

COUNCILLORS' CODE OF CONDUCT

I. The Code of Conduct

Plymouth City Council has adopted this code which sets out the conduct expected of elected and co-opted members of the council.

Holders of public office have a duty to:

- a) declare any private interests relating to their public duties and
- b) take steps to resolve such conflicts in a way that protects the public interest.

The code is intended to be consistent with Nolan's Seven Principles of Public Life namely that councillors will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

General principles of public life

Preamble

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

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. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. Who does the code apply to?

The code applies to councillors and co-opted members. When the code refers to councillors, this includes co-opted members

Co-opted member means any person who is a member of any committee or sub-committee of the council but is not one of its councillors. This includes any officer who is a statutory member of a committee and has voting rights.

3. When does the code apply?

It applies to councillors when they:

- a) conduct the business of the council (including the business of their office as a councillor or co-opted member) or
- b) act, claim to act or give the impression they are acting as a representative of the council

4. Does the code apply when councillors represent the council on another body?

When councillors are representing the council on another body, they must follow the code unless it conflicts with a legal duty of the other body.

5. Courtesy and equality

Councillors must treat other people with courtesy and must not bully anyone. They must not do anything that could lead the council to break equality laws.

The general equality duty applies to 'public authorities'. In summary, those subject to the general equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected

characteristic* and those who do not.

- Foster good relations between people who share a protected characteristic* and those who do not.

These are often referred to as the three aims of the general equality duty.

* Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, sex, sexual orientation and race – this includes ethnic or national origins, colour or nationality, religion or belief (or lack of belief).

6. Intimidation

Councillors must not intimidate or try to intimidate anyone who is involved in any complaint about any alleged breach of the code of conduct.

7. Impartiality of council officers

Councillors must not do anything which would be likely to prevent officers or contractors from being impartial.

It should be noted that the council's constitution includes a protocol about Member/Officer relations.

8. Information

Councillors must not stop anyone getting information they have a legal right to.

Councillors must not pass on information given to them in confidence or information they should know is confidential unless:

- they are required to by law or
- they have the consent of someone authorised to give it or
- it is to get professional advice and the person given the information agrees not to pass it on to anyone else or
- passing on the information is reasonable, in the public interest (whistleblowing), made in good faith and made in compliance with the reasonable requirements of the council.

9. Cabinet members

At a Cabinet meeting

Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and leave the meeting room when the matter is being considered. Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

Making individual executive decisions

Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and refer the matter to the Leader for a decision.

Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

If the Leader has a conflict of interest*, s/he will refer the matter to the Cabinet.

* A conflict of interest is a situation in which a councillor's responsibility to act and take decisions impartially, fairly and on merit without bias may conflict with his/her personal interest in the situation or where s/he may profit personally from the decisions that s/he is due to take.

10. Disrepute

Councillors must not act in a manner which could be seen to bring the council or the role of councillor into disrepute.

11. Misuse of position

Councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

12. Use of council resources

When councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes (including party political purposes).

13. Publicity

Councillors must take into account the Code of Recommended Practice on Local Authority Publicity.

14. Advice of Monitoring Officer and Responsible Finance Officer

Councillors must consider any advice given by the Monitoring Officer or Responsible Finance Officer when taking decisions.

15. Giving reasons for decisions

Councillors must give reasons when required to by the law or by any council procedures.

PECUNIARY AND PRIVATE INTERESTS AT MEETINGS

16. Does a councillor have a disclosable pecuniary interest in the business of the committee?

Disclosable pecuniary interests are defined in regulations and include the interests of a councillor's spouse or civil partner or cohabitee. A councillor has a disclosable pecuniary interest in:

- any employment, office, trade, profession or vocation that the councillor carries

on for profit or gain; or that their spouse civil partner or cohabitee carries on for profit or gain;

- any sponsorship that the councillor receives including contributions to their expenses as a councillor; or contributions to their election expenses from a Trade Union;
- any land licence or tenancy they have in Plymouth; or that their spouse civil partner or cohabitee has
- any current contracts leases or tenancies between the council and the councillor; or between the council and their spouse civil partner or cohabitee;
- any current contracts leases or tenancies between the council and any organisation with land in Plymouth in which he or she is a partner, a paid Director, or has a relevant interest in its shares and securities;
- any current contracts leases or tenancies between the councillor's spouse civil partner or cohabitee and any organisation with land in Plymouth in which he or she is a partner, a paid Director, or has a relevant interest in its shares and securities;
- any organisation which has land or a place of business in Plymouth and in which he or she has a relevant interest in its shares or its securities.
- any organisation which has land or a place of business in Plymouth and in which the councillor's spouse, civil partner or cohabitee has a relevant interest in its shares or its securities.

Full details are given in Appendix A.

17. What should a councillor do if they have a disclosable pecuniary interest?

17.1 If a councillor:

- attends a meeting of the council, the Cabinet, a committee or sub committee; or
- intends to take a delegated decision

and is aware that he or she has a disclosable pecuniary interest in any matter being or due to be dealt with; he or she must declare they have an interest, and the nature of it, at the start of the meeting, (or when they realise they have the interest if that is later).

17.2 If declaring an interest would involve revealing sensitive information a councillor need only say that they have an interest – they need not say what the interest is (see section 20).

17.3 The councillor may not participate in any discussion of the matter at the meeting or vote on the matter and must leave the meeting room when the matter is being considered. Councillors may apply to the Monitoring Officer for a dispensation in respect of any disclosable pecuniary interest.

18. Does a councillor have a private interest in the business of the committee?

The public is likely to consider that a councillor has a private interest in the business of a meeting if it affects the well being or financial position of:

- his/her family and close associates, or
- any organisation where he or she is a member, or where he or she is involved in

- its management; or
- any organisation to which he or she has been appointed by the council.

19. What should a councillor do if he or she has a private interest?

- 19.1 When the council is determining any matter in which he or she has a private interest a councillor should declare his or her interest if the decision could confer a financial advantage or disadvantage on:
- his or her family, or
 - his or her close associates, or
 - an organisation where he or she is a member, or is involved in its management (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.
- 19.2 When the council is determining any matter in which he or she has a private interest a councillor should declare his or her interest if the decision relates to an approval, consent, licence, permission or registration for:
- his or her family, or
 - his or her close associates, or
 - an organisation where he or she is a member, or is involved in its management (whether or not appointed to that body by the council) This would include membership of a secret society and other similar organisations.
- 19.2 A councillor should declare an interest, and the nature of it, at the start of the meeting, (or when they realise they have the interest if that is later); **unless** describing the interest would involve revealing sensitive information (see section 20). If declaring an interest would involve revealing sensitive information a councillor need only say that they have an interest – they need not say what the interest is
- 19.3 Once a councillor has declared a private interest, they can stay in the meeting and speak and vote, unless their private interest is also a disclosable pecuniary interest (see section 16) and he or she does not have a dispensation (see section 21).
- 19.4 However, if the decision being taken is likely to confer an advantage or disadvantage on:
- a councillor's family
 - his or her close associates or
 - an organisation where he or she has a private interest

more than it will affect other people living or working in the ward, the councillor should discuss this matter with the Monitoring Officer, or his/her designee, in advance of the meeting as legal issues of bias may arise.

20 Sensitive information

Information about a councillor's interests is sensitive if making it public could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation. Councillors do not have to include information in the register of interests if the Monitoring Officer agrees that it is sensitive. If a councillor finds out that the

information has stopped being sensitive, they must tell the Monitoring Officer within 28 days and ask for it to be included in the register.

21 Dispensations

21.1 The council has power to grant dispensations for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest. This may be because it considers that the business of the council, Cabinet or a committee is likely to be impeded by not granting a dispensation; or that granting the dispensation is in the interests of residents; or that the council considers it appropriate to grant a dispensation for other reasons.

21.2 A councillor who wishes to seek a dispensation should notify the Monitoring Officer as soon as possible of the situation. Several dispensations have already been granted that are likely to affect many or all councillors; these relate to decisions about:

- councillor's allowances, expenses or insurance
- ceremonial honours given to councillors
- Council Tax setting
- school meals or school transport and travelling expenses if the councillor is the parent or guardian of a child in full time education unless the decision relates particularly to the school their child attends
- school meals or school transport and travelling expenses if the councillor is a parent governor unless the decision relates particularly to the school of which they are a governor

22 Registering interests

22.1 The law requires councillors to register certain interests by writing to the Monitoring Officer within 28 days of the code starting to apply to them or 28 days of finding out that their interests have changed. There is an exception when sensitive information is involved (see section 21).

22.2 The interests that must be registered are:

Any disclosable pecuniary interest which is held by:

- them, or
- their spouse or civil partner, a person with whom they are living as husband and wife or a person with whom they are living as if they were civil partners; and
- any private interest that the council has decided should be registered

22.3 A councillor's disclosable pecuniary interests are defined by regulations, which may change from time to time; the present definitions are set out in Appendix A. They mainly relate to business interests (for example, their employment, trade or profession, contracts or any company with which they are associated) and wider financial interests such as, for example, trust funds, investments and assets including land and property).

22.4 A councillor should register the following private interests that he or she has:

- An organisation of which he or she is a member, or which he or she has

management responsibility for (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.

23 **Penalties for not registering disclosable pecuniary interests**

It is a criminal offence to fail to register disclosable pecuniary interests or to participate in business in which a councillor has a disclosable pecuniary interest.

Notes

- Plymouth City Council provides training about this code of conduct for councillors.
- Councillors may ask the Monitoring Officer, the Deputy Monitoring Officer or the Democratic and Member Support Manager for advice in relation to this code and the declaration of interests. Ultimately, as only the councillor concerned will be aware of all the details surrounding any particular situation, it is the responsibility of each councillor to decide how to comply with this code of conduct.
- Councillors are advised to seek advice prior to any meeting/other situation in which they consider an interest may arise.
- A councillor, when considering whether s/he has an interest, may find it useful to ask him/herself whether a reasonable member of the public – if he or she knew all the relevant facts – would think that the councillor's personal interest would be likely to affect his/her view of the situation.

Appendix A

Disclosable pecuniary Interests that must be registered are:

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 Plymouth City Council) made or provided within the relevant period in respect of any expenses incurred by the councillor in carrying out their duties as a member, or towards their 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 council –

- (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 council.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Corporate tenancies - Any tenancy where (to the councillor's knowledge) –

- (a) the landlord is the council; 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 council; 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.

Note: In the above descriptions, the following words have the following meanings –

- “*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;
- “*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.

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