

UPPER BEEDING PARISH COUNCIL



Revised Code of Members' Conduct

The Local Authorities (Model Code of Conduct) Order 2007

Drafted: February 2007

Adopted: 8th May 2007

CODE OF MEMBERS' CONDUCT

General Provisions

1. (1) This Code of Members' Conduct is made under Section 51 of the Local Government Act 2000 and was adopted on the 2nd April, 2002.
- (2) In this Code of Members' Conduct –
 - (a) "District" means the District of Horsham;
 - (b) "District Council" means Horsham District Council being the responsible authority for the Parish Council under section 55 of the Local Government Act 2000;
 - (c) "meeting" means any meeting of –
 - (i) the Parish Council;
 - (ii) any of the Parish Council's committees, sub-committees, joint committees, joint sub-committees;
 - (d) "member" includes a co-opted member of the Parish Council;
 - (e) "Monitoring Officer" means the officer appointed by the District Council under section 5 of the Local Government and Housing Act 1989;
 - (f) "Parish" means the Parish of Upper Beeding and Small Dole with Edburton;
 - (g) "the Parish Council" means the Upper Beeding Parish Council;
 - (h) "Register of Members' Interests" means the Parish Council's register of members' interests maintained under section 8(1) of the Local Government Act 2000;
 - (i) "relevant authority" means an authority of the description listed in section 49 (6) of the Local Government Act 2000 (authorities to which the ethical framework in Part III of the Act applies).

Interpretation

In this Code –

"meeting" means any meeting of –

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member;

"the authority's monitoring officer", in relation to parish councils, is construed as referring to the monitoring officer of the district council or unitary county council

which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000; and

“the authority’s standards committee”, in relation to parish councils, is construed as referring to the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000.

Scope

1. (1) A member must observe the authority’s code of conduct whenever he or she –
 - (a) conducts the business of the authority;
 - (b) conducts the business of the office to which he or she is elected or appointed; or
 - (c) acts as a representative of the authority, and references to a member’s official capacity is construed accordingly.
- (2) An authority’s code of conduct does not, apart from paragraphs 2(2)(c), 4 and 5(a), have effect in relation to the activities of a member undertaken other than in an official capacity.
- (3) Where a member acts as a representative of the authority –
 - (a) on another relevant authority he or she must, when acting for that other authority, comply with that other authority’s code of conduct; or
 - (b) on any other body, he or she must, when acting for that other body, comply with the authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General Obligations

2. (1) A member must treat others with respect and promote equality by not discriminating unlawfully against any person
- (2) A member must not –
 - (a) do anything which may seriously prejudice his or her authority’s ability to comply with any of its statutory duties under the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) in his or her official capacity, or any other circumstance, intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) supporting the administration of any investigation or proceedings, in relation to an allegation that a member has failed to comply with his or her authority’s code of conduct;
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(a) those who work for, or on behalf of, the authority are deemed to include a police officer.

Access to Information

3. A member must not –
 - (a) disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where –
 - (i) he or she has the consent of a person authorised to give it;
 - (ii) he or she is required by law to do so; or
 - (iii) the disclosure is –
 - (aa) reasonable and in the public interest;
 - (bb) made in good faith and does not breach any reasonable requirements of the authority;
 - (b) prevent another person from gaining access to information to which that person is entitled by law.

Bringing the Parish Council into disrepute

4. (1) A member must not in his or her official capacity, or any other circumstance, conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.
- (2) The conduct referred to in paragraph (1) may include a criminal offence including one committed by the member before taking office but for which he or she is not convicted until after that date.

Acting properly

5. A member –
 - (a) must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority-
 - (i) act in accordance with the Parish Council's requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (iii) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.
6. A member must when reaching decisions –
 - (a) have regard to any relevant advice provided to him or her by –
 - (i) the authority's chief finance officer; and
 - (ii) the authority's monitoring officer; and
 - (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements.

PART 2 ***Interests***

Personal Interests

7. A member has a personal interest in any matter where –
- (a) it relates to –
 - (i) any employment or business carried on by the member;
 - (ii) any person who employs or has appointed the member;
 - (iii) any person, other than a relevant authority, who had made a payment to the member in respect of his or her election or any expenses incurred by him or her in carrying out his or her duties;
 - (iv) any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body (whichever is the lower);
 - (v) any contract for goods, services or works made between the authority and the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
 - (vi) any gift or hospitality over the value of £25 received by the member;
 - (vii) any land in the authority's area in which the member has a beneficial interest;
 - (viii) any land where the landlord is the authority and the tenant is the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
 - (ix) any land in the authority's area in which the member has a licence (alone or jointly with others) to occupy for 28 days or longer;
 - (b) it relates to his or her membership of or position of general control or management in any –
 - (i) body to which the member is appointed or nominated by the authority;
 - (ii) public authority or body exercising functions of a public nature;
 - (iii) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (iv) body whose principal purposes include the influence of public opinion or policy, including any political party; and
 - (v) trade union or professional associations; or
 - (c) a decision on the matter might reasonably be regarded as affecting the well-being or financial position of –
 - (i) the member, one of the member's family or a friend, or any person with whom the member has a close personal association; or
 - (ii) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (iii) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (iv) any body listed in paragraphs (i) to (v) of sub-paragraph (b) in which such persons hold a position of general control or management, to a greater extent than the majority of –
 - (aa) in the case of authorities with electoral divisions or wards, other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

- (bb) this paragraph does not apply to this authority; or
- (cc) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

- 8.
- (1) Subject to sub-paragraphs (2) and (7), a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
 - (2) A member with a personal interest in a matter which is a public service interest, need only disclose to that meeting the existence and nature of that interest when he or she addresses the meeting on that matter.
 - (3) A member with a personal interest of the type mentioned in paragraph 7(a)(vi) need not disclose the nature or existence of that interest to the meeting if the interest was registered more than five years before the date of the meeting.
 - (4) In relation to a personal interest of a family member, a friend, or any person with whom the member has a close personal association, sub-paragraph (1) only applies where the member is aware or ought reasonably to be aware of the interest.
 - (5) Where, by virtue of paragraph 13, sensitive information relating to a member is not registered in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000), a member with a personal interest must indicate to the meeting that he or she has a personal interest, but need not disclose the sensitive information to that meeting.
 - (6) Subject to paragraph 11(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.
 - (7) In this paragraph –
 - (a) a member has a public service interest in a matter where that matter relates to –
 - (i) another relevant authority of which he or she is a member;
 - (ii) another public authority in which he or she holds a position of general control or management; or
 - (iii) a body to which he or she is appointed or nominated by the authority; and
 - (b) "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial Interests generally

- 9.
- (1) Subject to sub-paragraphs 2 and 3, a member with a personal interest in a matter also has a prejudicial interest in that matter where 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 the member's judgement of the public interest.
 - (2) A member does not have a prejudicial interest in a matter where –
 - (a) he or she has a public service interest in the matter, unless –

- (i) the matter relates to the financial affairs of the body to which that public service interest relates; or
 - (ii) the matter relates to the determining of any approval, consent, licence, permission or registration in relation to that body;
- (b) that matter relates to the functions of the authority in respect of –
- (i) housing, where he or she is a tenant of the authority provided that those functions do not relate particularly to the member's tenancy or lease;
 - (ii) school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
 - (iv) an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989;
 - (v) an indemnity given under an order made under section 101 of the Local Government Act 2000;
 - (vi) considering the bestowing of the title of freeman on the member; and
 - (vii) setting council tax under the Local Government Finance Act 1992.
- (3) A member does not have a prejudicial interest in a matter where he or she attends a meeting for the purpose of making representations, answering questions or giving evidence relating to the matter, provided the meeting agrees that the member may do so and after making representations, answering questions or giving evidence, the member withdraws from the room where the meeting is being held.
- (4) In this paragraph, a member has a public service interest in a matter where the matter relates to –
- (a) any of the matters referred to in paragraph 8(7)(a); or
 - (b) a charity, a lobbying or philanthropic body of which he or she is a member.

Overview and scrutiny committees

This paragraph does not apply to this authority

10. (1) For the purposes of this Part, a member has a prejudicial interest where he or she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee and that consideration relates to a decision made (whether implemented or not), or action taken by –
- (a) the authority's executive;
 - (b) another of the authority's –
 - (i) committees or sub-committees; or
 - (ii) joint committees or joint sub-committees,
 of which he or she is, or was at the time of the decision or action, a member and he or she was present for the consideration of that matter.

- (2) But sub-paragraph (1) does not apply where that member attends the meeting of the overview and scrutiny committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in relation to prejudicial interests

11. (1) Subject to sub-paragraph (2) and (3), a member with a prejudicial interest in a matter must –
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the authority's standards committee;
 - (b) not exercise executive functions in relation to that matter; and
 - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest in a matter may, unless that interest is of a financial nature or of the type described in paragraph 10, participate in a meeting of the authority – but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (3) A member has a public service interest in a matter where that matter relates to –
- (a) any of the matters referred to in paragraph 8(7)(a); or
 - (b) a charity, a lobbying or philanthropic body of which he or she is a member.

PART 3

Registration of Members' Interests

Registration of Members' Interests

12. (1) A member must, within 28 days or –
- (i) the provisions of an authority's code of conduct being adopted or applied to that authority; or
 - (ii) his or her election or appointment to office (where that is later), register in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) any personal interest of the type mentioned in paragraph 7(a) or (b), by providing written notification to the authority's monitoring officer.
- (2) A member must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in paragraph (1), register that new personal interest or change by providing written notification to the authority's monitoring officer.
- (3) Sub-paragraphs (1) and (2) do not apply to sensitive information in relation to which the member has made an application under paragraph 13.

Sensitive information

13. (1) Where a member considers that the availability for inspection by the public of information relating to any personal interest which, but for this paragraph, must be registered in the authority's register of members' interests creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation (in this Code "sensitive information"), the member may, where the monitoring officer considers it appropriate, not include that sensitive information on the register of members' interests.
- (2) A member must, within 28 days of becoming aware of any change of circumstances which leads him or her to believe that information excluded from the authority's register of members' interests is no longer sensitive information, notify the authority's monitoring officer of this fact and register the information concerned in the authority's register of member' interests.

PART 4

The general principles governing members' conduct under the *Relevant Authorities (General Principles) Order 2001* are set out below:

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

EXPLANATORY NOTE

(This note is not part of the Code)

Introduction and Interpretation

The code of members' conduct sets out the conduct which is expected of members and co-opted members of the authority and provides that the Code applies to any member of the authority and that it is the responsibility of each member to comply with the Code.

Scope of the Code provides that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

General Obligations of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.

Access to Information of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Bringing the Council into Disrepute of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Acting Properly of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity. It provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Personal Interest provides a list of matters which constitute a personal interest.

Disclosure of personal Interests provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Prejudicial Interests of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Overview & Scrutiny Committees does not apply to this authority.

Participation in relation to prejudicial Interests provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Register of Members' interests of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Sensitive Information provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.