

CURRENT TANDRIDGE DC MEMBERS' CODE OF CONDUCT WITH TRACK CHANGES

The current Tandridge DC code appears in normal type. Proposed amendments and additions to the current Tandridge DC Code to reflect the new Model Code, appear in *italics* and deletions in strikethrough.

1 Introduction and Interpretation

0.1 Purpose of the Code of Conduct

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 the councillor and local government.

1.1 This Code applies to you as a Member of Tandridge District Council ("the Council") when you act in your role as a Member *which may include when:*

- *you misuse your position as a councillor*
- *your actions would give the impression to a reasonable member of the public with knowledge of all of the facts that you are acting as a councillor;*

1.1a *It applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply until you cease to be a councillor.*

1.1b *The Code applies to all forms of communication and interaction, including:*

- *at face-to-face meetings*
- *at online or telephone meetings*
- *in written communication*
- *in verbal communication*
- *in non-verbal communication*
- *in electronic and social media communication, posts, statements and comments*

1.2 You are a representative of the Council and the public will view you as such. Your actions can impact on how the Council as a whole is viewed. *You are therefore expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.*

1.3 This Code is based on and is consistent with the principles of public life set out in Section 28 Localism Act 2011: -

- selflessness
- integrity
- objectivity
- accountability
- openness

- honesty
- leadership.

1.3a *Building on these principles, the following general principles have been developed specifically for the role of councillor:*

In accordance with the public trust placed in me, on all occasions:

- *I act with integrity and honesty*
- *I act lawfully*
- *I treat all persons fairly and with respect; and*
- *I lead by example and act in a way that secures public confidence in the role of councillor.*

In undertaking my role:

- *I impartially exercise my responsibilities in the interests of the local community*
- *I do not improperly seek to confer an advantage, or disadvantage, on any person*
- *I avoid conflicts of interest*
- *I exercise reasonable care and diligence; and*
- *I ensure that public resources are used prudently and in accordance with my local authority's requirements and in the public interest.*

1.4 It is your responsibility to comply with the provisions of this Code.

1.5 In this Code –

“meeting” means any meeting of:

(a) the Council; or

(b) any of the Council's committees, sub-committees, working groups, joint committees, joint sub-committees, or area committees;

“Member” includes a co-opted Member¹.

1.6 *Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.*

¹ A ‘co-opted member’ is defined in the Localism Act 2011 Section 27(4) as ‘a person who is not a member of the authority but who

(a) is a member of any committee or sub-committee of the authority, or;

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee’

2. General Obligations

2.01 *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.*

2.02 *Guidance is included to help explain the reasons for the obligations and how they should be followed.*

2.1 ~~Do treat others with respect.~~

As a councillor:

- ***I treat other councillors and members of the public with respect***
- ***I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play***

2.1a *Respect means politeness and courtesy in behaviour, speech and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.*

2.1b *In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.*

~~In particular, you 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.~~

2.1c ***I promote equalities and do not discriminate unlawfully against any person***

2.1d *Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to

the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

~~You should also respect the impartiality and integrity of the Council's employees.~~

2.1e As a councillor:

- ***I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority***

2.1f *Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can 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. However, 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.*

2.1g Bullying, harassment and discrimination

As a councillor:

- ***I do not bully any person***
- ***I do not harass any person***

2.1h *The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.*

2.1i *The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.*

2.2 ~~**Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.~~

As a councillor:

- ***I do not bring my role or local authority into disrepute***

2.2a *As a Councillor, 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/it's functions. For example, behaviour*

that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

2.3 **Do 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 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;

(b) made in good faith and in compliance with the reasonable requirements of the Council;

and you have consulted the Monitoring Officer or taken other independent legal advice prior to its release.

2.3a I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

2.3b Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

2.4 **Do not** prevent another person from gaining access to information to which that person is entitled by law.

2.5 **Do 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.

2.5a *Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.*

3 Resources of the Council

3.1 When using or authorising the use by others of the resources of the Council
–

- (i) **Do** act in accordance with the Council's reasonable requirements and policies;
- (ii) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (iii) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3.1a You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:

- *office support*
- *stationery*
- *equipment such as phones, and computers*
- *transport*
- *access and use of local authority buildings and rooms.*

3.1b These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

3.1c Complying with the Code of Conduct.

As a Councillor:

- **I undertake Code of Conduct training provided by my local authority**
- **I cooperate with any Code of Conduct investigation and/or determination**
- **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings**
- **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct**

3.1d It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

4. Gifts and Hospitality

4.1 **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.

4.1a *In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.*

4.2 ~~**Do 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.~~

4.2a As a Councillor: I do not accept gifts and hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

4.3 **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

4.3a I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

5. Registration of Interests

5.1 **Do** notify the Monitoring Officer of your disclosable pecuniary interests, or other interests

*** which the Council has decided are appropriate for registration (Annexe 'A' refers), within 28 days of being elected or appointed to office or within 28 days from the adoption of this Code.

5.1a *You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and*

honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

5.1b You should note that failure to register or disclose a disclosable pecuniary interest as set out in Annexe A, is a criminal offence under the Localism Act 2011.

5.1c Annexe B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

~~5.2 Do~~ notify the Monitoring Officer of any change in your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, within 28 days of the change taking effect.

~~5.3 Do~~ notify the Monitoring Officer of any disclosable pecuniary or other interests not already registered within 28 days of your re-election or re-appointment to office.

~~5.4 Do~~ be aware that disclosable pecuniary interests include not only your interests but also the interests of 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 they were a civil partner, so far as you are aware of the interests of that person.

~~5.5 Do~~ be aware that the Council has decided that it is appropriate for you also to register and disclose non-pecuniary interests that arise from your membership of, or your occupation of a position of general control or management of:

~~(i) bodies to which you have been appointed or nominated by the Council;~~

~~(ii) bodies exercising functions of a public nature;~~

~~(iii) bodies directed to charitable purposes and with a connection to the Council's area; and~~

~~(iv) bodies whose principal purposes include the influence of public opinion or policy.~~

~~6. Disclosure of Interests and Participation~~

~~6.1 Do~~ disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for disclosure (such interests are defined at Annexe 'A') which relates to any matter considered at the meeting.

~~6.2 Do~~ notify the Monitoring Officer of any interest not already registered that is disclosed to a meeting under paragraph 6.1 above within 28 days of the disclosure.

~~6.3 Do not participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. Do withdraw from the meeting during the consideration of the matter.~~

7. Predetermination

7.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.

7.2 However, **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

7.3 When making a decision, **do** consider the matter with an open mind and on the facts established at the meeting at which the decision is to be made.

8. Review

8.1 The Council will review this code of conduct annually, in consultation with parish councils in the District.

ANNEXE A

Tandridge District Council's Code of Conduct – Interests which must be registered

DISCLOSABLE PECUNIARY INTERESTS (relating to Elected / Co-opted Members AND their spouses or civil partners)

'Disclosable Pecuniary Interest' means an interest of yourself or your partner if you are aware of your partner's interest within the descriptions set out below.

'Partner' means a spouse or civil partner, or a person with whom you are living as husband and wife, or a person with whom you are living as civil partners

Employment

Any employment, office, trade, profession or vocation carried on for profit or gain. *Any unpaid directorship.*

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 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 and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between a Member (or his/her ~~spouse~~/partner) (or a body in which either person has a beneficial interest) and the Council:

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Land

Any beneficial interest in land (e.g. a Member's home) which is within the Council's area. *'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/ her partner (alone or jointly with another) a right to occupy or to receive income.*

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 the Member's knowledge):

- the landlord is the Council; and
- the tenant is a body in which the Member or his/her ~~spouse~~/partner has a beneficial interest

Securities*

Any beneficial interest in securities of a body where:

- that body (to the Member's knowledge) has a place of business or land in the Council's area; and
- 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 Member or his/her ~~spouse/~~ partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**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.*

DISCLOSABLE NON-PECUNIARY INTERESTS arising from membership of or occupation of a position of general control or management in the following bodies (relating to Elected / Co-opted Members)

You have a personal interest in any business of your authority where it relates to or is likely to affect: Bodies:

- *of which you are in general control or management and to which you are nominated or to which a Member has been appointed by the Council*
- *exercising functions of a public nature*
- *directed to charitable purposes and with a connection to the Council's area*
- *whose principal purposes include the influence of public opinion or policy.*

ANNEXE B

*Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Annexe A (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Annexe A (Disclosable Non-Pecuniary Interests)**.*

- 1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.*
- 2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.*
- 3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.*

Non participation in case of disclosable pecuniary interest

- 4. Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests as set out in **Annexe A**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room *unless you have been granted a dispensation*. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.*

Disclosure of disclosable non-pecuniary interests

- 5. Where a matter arises at a meeting which **directly relates** to one of your disclosable non-pecuniary interests (as set out in Annexe A), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.*

Disclosure of Non-Registerable Interests

- 6. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Annexe A) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a*

dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

7. *Where a matter arises at a meeting which **affects** –*
 - a. your own financial interest or well-being;*
 - b. a financial interest or well-being of a friend, relative, close associate; or*
 - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Annexe A***

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:
8. *Where a matter **affects** your financial interest or well-being:*
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;*
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest*

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.