

# Ashburnham & Penhurst Parish Council

## Code of Conduct for Members

The Code of Conduct, adopted by Ashburnham & Penhurst Parish Council on 19<sup>th</sup> July 2012 is set out below. It is made under Chapter 7 of the Localism Act 2011. It includes, as standing orders made under Chapter 7 of that Act and Schedule 12 of the Local Government Act 1972, provisions which require members to leave meetings in appropriate circumstances, while matters in which they have a personal and prejudicial or disclosable pecuniary interest are being considered.

### Part 1

#### GENERAL PROVISIONS

##### Introduction and interpretation

1. (1) The Code applies to **you** as a member of the authority, when acting in that capacity.
- (2) This Code is based upon 7 principles fundamental to public service, which are set out in Appendix 1. You should have regard to these principles they will help you to comply with the Code.
- (3) If you need guidance on any matter under this Code you should seek it from the authority's Proper Officer, the Monitoring Officer of Rother District Council or your own legal advisor – but it is entirely your responsibility to comply with the provisions of this Code.
- (4) It is a criminal offence to fail to notify the Rother District Council Monitoring Officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the Rother District Council's Monitoring Officer.
- (5) Any written allegation received by the authority that you have failed to comply with this Code will be referred to the Rother District Council Monitoring Officer and will be dealt with by Rother District Council under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the Monitoring Officer has the right to have regard to this failure in deciding;
  - (a) whether to take action in relation to you; and
  - (b) what action to take.

- (6) In this Code –

“authority” means Ashburnham & Penhurst Parish Council

“Code” means this Code of Conduct

“co-opted member” means 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 questions to be decided at any meetings of that committee or sub-committee.

“meeting” means any meeting of

- (a) the authority;
- (b) any of the authority’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member.

“register of members’ interest” means the register established and maintained by the Rother District Council Monitoring Officer ‘register of members’ pecuniary and other interests under section 29 of the Localism Act 2011.

## **Scope**

- 2.** (1) Subject to sub-paragraphs (2) and (3), you must comply with the 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) this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) 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 its equality duties (in particular set out in the Equality Act 2010);
  - (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 the 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) reasonable and in the public interest; and
      - (b) made in good faith and in compliance with the reasonable requirements of the authority; or
      - (c) 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 –**

- (1) 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;
- (2) must, when using or authorising the use by others of the resources of your authority-
  - (a) act in accordance with your authority's reasonable requirements;
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

(Section 7 of the Rother District Council Code is not applicable to Parish Councils and is, therefore, not included here.)

**Part 2**

**INTERESTS**

**Personal Interests**

8. (1) The interests described in paragraphs 8(3) are your personal interests and the interests in paragraph 8(5) are your pecuniary interests which are disclosable pecuniary interests as defined by section 30 of the Localism Act 2011.
- (2) If you fail to observe Parts 2 and 3 of the Code in relation to your personal interests-
  - (a) the authority may deal with the matter as mentioned in paragraph 1(5).
  - (b) if the failure is related to a disclosable pecuniary interest, you may also become subject to criminal proceedings as mentioned in paragraph 1(4).
- (3) 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 the position of general control or management and to which you are appointed or nominated by the authority;
    - (ii) any body-

- (a) exercising functions of a public nature;
- (b) directed to charitable purposes; or
- (c) 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 are 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 a description specified in paragraph (vi);
  - (viii) the interest of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
  - (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;
- (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 (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;
- (4) In sub-paragraph 8(3)(b), a relevant person is-
- (a) a member of your family or a [close] friend; 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 (3)(a)(i) or (ii).
- (5) Subject to sub-paragraphs (6) and (7), you have a personal interest which is also a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority which concerns any of the following for (i) you or (ii) your partner-

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| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| Sponsorship                                       | Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.<br><br>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1). |
| Contracts   | Any contract which is made between you (or a body in which you have a beneficial interest) and the relevant authority—<br><br>(a) under which goods or services are to be provided or works are to be executed; and<br><br>(b) which has not been fully discharged.   |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.  |
| Corporate tenancies                               | Any tenancy where (to your knowledge)—<br><br>(a) the landlord is the relevant authority; and<br><br>(b) the tenant is a body in which you have a beneficial interest.  |

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| Securities | <p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 I have a beneficial interest exceeds one hundredth of the total issued share capital of the class.</p> |
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- (6) In sub-paragraph (5), your partner means –
- (a) your spouse or civil partner,
  - (b) a person with whom you are living as husband or wife, or
  - (c) a person with whom you are living as if you were civil partners,
- (7) In sub-paragraph (5), any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.

### **Disclosure of personal interests (See also Part 3)**

9. (1) Subject to sub-paragraphs (2) to (6), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to 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) If the personal interest is entered on the authority's register there is no requirement for you to disclose the interest to that meeting, but you should do so if you wish a disclosure to be recorded in the minutes of the meeting.
- (3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (4) 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 and, if also applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting,

- (5) 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 on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (6) 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 either-
- (a) the interest is a disclosable pecuniary interest as described in paragraph 8(5), or
  - (b) 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) For the purposes of sub-paragraph (1)(b), 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.

(Section 11 of the Rother District Council Code is not applicable to Parish Councils and is, therefore, not included here.)

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

- 12.** (1) Subject to sub-paragraph (2) and (3), where you have a prejudicial and disclosable pecuniary interest in any matter in relation to the business of your authority-
- (a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter 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 matter is being considered at that meeting;unless you have obtained a dispensation from your authority's Proper Officer.
  - (b) you must not exercise executive functions in relation to that matter; and
  - (c) you must not seek improperly to influence a decision about that matter.
- (2) Where you have a prejudicial interest in any business of your authority which is not a disclosable pecuniary interest as described in paragraph 8(5), you may attend a meeting 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.
- (3) Where you can have a prejudicial interest which is not a disclosable pecuniary interest as described in paragraph 8(5), arising solely from membership of any body described in 8(3)(a)(i) or 8(3)(a)(ii)(a) then you do not have to withdraw from the room or chamber and may make representations to the committee but may not participate in the vote.

### **Part 3**

## **REGISTRATION OF INTERESTS**

### **Registration of members' interests**

- 13.** (1) Subject to paragraph 14, you must, within 28 days of-
- (a) this Code being adopted by the authority; or
  - (b) your election or appointment to office (where that is later), register in the register of members' interests details of-
    - (i) your personal interests where they fall within a category mentioned in paragraph 8(3)(a) and
    - (ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph 8(5)
- by providing written notification to the Rother District Council's Monitoring Officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest falling within sub-paragraphs (1)(i) or (1)(ii) or any change to any personal interest registered under sub-paragraphs (1)(i) or (1)(ii), register details of that new personal interest or change by providing written notification to the Rother District Council's Monitoring Officer.

### **Sensitive information**

- 14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and the Rother District Council's Monitoring Officer agrees, the Monitoring Officer shall not include details of the interest on any copies of the register of members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (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 the Rother District Council's Monitoring Officer asking that the information be included in the register of members' interests.

- (3) In this Code, “sensitive information” means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## Dispensations

15. (1) On a written request made to the Council’s Proper Officer the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting relieving the member from either or both of the restrictions in paragraph 12(1)(a) (restrictions on participating in discussions and in voting), in cases described in the dispensation.
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Proper Officer-
- (a) considers that without the dispensation the number of persons prohibited by paragraph 12 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that granting the dispensation is in the interests of persons living in the authority’s area,
  - (c) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed 4 years.
- (4) Paragraph 12 does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

***(Important Note:- Paragraphs 7 & 11 of the Code of Conduct, which appear in the Rother District Council adopted Code of Conduct, are not relevant to Parish Councils and therefore the entire paragraphs have been deleted. In order to ensure consistency of reference with the District Council Code of Conduct, no re-numbering of paragraphs has taken place.)***

## The 7 Principles of Public Life

### ***Selflessness***

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

### ***Integrity***

2. Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.

### ***Objectivity***

3. Members should make decisions in accordance with the law and 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.

### ***Honesty***

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour. Members should declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects that public interest.

### ***Leadership***

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