

# CHESHAM TOWN COUNCIL

## Code of Conduct for Members Adopted on 3<sup>rd</sup> September 2012

### Part 1 - General Provisions

#### Introduction

1. (1) The Council has adopted this Code of Conduct pursuant to section 27 of the Localism Act 2011 (the Act) to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council
- (2) This Code of Conduct complies with Section 28 the Act and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

#### Scope

2. (1) This Code of Conduct applies to you whenever you are acting in your capacity as a member of Chesham Town Council, including: -
  - (a) at formal meetings of the Council, its Committees and Sub-Committees
  - (b) when acting as a representative of the authority
  - (c) in discharging your functions as a ward Councillor
  - (d) at briefing meetings with officers
  - (e) at site visits and
  - (f) when corresponding with the authority other than in a private capacity
- (2) Where you act as a representative of the Council: -
  - (a) on another authority, you must when acting for that 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 this 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. You must -
  - (1) provide leadership to the council and communities within its area, by personal example and
  - (2) respect others and not bully any person
  - (3) recognise that officers (other than political assistants) are employed by and serve the whole council
  - (4) respect the confidentiality of information which you receive as a member -

- i. not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
  - ii. not obstructing third parties' legal rights of access to information
- (5) not misconduct yourself in a manner which is likely to bring the council into disrepute
- (6) use your position as a member in the public interest and not for personal advantage
- (7) act in accordance with the council's reasonable rules on the use of the resources of the council for private or political purposes
- (8) exercise your own independent judgement, taking decisions for good and substantial reasons -
  - i. attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
  - ii. paying due regard to the advice of officers and
  - iii. stating the reasons for your decisions where those reasons are not otherwise apparent
- (9) account for your actions
- (10) ensure that the council acts within the law.

## Part 2 - Interests

### Personal interests

4. In addition to the statutory requirements under the Act in relation to Disclosable Pecuniary Interests and save for the subject interest already having been declared as a Disclosable Pecuniary Interest and the statutory provisions complied with, the following Paragraphs 5 to 8 shall also apply.
5. (1) You have a personal interest in any business of the council 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 the council;
    - (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 person or body who employs or has appointed you;
    - (iv) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
  - (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 other council tax payers, ratepayers or inhabitants of the ward affected by the

decision;

- (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

6. (1) Subject to sub-paragraphs (2) to (4), where you have a personal interest in any business of the council and you attend a meeting of the council 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 the council which solely relates to a 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, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial.
  - (3) Where you have a personal interest in any business of the council of the type mentioned in paragraph 5(1) (a) (iv), 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.

### Prejudicial interest generally

7. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the council 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 council where that business—
    - (a) does not affect your financial position or the financial position of a person or body described in paragraph 5;
    - (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 5; or
    - (c) relates to the functions of the council in respect of—
      - (i) an allowance, payment or indemnity given to members;
      - (ii) any ceremonial honour given to members; and
      - (iii) setting council tax or a precept under the Local Government Finance Act 1992.

## Effect of prejudicial interests on participation

8. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your council—
- (a) you must declare the existence and nature of your interest and 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 council; and
  - (B) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of the council 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.

## Disclosable Pecuniary Interest

9. A Disclosable Pecuniary Interest (DPI) is as defined in ‘The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012’ (The Regulations) and the categories of interest are set out in Appendix A.

## Part 3 - Registration of Members’ Interests

### Registration or Disclosure of members’ interests

10. (1) Subject to paragraph 11, you must, within 28 days of—
- (a) in relation to a DPI, the Regulations coming into effect namely 1.7.12
  - (b) in relation to Personal Interests, this Code being adopted by or applied to the council; or
  - (c) otherwise your election or appointment to office (where that is later),
- register in the council’s register of members’ interests, maintained under Section 29 of the Act, details of any DPI which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have, together with your personal interests where they fall within a category mentioned in paragraph 5(1) (a), by providing written notification to the District Council’s monitoring officer.
- (2) Failure to register or disclose any DPI in accordance with section 30(1) or 31(2), (3) or (7) of the Act, or participating in any discussion or vote in contravention of section 31(4) of the Act, or taking any steps in contravention of section 31(8) of the Act, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.
- (3) Subject to paragraph 11, you must, within 28 days of becoming aware of any new

DPI and/or personal interest or change to any DPI and/or personal interest registered under paragraph (1), register details of that new DPI and/or personal interest or change by providing written notification to the District Council's monitoring officer.

- (4) Subject to Paragraph 11, you are required to disclose the existence and nature of any DPI when it arises at a meeting even where already registered in the Register or pending registration so the minutes can be duly noted.

### **Sensitive interest**

11. (1) Where you consider that you have a sensitive interest (whether or not a DPI), and the District Council's monitoring officer agrees, if the interest is entered in the Council's register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32 (2) of the Act) and any public declaration required need only state the fact an interest arises without further detail.
- (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 a sensitive interest, notify the District Council's monitoring officer asking that the interest be included in the Council's register of members' interests.
- (3) In this Code, "sensitive interest" means an interest, the nature of which is such that you and the District Council's monitoring officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

### **Dispensations**

12. On a written request made to the council's proper officer, the council may grant a dispensation for you to participate in a discussion and vote on a matter at a meeting even if you have a DPI or a prejudicial interest and that you be relieved of the obligation to otherwise withdraw from the room in which the matter is being considered if the council considers that the number of members otherwise prohibited from taking part in the meeting would be so great a proportion of the body transacting the business that it would impede the transaction of the business; or the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote on the business; or it is in the interests of the inhabitants in the council's area to allow you to take part or it is otherwise appropriate to grant a dispensation.

## Appendix A

### Disclosable Pecuniary Interests

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

DPI's are defined in the Regulations 2012 as follows -

<i>Interest</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	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's 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>

- (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 -

“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.

## Appendix B

### The Localism Act - Chapter 7: Sections 30-33

#### 30 Disclosure of pecuniary interests on taking office

(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.

(2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.

(3) For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either—

(a) it is an interest of M's, or

(b) it is an interest of—

(i) M's spouse or civil partner,

(ii) a person with whom M is living as husband and wife, or

(iii) a person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.

(4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

#### 31 Pecuniary interests in matters considered at meetings or by a single member

(1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority—

(a) is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,

(b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and

(c) is aware that the condition in paragraph (b) is met.

(2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).

(3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

(4) The member or co-opted member may not—

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting,

but this is subject to section 33.

(5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.

(6) Subsections (7) and (8) apply if—

- (a) a function of a relevant authority may be discharged by a member of the authority acting alone,
- (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
- (c) the member is aware that the condition in paragraph (b) is met.

(7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.

(8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

(9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).

(10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.

(11) For the purpose of this section, an interest is "subject to a pending notification" if—

- (a) under this section or section 30, the interest has been notified to a relevant authority's monitoring officer, but
- (b) has not been entered in the authority's register in consequence of that notification.

### **32 Sensitive interests**

(1) Subsections (2) and (3) apply where—

- (a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
- (b) the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

(2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).

(3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

### **33 Dispensations from section 31(4)**

(1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons prohibited by section 31(4) 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 without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
- (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.