

4. Member Code of Conduct

1. Introduction and interpretation

This Code applies to all elected and co-opted members of the Isle of Wight Council when they act in their role as a member and it is their responsibility to comply with the provisions of this Code.

You should behave in a manner that is consistent with the “Nolan Principles – the seven principles of public life”, which apply to anyone who is elected or appointed to public office:

SELFLESSNESS - Holders of public office should act solely in terms of the public interest.

INTEGRITY - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY - Holders of public office should be truthful. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. Scope

You must comply with this Code whenever you:

- (a) conduct the business of the council (which includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act, or give the impression you are acting in your official capacity as a representative of the council

This Code does not have effect in relation to your conduct other than where it is in your official capacity.

Where you act as a representative of the council:

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

When acting in your role as a member of the council you must:

- (a) Treat others with respect.
- (b) Not do anything that may cause the council to breach any of the equality enactments (in particular the Equality Act 2010);
- (c) Not bully any person;
- (d) In relation to an allegation that a member (including yourself) has failed to comply with their council's code of conduct, not intimidate, or attempt to intimidate, any person who is, or is likely to be:
 - (i) complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,
- (e) Not do anything that compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the council.
- (f) 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 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:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the authority; and
 - you have consulted the Monitoring Officer prior to its release
- (g) Not prevent another person from gaining access to information to which that person is entitled by law.
- (h) Not conduct yourself in a manner that could reasonably be regarded as bringing your office or the council into disrepute.
- (i) Not use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.
- (j) When using, or authorising the use by others of, the council resources:
 - (i) act in accordance with the council's reasonable requirements
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (k) Have regard to any applicable local authority code of publicity made under the Local Government Act 1986.
- (l) When reaching decisions on any matter, have regard to any relevant advice provided to you by the Chief Finance Officer or the Monitoring Officer.
- (m) Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

4. Register of Interests

You must complete your register of Disclosable Pecuniary Interests within 28 days of being elected and then update your register of interests within 28 days of any event that requires a change. A copy of the register will be available for public inspection and will be published on the authority's website.

A 'Disclosable Pecuniary Interest' is an 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:

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 council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union & Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the council: (a) under which goods or services are to be provided or works are to be executed; and, (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the council's area.
Licences	Any licence (alone or jointly with others) to occupy land in the council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge): (a) the council is the landlord; and, (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the council's area; 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.

In the above schedule:

- (a) "body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest;
- (b) "director" includes a member of the committee of management of an industrial and provident society;

- (c) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income;
- (d) “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of any Disclosable Pecuniary Interests; and,
- (e) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services & Markets Act 2000 and other securities of any description, other than money deposited with a building society.

5. Declaration and Non-participation in case of Disclosable Pecuniary Interest

A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:

- (a) disclose the interest
- (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
- (c) not participate in any discussion of, or vote taken on, the matter at the meeting
- (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered
- (e) not seek improperly to influence a decision about that business

Members can only stay to speak as a member of the public (where a member of the public is permitted to speak) if the Monitoring Officer has granted the member a dispensation to do so but must leave the room as soon as they have finished speaking as a member of the public (see Part 4B Section 12).

Where a Cabinet member discharges a function alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

6. Sensitive interests

Where you consider that disclosure of the details of a Disclosable Pecuniary Interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a Disclosable Pecuniary Interest, the details of which are withheld under section 32(2) of the Localism Act 2011.

7. Dispensations

The council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

The Monitoring Officer has delegated authority in consultation with a duly appointed Independent Person, to deal with requests for dispensations without the need for a meeting of the Appeals Committee where that is deemed to be appropriate.

Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Disclosable Pecuniary Interest that relates to the functions of the council in respect of:

- (a) housing, where you are a tenant of the council, provided those functions do not relate particularly to your tenancy or lease;
- (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and

A councillor seeking a dispensation should submit an application in writing to the Monitoring Officer (see Dispensations Protocol at Part 5 Section 6).

Offences

It is a criminal offence to:

- (a) fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- (b) fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register;
- (c) fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting;
- (d) participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interests;
- (e) as a Cabinet Member discharging a function acting alone, and having a Disclosable Pecuniary Interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and,
- (f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

8. Personal Interests

In addition to Disclosable Pecuniary Interests, you must, within 28 days of your election or appointment to office notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

You must also, within 28 days of becoming aware of any new interest or change to any personal interest, notify the Monitoring Officer of the details of that new interest or change.

A member has a “personal interest” in an item of business where it relates to or is likely to affect any of the following bodies of which they are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.

A Member also has a personal interest in an item of business where a decision in relation to it might reasonably be regarded as affecting the wellbeing or financial position, of themselves, a member of their family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.

A member must disclose a personal interest at a meeting where they consider it is relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.

Where you have a personal interest but sensitive information relating to it is not registered in your register of interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Disclosure of a personal interest will only affect your ability to participate in discussion or vote on the relevant item if it is also a Disclosable Pecuniary Interest OR if it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close associate, friend or a family member). In either case you should declare this interest and leave the room during its consideration.

Where an individual Cabinet member has a personal interest in any business and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

9. Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the council's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

10. Register of Gifts and Hospitality

You must register with the Monitoring Officer any gift or hospitality exceeding a value of £50 that you have been offered (whether accepted or not) as part of your role as a member.

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

11. Complaints procedure

Under Section 28(6) and (7) of the Localism Act 2011, the council must have in place arrangements under which allegations that a councillor or co-opted member has failed to comply with Code can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

Details of the complaints procedure can be found on the council's website.

12. Sanctions for breaches of the Code of Conduct

The Isle of Wight Council has delegated to the Monitoring Officer and the Appeals Committee such of its powers to take action in respect of individual members (including parish council members) as may be necessary to promote and maintain high standards of conduct. If, following an investigation, it is established that a member has failed to comply with their council's Code of Member Conduct, one or more of the following sanctions may be applied:

- (a) Publish findings in respect of the member's conduct;
- (b) Report findings to the relevant council for information;
- (c) Recommend to the relevant council that the member be issued with a formal censure or be reprimanded;
- (d) Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the relevant Council or committees) that they be removed from any or all committees or sub-committees of the council;
- (e) Where Executive arrangements exist, recommend to the Executive Leader that the member be removed from Cabinet, or removed from particular portfolio responsibilities;
- (f) Arrange or recommend training for the member;
- (g) Remove or recommend the removal of the member from all outside appointments to which they have been appointed or nominated by their council;
- (h) Withdraw or recommend withdrawal of facilities provided to the member by their council, such as a computer, website and/or email and internet access;
- (i) Exclude or recommend the exclusion of the member from their council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings.

The council has no power to suspend or disqualify a councillor or to withdraw a councillor's basic or special responsibility allowance.