



# MIDDLESBROUGH COUNCIL MEMBERS' CODE OF CONDUCT

# INTRODUCTION

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government. This Code is based on the Seven Principles of Public Life/Nolan Principles which apply to anyone who works as a public office-holder.

Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

## Application of the Code

This Code of Conduct (the Code) applies to every elected member and co-opted member<sup>1</sup> of Middlesbrough Council<sup>2</sup>. As an Elected Member, it is your responsibility to make sure that you are familiar with, and that your actions comply with, its provisions.

This code should be read in conjunction with other relevant policies e.g. ICT Acceptable Use Policy, Social Media Policy and the Member / Officer Protocol. Members' should be aware that a breach of any such policy /protocol may also be a breach of the Members Code of Conduct.

The Code of Conduct applies to you when you are acting, claiming or giving the impression that you are acting in your capacity as a member or representative of the Council, although you are expected to uphold high standards of conduct and show leadership at all times.

The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, including where you could be deemed to be representing the council, or if there are potential implications for the Council's reputation.

The Code does not apply to the actions of the authority as a whole, nor to the conduct of its officers and employees. It also does not cover matters under the Localism Act 2011 where criminal sanctions apply. The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. Elected Members hold public office under the law and must observe the rules of conduct stemming from the law, this Code, and the rules, standing orders and regulations of the Council. It is your personal responsibility to comply with these and review your register of interests regularly, at least annually, particularly when your circumstances change. You must not, at any time, advocate or encourage any action contrary to the Code.

A very clear line however, must be drawn between this Code's requirements of respect for others, including those with opposing views, and the freedom to disagree with the views and opinion of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other. Nothing within this Code seeks to stifle free speech.

<sup>1</sup> Co-opted member is a person who is not an elected Member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee

<sup>2</sup> This means it applies when you are carrying out your official duties, for example when you are acting on, considering or discussing council business

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# KEY PRINCIPLES OF THE CODE OF CONDUCT

Everyone in public office at all levels – ministers, civil servants, members, council officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life. The following general principles upon which this Code of Conduct is based should be used for guidance and interpretation only. They define the standards that members should uphold and serve as a reminder of the purposes of the Code of Conduct. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member.

**Duty** - You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

**Selflessness** - You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

**Objectivity** - In carrying out public business you must make decisions impartially, fairly and on merit, without bias or discrimination, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** - You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this. You have a duty to consider issues on their merits, taking account of the views of others, and you must ensure that the Council uses its resources prudently and in accordance with the law.

**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 and integrity** - You must be truthful and you must not place yourself in situations where your honesty and integrity may be questioned. You must not behave improperly and must on all occasions avoid the appearance of such behaviour. You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in your work. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or friends. You must declare and resolve any interests and relationships.

**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 example in a way that secures or preserves public confidence and be willing to challenge poor behaviour.

**Respect** - You must respect all other Elected Members and all Council employees and the role they play. Similarly, you must respect members of the public when performing duties as an Elected Member.



# GENERAL PRINCIPLES

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

The rules of good conduct apply to you whenever you act in your official capacity. This includes whenever you conduct business of the Council or act, claim to act, or give the impression or reasonable perception that you are acting in your official capacity as representative of the Council, which includes when using social media.

You may also act as a representative of the Council on another body, for example where you have been appointed by the Council to an outside body. When acting for that other body, you must comply with the Middlesbrough Code of Conduct, unless it conflicts with lawful obligations of the other body.

## 1. You must treat others with Civility and respect

Civility means politeness and courtesy in behaviour, speech, and in the written word, and social media.

You should follow the principles of mutual respect in all your dealings and be prepared to accept that others may have equally strong views in good faith that differ from your own. You should always treat colleagues with respect and not engage in any behaviour towards other members or staff, which might reasonably be interpreted, as discriminatory, bullying or harassment.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate and does not in itself amount to bullying or failing to treat someone with respect. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything that hinders the Council's fulfilment of its positive duties under equality laws. Such conduct may cause the Council to breach the law, and you may find yourself subject to complaint that you have breached the Code of Conduct.

It is not disrespectful to question political opinions or to have a different point of view to somebody. It is disrespectful however, to use offensive language or to accuse them of dishonesty, wrongdoing or incompetence without producing any specific evidence, thereby seeking to damage their reputation.

While of course it is legitimate for you to express concern about the way in which a service is run or policy is being implemented by officers, you should avoid undermining, or making detrimental remarks about, individual named officers at meetings, or in any public forum, including on social media. This would be damaging both to effective working relationships and to the public respect for the Council. It is also unfair as in general, staff are unable to defend themselves against criticism in a public forum.

Examples of bad practice in this area include:

- Spreading malicious rumours, or insulting someone by word or behaviour.
- Copying correspondence that is critical about someone to others who do not need to know.
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Exclusion or victimisation.
- Unfair treatment.
- Overbearing supervision or other misuse of power or position.
- Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected.
- Making threats or comments about job security without foundation.
- Reporting to professional bodies without foundation.
- Deliberately undermining a competent worker by overloading and constant criticism.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.

Chairs of meetings are also expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police.

## **2. Do not bully, harass or intimidate another person**

Bullying is offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Intimidation is another form of bullying. It is the act of frightening someone into doing something that they do not otherwise want to do. This usually involves threats that make the person who is subjected to intimidation feel threatened or afraid.

Bullying and intimidatory conduct can also involve preventing people from doing something, behaving in an abusive or threatening way, or making allegations about people in public, or in the company of any of their colleagues, through the press or social media. It may happen once or be part of a pattern of behaviours, although minor isolated incidents are unlikely to be considered bullying.

The Equality Act 2010 defines harassment as 'unwanted conduct related behaviour which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.'

## **3. Do not compromise the impartiality of anyone who works for, or on behalf of, the Council**

You should not approach or pressure anyone who works for, or on behalf of, the Council to carry out his or her duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality.

Although you can robustly 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, 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. Do not disclose confidential/exempt information**

There will be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

Legislation also gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out your Council duties. Such information is, however, for your use as an Elected Member and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.



You must not 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 the 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 legal advice, provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is: reasonable and in the public interest; and
- b) made in good faith and in compliance with the reasonable requirements of the authority; and
- c) you have consulted with the authority's Monitoring Officer prior to its release.

Personal data is confidential and is protected by the *General Data Protection Regulations (GDPR)*. Never share information with family or friends or allow access to personal data disclosed to you in your role as an Elected Member.

When conducting Council business you must only use the email account provided by the Council.

Personal email addresses may be used for your personal dealings or communicating directly with constituents. In these circumstances Elected Members are data controllers under GDPR and are responsible for the personal data that they collect, store, use and delete.

## **5. Do not prevent anyone getting information that they are entitled to by law**

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act or personal data requests under the General Data Protection Regulations. Further information can be found in the Members' Handbook.

## **6. Do not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else**

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

## **7. Do not misuse Council resources**

You should never use the Council's resources or facilities for your own private or business purposes. It is also not appropriate to use, or authorise others to use, the Council's facilities or resources (including IT and staff resources) for political purposes, party political purposes, election campaigning, group flyers etc. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the Local Government Act (1986) or similar Act.

## **8. Conduct at Meetings**

You must respect the Chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, or represent, the Council. You must comply with the Council procedure rules and comply with any rulings from the Chair in the conduct of the business of these meetings.

## **9. Training**

You must attend mandatory training provided by the Council and receive, attend and consider updates when required.

Failure to attend may result in you not being able to participate in some decision making meetings or access personal information (subject to consultation with the Monitoring Officer).



## 10. Do not bring your role or local authority into disrepute

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 you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful, actions which may be of a criminal nature that may bring the local authority into disrepute.

## 11. Communications

You must be clear when communicating with the media or speaking in public, and particularly if you are using social media, that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity. Since the judgment of whether you are perceived to be acting as an Elected Member will be taken by someone else, it is safest to assume that any online activity can be linked to your official role.

Members should also monitor their social media sites and remove any inappropriate posts/comments and avoid any actions that may give the impression that they endorse those comments.

## 12. Do have regard to advice from the Monitoring Officer or S151 Chief

### Finance Officer

If you seek advice, or advice is offered to you, for example, on whether or not you should register an interest, you should have regard to this advice before you make your mind up.

You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by the Council. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

(1) Do have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.

(2) Do give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

(3) Do consult with the Monitoring Officer where there is doubt about the authority's powers to act; or whether the action proposed lies within the policy framework of the authority; or where the legal consequences of action or failure to act by the authority might have important repercussions.

(4) Do consult with the Chief Finance Officer where there is doubt about the authority's ability to fund an action; or whether the action proposed lies within the budget framework of the authority; or where the financial consequences of action or failure to act by the authority might have important repercussions. Elected Members are required to comply with any formal Standards investigation and must not submit trivial or malicious allegations against other Elected Members.

Where you disagree with officer recommendations in making a decision, you will need to take particular care in giving clear reasons for the decision.





# INTERESTS

You need to register your interests so that the public, council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You have an obligation to declare an interest in a meeting whenever an item of business is to be discussed, where you may have a relevant interest.

## 13. General Principles

The key principles of the Code, especially those which specify integrity, honesty and openness are given further practical effect by the requirement for you to declare interests at all meetings that you attend and that your attendance, even as an observer, does not give rise to any suggestion that your presence could influence the outcome of the meeting. The rules which require registration of interests, along with the rules on declaration of interest, are intended to produce transparency in regard to interests which might influence, or be thought to influence, your actions as an Elected Member.

## 14. Mandatory Registration of Disclosable Pecuniary Interests

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property). They are called "Disclosable Pecuniary Interests" (DPIs).

Regulations made by the Secretary of State describe the detail and timescale for registering DPIs.

You have a DPI if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see Annex 1 attached). You must, within **28 days of taking office**, notify the Monitoring Officer of any DPI 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.

You must also, within **28 days of becoming aware of any new DPI**, or change thereto, notify the Monitoring Officer of such new or changed interest.

It is your personal responsibility to comply with these regulations, and you should review regularly and at least once a year, your personal circumstances to ensure that your registration of interests is up to date.

## 15. Criminal Sanctions

It is a criminal offence if, without a reasonable excuse, you fail to tell the Monitoring Officer about your DPIs.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of the Council, where that business involves a DPI.

## 16. Gifts and Hospitality

You must not accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.

You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.



You must never ask for gifts or hospitality.

You are personally responsible for all decisions connected with the acceptance of gifts or hospitality offered to you, and for avoiding the risk of damage to public confidence in the Council and in local government. As a general guide, it is usually appropriate to refuse offers except:

- a) isolated gifts of a trivial character, the value of which must not exceed £25.
- b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- c) civic gifts received on behalf of the Council.

The receipt of these gifts must be registered with the Council within 28 days. This includes a requirement to disclose the name of the person who is believed to be the source of the gift or hospitality.

You must not accept any offer of a gift or hospitality from any individual or organisation who is an applicant awaiting a decision from the Council or who is seeking to do business or to continue to do business with the Council. If you are making a visit to inspect equipment, vehicles, land or property that the Council is intending to purchase, then as a general rule you should ensure that the Council pays for the cost of these visits.

You must only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented.

You must not accept repeated hospitality or repeated gifts from the same source.

If the Council seeks sponsorship for some of its activities or events, you must ensure that your involvement with the sponsors is limited to the event in question and does not damage public confidence in the relationship between the Council and the sponsors.

## DECLARATIONS OF INTERESTS

It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as an Elected Member in regard to a particular matter. You can, of course, seek advice from the Monitoring Officer. In making decisions for which you are personally responsible you are advised to err on the side of caution.

You may feel able to state truthfully that an interest would not influence your role as an Elected Member in discussion or decision-making. You must, however, always comply with the objective test ("the objective test") which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision-making in your role as an Elected Member.

You must apply these principles no less scrupulously in your dealings with Council officers, at meetings with other Elected Members, including party group meetings, meetings of joint boards and joint committees and any other meeting, formal or informal, where you are representing the Council.



## 17. Declaration of a Disclosable Pecuniary Interest at a meeting of the Council

Your obligation to disclose a DPI to a meeting applies when you are aware of or ought to be aware of the existence of the DPI.

If you are present in any capacity (and this includes a private capacity) at a meeting of the Council, its executive, or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the Council, and you have a DPI relating to any business that is or will be considered at the meeting, you must declare that interest and you must not participate in:

- any discussion of the business at the meeting, or if you become aware of your disclosable DPI during the meeting participate further in any discussion of the business;
- or any vote or further vote taken on the matter at the meeting.

If the interest is not registered, you must still disclose the interest to the meeting. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

These prohibitions apply to any form of participation including speaking (or even observing the meeting) as a member of the public. You must leave the room. You cannot remain in the public gallery even if only to observe any discussion or vote on the matter.

In certain circumstances you can request from the Monitoring Officer a dispensation from these prohibitions.

## 18. Dispensations which do not amount to DPIs

You do not have a DPI in the following circumstances:

1. Setting of Council Tax or precept or local arrangements for council tax support;
2. Housing: where you (or your spouse or partner) hold a tenancy or lease with the Council as long as the matter does not relate to your particular tenancy or lease;
3. Housing Benefit: where you (or your spouse or partner) directly receive housing benefit in relation to your own circumstances; or
4. An allowance, travelling expense, payment or indemnity for Elected Members.

## 19. Declaration of "Other" Interests

Sometimes you may have "other" interests in a matter if that matter affects the well-being of you, members of your family, or people with whom you have a close association, more than it would affect most people in the ward affected by the decision, or in the Council's area.

An "other" interest can affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, a personal interest may need to be declared in both situations.

Your obligation to disclose an "other" interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest. Providing that the "other" interest does not amount to a "prejudicial" interest you can remain in the room, participate in any discussion and vote on the business at the meeting.



## 20. What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a “prejudicial” interest.

The mere existence of local knowledge, or connections within the local community however, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

## 21. What you should do if you have a “prejudicial” interest

If you have a “prejudicial” interest in a matter being discussed at a meeting, even if you are only attending to observe the meeting from the public gallery, you must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent to you **and you must leave the room immediately. You cannot stay in the room or the public gallery.**

This Code of Conduct however, aims in certain circumstances to still provide you with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you will be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. **You may not however, take part in the discussion.**

You must **immediately leave after** you have made your representations, given evidence or answered questions, and before any debate starts.

If the meeting decides that you should finish speaking, despite your intention to say more, you must comply with the meeting’s decision. Although members of the public may be allowed to observe the discussion and vote on the matter, **you are not allowed to do so and must leave the room immediately. Failure to do so may be viewed as an attempt to improperly influence the meeting.**

## 22. Bias/Predetermination

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct but you still need to make clear that you are not biased or predetermined going into the decision-making process.

Even though you may have been scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact.

You are entitled to have a **predisposition** one way or another as long as you have not pre-determined the outcome. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take. You are able to express an opinion providing that you can show that you have come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

However, there is still a need for anyone proposing to participate in decisions to examine their position with scrupulous care. This should be in the light of how proposed involvement is likely to be seen by critical external observers (“the objective test”).



## 23. Dual-Hatted Members

Membership of another public body gives rise to a personal interest where you are involved in discussions or decisions relating to that other public body.

You should be able however, to regard most interests arising out of membership of another public authority as being personal non-prejudicial interests, even where there are financial implications. Examples of the sort of situation where the interest may become prejudicial, and will therefore rule you out of participation in any discussions and decision-making, are:

- a) Consideration of a licensing or planning application submitted by the other authority of which you are a member;
- b) A discussion or decision where two public authorities are in dispute and where litigation is threatened or has been commenced or;
- c) Where the financial implications are so significant that one authority would have to reconsider its budget.

## OTHER MATTERS

The following do not in themselves comprise part of the Code of Conduct. However, you should be aware that a failure to act in accordance with the advice as set out below will be taken into account in any allegation that there has been a breach of the Code of Conduct.

## 24. Remuneration, Allowances and Expenses

You must comply with the rules for the payment to Elected Members of remuneration, allowances and expenses as set out in the Members' Scheme of Allowances.

## 25. Appointments to Partner Organisations

You may be appointed or nominated by the Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

If you become a director of a company as a nominee of the Council you will assume personal responsibilities under the Companies Acts. It is possible that a conflict of interest may arise for you between the company and the Council. In such cases it is your responsibility to take advice on your responsibilities to the Council and to the company. This will include questions of declarations of interest. The same applies if you assume other responsibilities such as becoming a director of a charitable trust.

## 26. Dealings with the Council

You will inevitably have dealings on a personal level with the Council of which you are a member - for example as a Council taxpayer, tenant, or recipient of a Council service or applicant for a licence or consent granted by the Council. You must not seek preferential treatment for yourself, your family, friends, colleagues or employees because of your position as an Elected Member or as a member of a body to which you are appointed by the Council and you must avoid any action which could lead members of the public to believe that preferential treatment is being sought.



## 27. Responsibilities to the Council as a Member of the Public

The law makes specific provision that if an Elected Member is in two months arrears with payment of Council tax that Elected Member may not participate in certain decisions concerning Council tax issues.

If you owe a debt to the Council, you must put in place at the earliest opportunity arrangements for repayment. You must avoid being in a situation which might lead the public to believe that preferential treatment is being sought. You must not participate in any decision which may create suspicion of a conflict of interest.

# ANNEX 1 DISCLOSABLE PECUNIARY INTERESTS

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and it is either the 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:

(In the extracts from the Regulations below, 'M' means you and the 'relevant person' means you and your partner, as above):

SUBJECT	PRESCRIBED 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 Middlesbrough Council - <ul style="list-style-type: none"> <li>• under which goods or services are to be provided or works are to be executed; and</li> <li>• which has not been fully discharged.</li> </ul>
Land & property	Any beneficial interest in land or property which is within the area of Middlesbrough Council. Including rented accommodation.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Middlesbrough Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) - <ul style="list-style-type: none"> <li>• the landlord is Middlesbrough Council; and the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>



## SUBJECT

Securities

## PRESCRIBED DESCRIPTION

Any beneficial interest in securities of a body where -

- that body (to M's knowledge) has a place of business or land in the area of Middlesbrough Council; and either -
- 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 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 Middlesbrough Council; "member" includes a co-opted 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 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.



# DECLARATION OF INTERESTS – GUIDANCE NOTES FOR ELECTED MEMBERS - ANNEX 2

The following guidance notes are intended to assist members in determining the nature of their interests at meetings. The following information should not be considered as a replacement for knowledge of the Code of Conduct, which can be found on page 132 of the Council's Constitution.

## DISCLOSABLE PECUNIARY INTERESTS

These are interests that directly affect the financial position of members or their partner or spouse.

A members' interest may be a disclosable pecuniary interest if a decision is likely to affect the employment, employers, businesses, shares, land or property owned or rented, or an ongoing contract of a member or their partner or spouse.

Disclosable pecuniary interests must be declared. Members with disclosable pecuniary interests must withdraw from the meeting and leave the room during the relevant item. Members must not take part in any discussion or vote, or attempt to influence the decision.

If the interest is not already declared in the register of interests, members should notify member services so that it can be amended accordingly.

In certain circumstances members may receive a dispensation for their disclosable pecuniary interests. Please contact member services for further information.

## OTHER PECUNIARY INTERESTS

These are interests that indirectly affect the financial position of members or their partner or spouse.

A members' interest may be a pecuniary interest if a decision is likely to affect any employer or body that has appointed the member or their partner/spouse, or any contract between the Council and the member or the member's business that has ended in the last 12 months.

An interest may also be a pecuniary interest if it could be reasonably considered to financially benefit the member or their partner/spouse more so than the majority of council tax payers or inhabitants of the ward affected by their decision.

Pecuniary interests must be declared. It is at the members' discretion if they should withdraw from the meeting or not. If it is felt that a member of the public with knowledge of the relevant facts would consider the interest so significant that it would prejudice the member's judgement, then the member should leave the room and not take part in any discussion or vote. Otherwise members may remain in the meeting, debate and vote as usual.





## NON-PECUNIARY INTERESTS

These are interests that are unlikely to significantly affect the financial position of members.

A members' interest may be a non-pecuniary interest if it relates to a body that the member is appointed to by the Council; a public, charitable or political body of which the member is in a position of management; or the interests of a person the member has received a gift from.

An interest may also be non-pecuniary if it could reasonably be considered to affect the wellbeing of the member or of their partner/spouse more so than the majority of other council tax payers or inhabitants of the ward affected by the decision.

Non-pecuniary interests must be declared. However, members may remain in the meeting, debate and vote as usual, so long as the member is not considered to be biased or have a pre-determined view. **Failure to declare an interest may be a breach of the Members Code of Conduct.**

**NOTE ON BIAS AND PRE-DETERMINATION:** Separate to the above considerations, you should consider withdrawing from a meeting if a member of the public is likely to perceive bias or pre-determination. For example, if you are appointed by the Council as a trustee of a charity, and you are present at a meeting where that charity will have an application for a grant or planning permission determined – then a member of the public may reasonably consider you to be biased. In such instances, you may wish to consider leaving the meeting. Similarly, if you have publicly stated that you will vote a particular way, and there is nothing that will change your mind, then you are pre-determined and should withdraw from the meeting. This is not the same as having a pre-disposition, i.e. publicly stating your opinion, but also your willingness to consider both sides of an argument. Members are permitted to be pre-disposed, but not pre-determined.



# DECLARATION OF INTERESTS - GUIDANCE CHART FOR ELECTED MEMBERS

What matters are being discussed at the meeting?

Do any relate to members interests?

A. Is the interest declared as a disclosable pecuniary interest in the register of interests? **OR**

B. Does it directly affect the financial position of the member or their spouse or partner; particularly:

- Their employment, employers, businesses, or any for profit vocation;
- Any companies in which they are a director or where you have a share holding of more than £25,000 or 1% of the total issued share capital of that body;
- Any land, leases or licenses they own or hold;
- Any contract that has not been fully discharged?

NO

YES

**DISCLOSABLE PECUNIARY INTEREST** Members must declare the interest and withdraw from the meeting by leaving the room. Members must not take part in any discussion or vote, or attempt to influence the decision.

If the interest is not already declared in the register of interests, members should notify member services so that the register can be amended accordingly.

**OTHER PECUNIARY INTEREST** The interest must be declared.

YES

Does the matter relate to:-

- Any employment, or body that has appointed the member or their partner/spouse;
- Any contract between the Council and the member or their business that has been fully discharged in the last 12 months? **OR**
- Could the decision reasonably be regarded as of financial benefit to the member or their partner/spouse more so than the majority of council tax payers or inhabitants of the ward affected by the decision?

Would a member of the public with knowledge of the relevant facts regard this interest as so significant that it would likely prejudice the member's judgement?

YES

NO

NO

**NON-PECUNIARY INTEREST** The interest must be declared.

YES

Does the matter relate to:-

- Any body the member is appointed to by the Council;
- Any public, charitable or political body of which the member is in a position of management;
- The interests of any person from who the member has received a gift or hospitality to the value of at least £25? **OR**
- Could the decision reasonably be regarded as affecting the member's wellbeing or the wellbeing of their partner/spouse more so than the majority of council tax payers or inhabitants of the ward affected by the decision?

The member may remain in the meeting, participate and vote. However, members should consider withdrawing if they are otherwise biased or pre-determined.

NO

The Monitoring Officer can offer advice to Members on whether to declare an interest; but the final decision about whether to declare an interest or whether it is right to participate in discussion or voting remains one for elected members. Declarations of Interest must be declared within 28 days of becoming aware of the interest.