with the Member or Co-Opted Member, being subject to violence or intimidation.

³Dispensation procedure. Where a Councillor considers that a dispensation is required that application should be brought by the Monitoring Officer to the next meeting of the Standards and Governance Committee for consideration where it is not possible to do so and comply with the rules in relation to the access to information for meetings, the Councillor may apply to the MO who may grant the dispensation if the MO considers this to be appropriate in consultation with the Chairman of Standards and Governance Committee

Part 4

4 Personal interests

4.1 You have a personal interest in the business of the Council when it relates to or is likely to affect:

a any body of which you are a member or in a position of general control or management, and to any outside body which you are appointed or nominated by the Council.

b any body of which you are a member or in a position of general control or management

i exercising functions of a public nature;

ii directed to charitable purposes; or

iii one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

c any employment or business carried on by you other than for profit or gain;

d any person or body who employs you, or who has appointed you, other than for profit or gain;

e the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 in the last three years;

4.2 You also have a personal interest in the business of the Council when 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 (as defined at paragraph 4.3 below), to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward within the administrative area of the Council affected by the decision;

4.3 In Paragraph 4.2, a “relevant person” is:

a your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest; or

b another member of your family, or any person with whom you have a close association, where you are aware that that other person has the interest; or

c 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; or

d any person or body in whom to the Member's knowledge such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000: or

e any body of a type described in paragraph 4.1a or 4.1b above.

Part 5

Disclosure of Personal Interests

5.1 Subject to paragraphs 5.2 to 5.3 below, where you have a personal interest in any business of the Council you must disclose this interest at any meeting of the Council, Boards or Committees (including joint committees and sub-committees) at which you are present. Such interest should be disclosed at the commencement of the consideration of the business or when the interest becomes apparent.

5.2 The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

5.3 Disclosure of a personal interest does not affect the ability of the Member to participate in discussion or vote on the relevant item, providing it is not a disclosable pecuniary interest.

Part 6

Prejudicial Interests

Definition of Prejudicial Interest.

Subject to paragraph 7.2 below, where you have a personal interest in any business of the Council, or Monitoring Officer where appropriate you also have a prejudicial interest in that business when 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.

6.1 Limitation on extent of prejudicial interests

You do not have a prejudicial interest in any business of the Council where that business-:

a does not affect your financial position, or the financial position of a body or relevant person as described in Part 4 of this Code; or

- b does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or a body or relevant person as described in Part 4 of this Code; or
- c 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.

Part 7

Effect of Prejudicial Interests on Participation

Unless a dispensation has been granted by the Council's Standard's and Governance Committee or the Monitoring Officer, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a personal interest which is also a prejudicial interest (as set out at Part 6 of this Code), and must as soon as it becomes apparent that you have such an interest (save for in circumstances set out at paragraph 7.2 below) withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business.

- 7.2 Without prejudice to paragraph 7.1 above, where you have a prejudicial interest in any business of the Council you may, notwithstanding such prejudicial interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business, provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- 7.3 For the avoidance of doubt the procedure in paragraph 7.2 above cannot be used by the Member where the interest comes within the statutory definition of a Disclosable Pecuniary Interest.
- 7.4 In any case where paragraph 7.2 above applies, you must withdraw from the room immediately after making representations, answering questions, or giving evidence.