

# Part 5A MEMBERS' CODE OF CONDUCT

## EXPLANATORY NOTE

*(This note is not part of the Code)*

The code of members' conduct sets out the conduct which is expected of members and co-opted members of the authority.

**Paragraph 1** of the Code provides that the Code applies to any member of Horsham District Council and that it is the responsibility of each member to comply with the Code.

**Paragraph 2** 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 Horsham District Council, 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.

**Paragraph 3** 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 intimidate persons involved in code of conduct cases.

**Paragraph 4** 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.

**Paragraph 5** 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.

**Paragraph 6** 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.

**Paragraph 7** of the Code 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.

**Paragraph 8** of the Code provides a list of matters which constitute a personal interest.

**Paragraph 9** of the Code 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.



**Paragraph 10** 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.

**Paragraph 11** of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

**Paragraph 12** of the Code 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.

**Paragraph 13** 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.

**Paragraph 14** of the Code 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.





### General Provisions

1. (1) This Code of Members' Conduct is made under section 51 of the Local Government Act 2000 and was adopted by Horsham District Council on 27th June 2007.  
  
(2) This Code applies to **you** as a member of an authority.  
  
(3) You should read this Code together with the general principles prescribed by the Secretary of State and set out in Part 4.  
  
(4) It is your responsibility to comply with the provisions of this Code.  
  
(5) 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 and an appointed member;  
  
    "the authority" or "your authority" means Horsham District Council.  
  
(6) References to the authority's monitoring officer and the authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of Horsham District Council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—  
  
    (a) conduct the business of your authority (which, in this Code, 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 as a



representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(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 your 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

3. (1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) 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 a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.



**4. You must not—**

(a) 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—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

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

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You**

(a) must 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; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—**

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.



(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2

### Interests

#### Personal interests

8. (1) You have a personal interest in any business of your authority where either
- (a) it relates to or is likely to affect
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;



(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of

(i) (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;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

**9.** (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you 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) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.



(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority 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.

(7) In this paragraph "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 interest generally**

**10.** (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business 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.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) 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;

(iii) 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;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (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 your authority's executive or another of your authority'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 mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

**12. (1)** Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
  - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
  - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.



## Part 3

### Registration of Members' Interests

#### Registration of members' interests

**13.** (1) Subject to paragraph 14, you must, within 28 days of

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### Sensitive information

**14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.



## Part 4

### THE GENERAL PRINCIPLES

The general principles governing your 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.



# APPENDIX 1

## CODE OF MEMBERS' CONDUCT - DISPENSATIONS

### 1. Applicability

The following arrangements for seeking dispensations from prohibitions on participation apply from the 13 April 2011. The statutory basis for the rules is to be found in The Standards Committee (Further Provisions) (England) Regulations 2009 Part 4. The Regulations allow for standards committees to use their discretion to grant dispensations.

### 2. Legal criteria

The rules apply only to dispensations from participation concerning a matter in which a member has a prejudicial interest, (a personal interest, (defined by Article 8 of the Code of Members conduct, (the 'Code'), while declarable, does not debar a member from participation in a matter unless it is a prejudicial interest (see Article 10 of the Code)). A dispensation can only be granted in two circumstances:

where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business on each occasion on which the dispensation would apply otherwise be impeded by or as a result of the mandatory provisions of the Code because:

- 2.1 the number of members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business, OR
- 2.2 the number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting (as defined within the Local Government and Housing Act 1989 and it's Regulations) to such an extent as to be prejudice the outcome of voting in that meeting.

### 3. Development control

The political balance requirements have been disapplied to Development Control Committees and accordingly the second criterion for dispensation does not apply to the consideration of development control matters.

### 4. Maximum period

A dispensation may not last for more than four years from the date of the giving of the dispensation.

### 5. When dispensation can never be given

A dispensation can never be given where:

- 5.1 A member is prohibited from voting on a matter at a meeting of an overview and



scrutiny committee of the authority relating to a decision made by any body of which that person was a member at the time the decision was taken OR

**5.2** A member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive and which would otherwise be discharged solely by that member.

## **6. How to apply for a dispensation**

If a member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the Code, he or she should write to or e-mail the Monitoring Officer a request for a dispensation explaining why it is desirable for a dispensation to be granted. At least seven working days' notice must be given before the dispensation is required to enable the convening of a meeting of the Standards Committee or sub-committee set up by the Standards Committee to consider requests for dispensations<sup>1</sup>.

## **7. Records**

The Standards Committee is obliged to record the existence, duration and nature of any dispensation and the record is to be kept with the Register of Members' Interests.

## **8. The Standards Committee's consideration of an application for dispensation**

The following is a summary of what might be regarded as good practice in considering an application for a dispensation.

- 8.1** Dispensations should be granted only in exceptional circumstances.
- 8.2** A dispensation should not be granted where the nature of the member's interest would damage public confidence in the conduct of the authority's business were the dispensation to be granted.
- 8.3** Dispensations cannot be granted other than when the threshold requirements in paragraph 2 are met.
- 8.4** Dispensations cannot be granted in the two circumstances set out in paragraph 5.
- 8.5** A dispensation cannot authorise a Member to act unlawfully.
- 8.6** The Standards Committee will ignore any dispensations that have already been granted when applying the legal criteria in paragraph 2.
- 8.7** The Standards Committee will balance the prejudicial interest of the member seeking the dispensation against the potential effect on the outcome of the vote if the member is unable to do so.
- 8.8** A dispensation may be granted to enable a member to speak only or to speak and vote.
- 8.9** If a dispensation is granted it should usually be for one specific item of business at one meeting of the authority.



**8.10** A dispensation should not be granted where the dispensation would conflict with the statutory general principles which underlie the Code of Members' Conduct:

#### **8.10.1.1 Selflessness**

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

#### **8.10.2 Honesty and Integrity**

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.

#### **8.10.3 Objectivity**

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

#### **8.10.4 Accountability**

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.

#### **8.10.5 Openness**

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.

#### **8.10.6 Personal Judgement**

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.

#### **8.10.7 Respect for Others**

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.

#### **8.10.8 Duty to Uphold the Law**

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

#### **8.10.9 Stewardship**

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



### **8.10.10 Leadership**

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

- 8.11** Consideration must take account of any legal requirement or statutory guidance issued by the Department for Communities and Local Government or Standards for England.

## **9. Help**

Further assistance can be obtained from the Monitoring Officer. Or e-mail [standards@horsham.gov.uk](mailto:standards@horsham.gov.uk).

## **10. Definitions within this Protocol:**

- 1.** “dispensation” means such a dispensation as is mentioned in section 81(4) of the Local Government Act 2000 (disclosure and registration of members interests etc);
- 2.** “mandatory provisions” means the mandatory provisions of a model code of conduct which for the time being applies to the authority;
- 3.** “meeting” includes any meeting of the authority, of the executive of the authority, of any committee or sub committee of the authority or its executive, of any joint committee or sub-committee of a joint committee, or of any area committee;
- 4.** “member” means a member or co-opted member of an authority or a councillor appointed under section 16A of the Local Government Act 1972 (appointed councillors).

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<sup>i</sup> See Local Government Act 2000 S.54A (1) an authority’s Standards Committee can set up a sub-committee to consider requests for dispensations.

