

HART DISTRICT COUNCIL

MEMBERS CODE OF CONDUCT 2012

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members¹ of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

Selflessness

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

Objectivity

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

Honesty and integrity

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

Leadership

8. 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.

¹ A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who

a) is a member of any committee or sub-committee of the council, or

b) is 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 any meeting of that committee or sub-committee

General Obligations

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully² any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:
 - (i) you have the consent of a 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:
 - a) reasonable and in the public interest; and/or
 - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
 - (i) you must act in accordance with the council's reasonable requirements;
 - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

Registering and declaring interests

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any 'disclosable pecuniary interest' as defined by regulations made by the Secretary of State.
17. As soon as you are aware of any changes in your 'disclosable pecuniary interests' you must, within 28 days, notify the council's monitoring officer.

² Bullying is defined as 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. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of any of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviours, although minor isolated incidents are unlikely to be considered bullying. Nothing herein however, should be construed as meaning that it is not right to challenge or test arguments or opinions provided that it is done in an appropriate and respectful manner.

18. You must disclose the interest at any meeting of the council at which you are present, where you have a ‘disclosable pecuniary interest’ in any matter being considered and where the matter is not a ‘sensitive interest’³.
19. If you have a ‘disclosable pecuniary interest’ or a ‘prejudicial interest’⁴ in an item during a formal meeting of the Council you must
- Declare or draw attention to your interest at the meeting
 - Not participate in any discussion of the matter
 - Not vote on the matter; and
 - Leave the room during the discussion or vote
- If the public are allowed to, you can stay in the meeting to make representations, answer questions or give evidence. When you have finished you must immediately leave the room and not take part in the discussion or vote.⁵

Other Interests

- 20 If you attend a meeting at which any item of business is to be considered and you are aware that you have a “other interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.⁶

³ A “sensitive interest” is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council’s monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

⁴ You have a ‘prejudicial interest’ in any business of Hart District Council 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 your judgement of the public interest.

⁵ Notwithstanding the specific legislative provisions relating to matters associated with ‘disclosable pecuniary interests’ the rules of natural justice still apply. Therefore, matters associated with ‘other interests’ can sometimes amount to ‘prejudicial interests’. Unless dispensation has been granted, you must not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a ‘disclosable pecuniary interest’ or a ‘prejudicial interest’ and you should leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is the case you can attend the meeting for that purpose. You must however, immediately leave the room after you have finished making your representations, given evidence or answering questions and before and debate starts or when the meeting decides that you have finished (if that is earlier). You cannot remain in the room or chamber when the meeting discusses or votes on the matter. You must also not seek to improperly influence a decision in which you have a ‘disclosable pecuniary interest’ or ‘prejudicial interest’. This requirement is similar to your general obligation not to use your position as a member of the Council improperly to your or someone else’s advantage or disadvantage.

⁶ The obligation to disclose ‘other interests’ to a meeting only applies when you are aware of or ought to have been aware of the existence of that interest. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware of.

- 21 You have an “other interest” in an item of business of the Council where –
- a) A decision in relation to that business might reasonably be regarded as affecting the well-being⁷ or financial standing of you or a member of your family⁸ or a person with whom you have a close association⁹ to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
 - b) It relates to or is likely to affect any of the interests listed in the Table Appended to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

Gifts and Hospitality

- 22 This register of interests also includes the details of any gifts or hospitality received which was worth over £25 and received in your capacity as a Councillor¹⁰.

⁷ The term ‘well-being’ can be described as a condition of contentment and happiness. Anything that could affect the quality of life, either positively or negatively is likely to affect your well being. An ‘other interest’ can affect you, your family or close personal associates positively and negatively. So, if you or they have a potential to gain or lose from a matter under consideration, an ‘other interest’ would need to be declared in both situations.

⁸ A ‘member of your family’ in this context means a “relevant person”, a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister of your partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and partners of these people.

⁹ A person with whom you have a ‘close association’ is someone that you are in either regular or irregular contact with over a period of time who is more than simply an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

⁹ You need to look to look at how any matter would affect the interest or those members of your family or close associates. This includes:

- their jobs;
- their employers, firms they are partners of, and companies they are directors of; and
- any person or body who has appointed members of your family or close associated, to any position

¹⁰ This requires disclosure of the name of the person who is believed to be the source of the gift or hospitality.

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 the relevant authority - a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to M's knowledge) -

- a) the landlord is the relevant authority; and
- b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where -

- a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- b) either -
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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 a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a 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.