

SOUTH DERBYSHIRE DISTRICT COUNCIL

MEMBERS' CODE OF CONDUCT

Adopted on 28th June 2012
Effective from 1st July 2012

The General Principles of Public Life

You should behave in a way consistent with the following principles—

• Selflessness	You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
• Honesty and Integrity	You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
• Objectivity	You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
• Accountability	You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
• Openness	You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.
• Leadership	You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

MEMBERS' CODE OF CONDUCT

**Adopted on 28th June 2012
Effective from 1st July 2012**

Under the Localism Act 2011 the Council must promote and maintain high standards of conduct by its members and adopt a Code of Conduct.

Part 1 General provisions

Introduction and interpretation

1.—(1) This Code applies to **you** as a member of South Derbyshire District Council.

(2) You should read this Code together with the general principles at page 2 (prescribed in Section 28 of the Localism Act).

(3) You must comply with the provisions of this Code.

(4) In this Code—

“interest” means a pecuniary or other interest required to be notified under this Code.

“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 and an appointed member.

“partner” means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

“Register of Interests” means the Council’s register of members’ interests maintained under section 29(1) of the Localism Act 2011.

“sensitive interest” means an interest whose disclosure to the public could lead to you, or a person connected with you, being subjected to violence or intimidation.

Scope

2.—(1) You must comply with this Code whenever you act in your official capacity as a member of your authority. That is when 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.

(2) 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 equality laws;
- (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
 - (iii) have regard to any applicable Code of Recommended Practice on Local Authority 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

Disclosable Pecuniary Interests

8. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any disclosable pecuniary interests. A disclosable pecuniary interest is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the descriptions in the schedule attached to this Code.

9. Non-participation where you have a disclosable pecuniary interest

(1) If you are present at a meeting and have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting—

- (a) You must not participate in any discussion of the matter at the meeting.
- (b) You must not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

10. Dispensations

The Council may grant you a dispensation, but only in specified circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

11. Offences

(1) It is a criminal offence to—

- (a) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- (c) Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- (d) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- (e) As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, fail to notify the Monitoring Officer within 28 days of the interest.

- (f) Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

(2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale¹ and disqualification from being a councillor for up to 5 years.

Part 3 Other Interests

12. Notification of interests

(1) Subject to paragraph 17 (sensitive interests) 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), notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following categories, for inclusion in the register of interests.

(2) You have a personal interest in any business of your authority where either it relates to or is likely to affect—

- (a) 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;
- (b) any body—
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) 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;
- (c) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income;

(3) Subject to paragraph 17 (sensitive interests) you must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), notify the Monitoring Officer of the details of that new interest or change.

¹ Currently £5000.

13. Disclosure of interests

(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 12 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, 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) (a) You have a personal interest in any business of your authority—

- (i) where 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 other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

(b) In sub-paragraph (2)(a)(i), a *relevant person* is—

- (i) a member of your family or any person with whom you have a close association; or
- (ii) 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;
- (iii) 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
- (iv) any body of a type described in paragraph 12(2)(a) or (b).

(3) 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 12(2)(a) or 12(2)(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(4) Where you have a personal interest but, by virtue of paragraph 17, 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.

(5) 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.

14. Non-participation where you have a pecuniary interest

(1) Where you have a personal interest in any business of your authority, you also have a pecuniary 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 and where that business—

- (a) affects your financial position or the financial position of a person or body described in paragraphs 12(2) or 13(2); or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraphs 12(2) or 13(2).

(2) Subject to paragraphs (3) and (4), if you are present at a meeting and have a pecuniary interest in any matter to be considered or being considered at the meeting—

- (a) You must not participate in any discussion of the matter at the meeting.
- (b) You must not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

(3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting 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 and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that 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.

(5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

15. Interests arising in relation to overview and scrutiny committees

(1) 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 the 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,

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

Part 4 Registration of Members' Interests

16. Registering your interests

(1) You must notify the Monitoring Officer of any interest you have within 28 days of—

- (a) becoming a member.
- (b) disclosing an interest in any matter being considered at a meeting (if that interest is not already on the Register of Interests).
- (c) if you are an executive member, becoming aware of an interest in any matter to be dealt with, or being dealt with.

(2) Any interests notified to the Monitoring Officer will be included in the register of interests.

(3) A copy of the register will be available for public inspection and will be published on the authority's website.

(4) Subject to paragraph 17, you must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), register details of that new interest or change by providing written notification to the Monitoring Officer.

17. Sensitive interests

(1) Where you consider that you have a sensitive interest, and the Monitoring Officer agrees–

- (a) if the interest is entered on the Register of Interests, any copy of the Register of Interests made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (b) if the interest is not entered on the Register of Interests, at any relevant meeting you must disclose the fact that you have a disclosable interest, but not the nature of the interest.

(2) You should, within 28 days of becoming aware of any change of circumstances which means that your interest is no longer sensitive, notify the Monitoring Officer.

18. Gifts and Hospitality

(1) You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

(2) The Monitoring Officer will place your notification on a public register of gifts and hospitality.

(3) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

Schedule

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable Pecuniary Interests are defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:–

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
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 M in carrying out duties as a member, or towards the election expenses of M.</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).</p>
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> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
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	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's 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.

For this purpose –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.