

## CTC - Members' Code of Conduct

### Introduction

Pursuant to Section 27 of the Localism Act 2011, Costessey Town Council has adopted this code to promote and maintain the high standards of behaviour by its members whenever they conduct the business of the council, claim to act or give the impression of acting as representatives of the council, or interact with other members, officers, other public bodies, or the general public.

### Definitions

For the purposes of this code:

- i) references to 'the council' refers to Costessey Town Council
- ii) references to 'the code' refers to this code of conduct or any associated document that forms part of the code
- iii) a 'member' refers to any member of the council, or to a non-member of the council who is appointed by co-option to any committee, sub-committee, or working group of the council.

### The Code of Conduct

The code deals with members' obligations about their conduct, including the registration and disclosure of their interests.

The code is underpinned by the legal framework set by central government for local authorities, the recommendations of the Nolan Committee Report into standards of conduct for people in public life, and the best practice advice of the National Association of Local Councils (NALC). The council is a member of NALC.

In order to promote the high standard of behaviour expected of members, the council has adopted a range of policies, protocols and resolutions that govern the conduct of members. These form part of the code.

### Members' Obligations

You are a member of Costessey Town Council, it is your responsibility to comply with the provisions of this Code and hence you shall have regard to the following principles (as stated in the Localism Act 2011 section 28) – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

Accordingly, when acting in your capacity as a member or co-opted member:

- Selflessness - You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- Integrity - You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- Objectivity - When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- Accountability - You are accountable for your decision to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- Openness - You must be as open as possible about your decisions and actions and the decisions and actions of your authority, and should be prepared to give reasons for those decisions and actions.
- Honesty - You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
- Leadership – Holders of public office should promote and support these principles, by leadership and by example and should act in a way that secures or preserves public confidence.

You should conduct yourself in accordance with these principles, which underpin the purpose and provisions of the Code of Conduct.

### **General Obligations**

You must: -

- treat others with courtesy and respect;
- when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to relevant advice provided to you by an officer of the council.

You must not: -

- attempt to use your position as a Member to confer on or secure for yourself or any other person, an advantage or disadvantage;
- do anything which may cause the Council to breach a statutory duty including any of the equality duties in section 149 of the Equality Act 2010);
- bully any person (bullying may be characterised as any single act or pattern of offensive, threatening, aggressive, antagonistic, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- 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 Town Clerk or another person authorised to give it;
  - ii) you are required by law to do so; the disclosure is in the public interest as defined in Section 43(B)(1) of the Public Interest Disclosure Act 1998
  - iii) you have a safeguarding concern which must be disclosed under the requirements of the Safeguarding Vulnerable Groups Act 2006 and subsequent amendments or revisions

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify South Norfolk Council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify South Norfolk Council's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register.

Your registration of personal interests should be guided by your duty to act in Conformity with the Principles of Public Life. The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting

their own financial affairs from being a councillor.

You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

Your register of interests is a public document available on South Norfolk Council's website and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.

To ensure openness and transparency, in addition to the interests you are required to register by law, you are encouraged to consider including details of the following on your register of interests:

- 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 the Council;
- Any body exercising functions of a public nature of which you are a member or in a position of general control or management;
- Any body directed to charitable purposes of which you are in a position of general control or management;
- Any body whose principal purposes include 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.
- Details of any gift, benefit or hospitality with a value in excess of £ 50 which you have accepted as a member from any person or body other than the Council.

All councillors must make sure their online records are correct and up-to-date

If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of the authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.

Following any disclosure of any interest which is not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion or, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. See guidance at appendix A

## **Dual-Hatted Councillors**

These are Councillors who serve on two or more relevant authorities; for instance, a Councillor who is both a District/County and Town Councillor.

A dual-hatted Councillor should declare an interest if taking part in a council meeting and an issue is under discussion which affects that Councillor's other authority, then provided that they do not have a prejudicial interest, the dual hatted Councillor only needs to declare a personal interest if they intend to speak on the matter involving the other authority. If the Councillor does speak on the matter then they must declare a personal interest, but they are still able to vote.

Councillors must consider carefully, however, if the nature of the matter under discussion means that their membership of another authority may also give rise to a prejudicial interest.

For dual-hatted members who would not otherwise have a prejudicial interest for any other reason, a prejudicial interest will arise as a result of membership of the other authority if all of the following conditions are met:

- the matter affects the other authority's financial position or is about a licensing or regulatory matter applied for by the other authority
- the matter does not fall within one of the exempt categories of decisions
- a reasonable member of the public with knowledge of the relevant facts would believe that the member's ability to judge the public interest would be impaired

Where a regulatory application, including a matter of consent or approval, is made by a body on a member's register of interests, or a matter is discussed that would impact upon the financial interests of a body on a member's register of interests, then a prejudicial interest will arise.

For example, if a town council planning application was being considered at a district council meeting, a member of the planning committee who is also a town council member would need to declare a personal and prejudicial interest when that matter is considered and not take part in the discussion or vote.

## **Bias and Predetermination**

Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the councillor was biased. In particular, under the Council's Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties.

The rules on registration and declaration of interests are intended to protect councillors against allegations of bias and predetermination. This also applies when a

councillor is lobbied by members of the public on a particular matter and should be declared to avoid allegations of bias and predetermination.

The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, Councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a Councillor advice should be sought at an early stage and in any event before the decision concerned is made.

**Approved by Full Council on 10 December 2019**

## APPENDIX A

### **“Disclosable Pecuniary Interests”**

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| 1. Employment, office, trade, profession or vocation | Any employment, office trade, profession or vocation carried out for profit or gain.  |
| 2. Sponsorship                                       | <p>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 the Member in carrying out duties as a member, or towards the election expenses of Members.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (a)</p> |
| 3. Contracts   | <p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <ul style="list-style-type: none"><li>a. Under which goods or services are to be provided or works are to be executed; and</li><li>b. Which has not been fully discharged</li></ul>  |
| 4. Land  | Any beneficial interest in land which is within the area of your authority. i.e. the address of the property or Land Registry number. If you live in the authority's area you should include your home address under this heading as owner, lessee or tenant.   |
| 5. Licences  | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer   |
| 6. Corporate tenancies                               | Any tenancy where (to the Members knowledge):   |

- a. The landlord is the relevant authority; and
- b. The tenant is a body in which the relevant person has a beneficial interest

## 7. Securities

Any beneficial interest in securities of a body where:

- a. That body (to the Members knowledge) has a place of business or land in the area of the relevant authority; 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