

PART 5: CODES AND PROTOCOLS

INTRODUCTION

This Part of the Constitution sets out North Devon Council's Codes and Protocols which govern how Members and Officers should conduct themselves when exercising their roles within the Council and what they can expect from the Council.

It also sets out Nolan's Seven Principles of Public Life which underpin the new ethical framework.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Set out below are Nolan's Seven Principles of Public Life, which underpin the ethical framework in the Constitution. In particular, the codes and protocols set out in this part should be read in the context of these Principles.

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

October 2020

Holders of public office should promote and support these principles by leadership and example.

MEMBERS' CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

- 1 This Code applies to you as a Member or a Co-opted Member of North Devon District Council.
- 1.2 You should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.
- 1.3 When acting in your capacity as a Member or Co-opted Member of the District Council
 - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
 - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
 - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
 - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
 - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the District Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the District Council or contained in its Constitution,
 - (f) you must declare any interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
 - (g) you must, when using or authorising the use by others of the resources of the District Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the District Council's reasonable requirements;
 - (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the District Council;

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(i) 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.

- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the District Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

Definitions

2. In this Code –

“Close Associate”	Means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts; it is someone a reasonable member of the public would think you might be prepared to favour/disadvantage.
“Disclosable Pecuniary Interest”	An interest held by a Relevant Person as set out in paragraph 10.
“Member of your Family”	Means:- - partner (i.e. your spouse/civil partner/someone you live with in a similar capacity); - a parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; - a brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece <u>or</u> the partners of any of these persons.
“Meeting”	Means any meeting of :- the District Council;- - any of the Council’s Committees, Sub-Committees, Joint Committees, Joint Sub-committees - one or more Members, formal or informal and with or without officers, relating to the discharge of the District Council’s functions where a formal record is made by a Council Officer
“Personal Interest”	An interest held by a Relevant Person as set out in paragraph 11.
“Prejudicial Interest”	An interest as set out in paragraph 12.
“relevant period”	Means a period of 12 months ending with the date on which you notified the Monitoring Officer of an interest
“Relevant Person”	Means you or your 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 were civil partners.
“Sensitive Information”	Information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or Intimidation,
“well being”	Means a general sense of contentment and quality of life

Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
 - (a) you are engaged on the business of the District Council; or
 - (b) you behave so as to give a reasonable person the impression that you are acting as a Representative of the District Council.

General obligations

4. You **must** –
 - (a) treat others with courtesy and respect,
 - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council
 - (c) comply with any formal standards investigation carried out by or behalf of the Monitoring Officer, particularly by responding to requests for information, clarification or comment in a timely way
5. You **must not** –
 - (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
 - (b) do anything which may cause the District Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
 - (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding Their confidence or capability which may cause them to suffer stress or fear);
 - (d) intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or
 - (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

(f) 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 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 advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is –

(A) in the public interest; and

(B) made in good faith and

(C) in compliance with the reasonable requirements of the Council;

(g) prevent another person from gaining access to information to which that person is entitled by law;

(h) seek to misuse the standards process by making trivial or malicious allegations, such as by alleging misconduct against another councillor for the purpose of political gain

(i) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

PART 2 INTERESTS

Registration of Interests

6 You must, within 28 days of—

(a) this Code being adopted by, or applied to, the District Council; or

(b) your taking office as a Member or Co-opted Member of the District Council,

whichever is the later, and annually thereafter, provide written notification to the District Council's Monitoring Officer of:

(i) any Disclosable Pecuniary Interest; and

(ii) any interests being Personal Interests and falling within paragraphs 11(i) (iv);

which will be recorded in the District Council's Register of Members' Interests and made available for public inspection including on the Council's website at : www.northdevon.gov.uk

7. Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the District Council's Monitoring Officer.

8. Where the District Council's Monitoring Officer agrees that any information relating to your interests is Sensitive Information you need not include that information when registering that interest, or, as the case may be, any change to that interest.

9. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer Sensitive Information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

Types of Interests

10. **Disclosable Pecuniary Interests** - These are an interest in any of the following:

(a) any employment, office, trade, profession or vocation carried on for profit or gain;

(b) any payment or provision of any other financial benefit (other than from North Devon District Council) made or provided within the relevant period in respect of any expenses incurred in carrying out duties as a Member, or towards your election expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

(c) any contract which is made between a Relevant Person (or a body in which a Relevant Person has a beneficial interest) and the District Council:

(1) under which goods or services are to be provided or works are to be executed; and

(2) which has not been fully discharged

(d) any beneficial interest in land which is within the area of the District Council;

(e) any licence (alone or jointly with others) to occupy land in the area of the District Council for a month or longer

(f) any tenancy where (to your knowledge):

(1) the landlord is North Devon District Council; and

(2) the tenant is a body in which a Relevant Person has a beneficial interest.

(g) any beneficial interest in securities of a body where:

(1) that body (to your knowledge) has a place of business or land in the administrative area of the District Council and

(2) either:

(A) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(B) 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.

11. **Personal Interests** – These are

- (i) membership of any body to which you have been appointed by the District Council,
- (ii) membership of any body exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including your membership of any other local Authority, any political party or trade union,
- (iii) the name of any person or body from whom you have received a gift or hospitality with an estimated value of at least £25.00,
- (iv) membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a District Councillor, and
- (v) any matter where a decision on that matter would affect the well being or financial position of any Relevant Person, Member of your Family, Close Associate or any body in which any of those persons may hold a position of general control or management, more than it would affect the majority of people living within the ward or electoral division affected by the decision,

12. **Prejudicial Interest**

There will be a Prejudicial Interest in a matter where a reasonable member of the public with knowledge of the relevant facts would reasonably think that your interest was so significant that it is likely to prejudice your judgement of the public interest. For the avoidance of doubt, a Personal Interest may also amount to a Prejudicial Interest.

Declaration of Interests

13. If you attend a Meeting and are aware that the business being conducted at that Meeting affects a Personal Interest but does not give rise to a Disclosable Pecuniary Interest or a Prejudicial Interest you must disclose to the Meeting that you have a Personal Interest in that matter and the nature of that interest and if you have not done so already, you must notify the Monitoring Officer of the interest in writing within 28 days of the meeting,

14. If you attend a Meeting and are aware that the business being conducted at that Meeting affects a Disclosable Pecuniary Interest or is such that you would have a Prejudicial Interest in the business:-

(i) you must disclose to the meeting that you have a Disclosable Pecuniary Interest or a Prejudicial Interest in that matter and disclose the nature of that interest and if you have not done so already, you must notify the Monitoring Officer of the interest in writing within 28 days of the meeting,

(ii) subject to paragraph 10 below, unless a Dispensation has been granted, you must not participate, or participate further once the interest is known, in any discussion of the matter at the Meeting, or participate in any vote, or further vote taken on the matter at the Meeting, and must leave the room whilst discussion on the matter is taking place.

15. If you have a Personal Interest falling within paragraph 11 (i) or (ii) above which also amounts to a Prejudicial Interest you may, with the consent of the Chairman presiding at the Meeting, remain in the

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room during the discussion and/or participate in the discussion of the matter, but may not participate in the vote taken on the matter at the Meeting.

16 If you have delegated powers to take a decision on behalf of the Council acting alone or in combination with others and you are aware that you have a Disclosable Pecuniary Interest or a Prejudicial Interest in that matter dealt with or to be dealt with by you, you must not take any steps or further steps in relation to that matter except for the purposes of enabling the matter to be dealt with other than by yourself.

Dispensations

17. Section 33 of the Localism Act 2011 makes provision for the granting of a dispensation allowing a Member with a disclosable Pecuniary Interest in a matter to speak and/or vote on that matter. For the avoidance of doubt, this Code extends the provisions of section 33 to allow a Member to also seek a dispensation excusing the Member, in whole or in part, from the effect of paragraph 8 above where the Member has a Prejudicial Interest in an item of business.