

PART 7 – THE CODES, PROTOCOLS AND ADVICE

A – MEMBERS' CODE OF CONDUCT

RBWM Code of Conduct

Conduct expected of members and co-opted members of the authority when acting in that capacity

Members shall have regard to the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When acting in your capacity as a Member or co-opted Member:

- i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- ii) 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.
- iii) 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.
- iv) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- v) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- vi) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and 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 with the procedures set out in the Appendices below.
- vii) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- viii) 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 example.

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

You must, within 28 days of taking office as a Member or co-opted Member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, 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.

In addition, you must, within 28 days of taking office as a Member or co-opted Member, notify your authority's monitoring officer of any disclosable pecuniary which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the Member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.

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 £100, which will then be entered on the public register of gifts and hospitality.

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

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to, any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State.

The definition of disclosable pecuniary interests can be found in Appendix 4. How to obtain a dispensation can be found in Appendix 5.

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

The duty to disclose and not participate further in the meetings arises when you attend any meeting and are aware that you have a disclosable pecuniary interest in a matter being considered.

If you have a disclosable pecuniary interest in any matter, you must not participate in any discussion of the matter at the meeting and/or participate in any vote on the matter unless you have obtained a dispensation allowing you to speak and/or vote.

If you make a disclosure of a disclosable pecuniary interest at a meeting, then you must also notify the Monitoring Officer within the next 28 days in order that it can be placed on the Register of Interests.

When you have already registered disclosable pecuniary interest (or sent off the request to the Monitoring Officer so “pending registration”), there is no need to disclose it at the meeting.

You cannot avoid the need to disclose merely by withdrawing during that part of the meeting when it is to be discussed. If you attend any of the meeting, you must make the disclosure. Failure to comply becomes a criminal offence.

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

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

It is a criminal offence if you fail, without reasonable excuse, 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, when prevented from doing so.

If you breach the above, the Magistrates Court may, upon conviction, impose a fine of up to level 5 (currently £5,000.00), and an order disqualifying the person from being a Member of a relevant authority for up to five years.

Definition of disclosable pecuniary interests

A “disclosable pecuniary interest” is an interest of the “relevant person”, meaning 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:

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 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 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 your 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 your 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 are subject to the following definitions:

“the Act” means the Localism Act 2011;

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

“director” includes a Member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (along or jointly with another) to occupy the land or to receive income;

“you” means the person referred to in section 30 of the Act (the Member or co-opted Member);

“Member” includes a co-opted Member;

“relevant authority” means the authority of which you are a Member;

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

“relevant person” means you 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 within a building society.

How to obtain a dispensation

If you seek a dispensation from Appendix 1, you must make a written request to the Chief Executive (or exceptionally, the relevant officer) of the Royal Borough of Windsor and Maidenhead.

The Royal Borough of Windsor and Maidenhead may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) considers that granting the dispensation is in the interests of persons living in the Royal Borough of Windsor and Maidenhead.
- (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

A relevant officer will be the officer clerking the meeting.

Arrangements for dealing with breaches of the Code of Conduct

Complaints in respect of the Code should be made by using the online complaints form, which will go to the Chief Executive.

When you make a complaint you will receive:

- an acknowledgment within 3 working days
- a response within 10 working days

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 Chief Executive will decide on whether a complaint requires formal investigation or any other action, in consultation with the Independent Person, as appropriate.

If the Chief Executive feels that it is inappropriate for him to take a decision on a complaint, the Chief Executive will refer the particular complaint to a nominee.

The Chief Executive must consult the Independent Person before he makes a decision on an allegation that the Chief Executive has decided required investigation.

The Chief Executive 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.

The role of the Independent Person

The Independent Person:

- must be consulted by the Chief Executive before they make a decision on an allegation that the Chief Executive has decided should be formally investigated.
- may be consulted by the Chief Executive in respect of a complaint at any other stage.
- may provide views to a Member or co-opted Member if that Member's behaviour is the subject of an allegation.
- may assist in granting dispensations to members and co-opted members from requirements relating to interests set out in the Code of Conduct.
- will exercise all of the above functions in respect of Parish Councils and members of those Parish Councils within the Council.