

Luton Borough Council Constitution

Part 9 – Code of Conduct for Members and Co-opted Members

June 2020

Approved by the council on 19 July 2016

Part 1: General provisions

1. Introduction and interpretation

- 1.1 This Code applies to all Members of the Authority.
- 1.2 Members should read this code together with any other relevant Guidance.
- 1.3 It is the responsibility of all Members to comply with this Code.
- 1.4 In this Code:
- (a) 'Meeting' means any meeting of:
 - (i) the Authority
 - (ii) the Executive of the Authority and
 - (iii) any of the Authority's or the Executive's Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Area Committees and
 - (iv) shall for the purposes of this part of the constitution include any briefing by Officers and any site inspection to do with business of the Authority
- and
- (b) 'Member' includes a Co-opted Member and an appointed member.

2. Scope

- 2.1 Subject to paragraphs 2.2 and 2.5 of this Part 1 of this Code all Members must comply with this Code whenever they:
- (a) conduct the business of the Authority (which in this Code includes the business of the office to which the Member is elected or appointed) or
 - (b) act, claim to act or give the impression that the Member is acting as a representative of the Authority
- and references to a Member's official capacity shall be construed accordingly.
- 2.2 Subject to paragraphs 2.3 and 2.4 of this Part 1 of this Code, this Code does not have effect in relation to a Member's conduct other than where it is in his/her official capacity.
- 2.3 In addition to having effect in relation to conduct in a Member's official capacity, paragraphs 5.6, 5.7 and 5.12 of Part 1 of this Code also have effect, at any other time, where that conduct constitutes a criminal offence for which the Member has been convicted.

- 2.4 Conduct to which this Code applies (whether that is conduct in the Member's official capacity or conduct mentioned in paragraph 2.3 of this Part 1 of this Code) includes a criminal offence for which the Member is convicted (including an offence the member committed before the date on which he/she took office, but for which the Member is convicted after that date).
- 2.5 Where a Member acts as a representative of the Authority:
- (a) on another relevant Authority, a Member must, when acting for that other Authority, comply with any other Authority's Code of Conduct or
 - (b) on any other body, the Member must, when acting for that other body, comply with the Authority's Code of Conduct (this Code of Conduct) except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

Every Member of Luton Borough Council must:

- 3.1 provide leadership to the Authority and communities within its area, by personal example
- 3.2 respect others and not bully any person
- 3.3 not do anything which may cause the Authority to breach its equality duties or be in breach of any of the equality enactments (for example but not by way of limitation the Equality Act 2010)
- 3.4 not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority
- 3.5 respect the confidentiality of information received by him/her as a Member:
 - (a) not disclosing information given to the Member in confidence by anyone, or information obtained by the member which he/she believes, or ought reasonably to be aware, is of a confidential nature to third parties unless:
 - (i) the Member has the consent of a person authorised to give it
 - (ii) 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) where there is a clear and overriding public interest in doing so and the disclosure is made in good faith and in compliance with the reasonable requirements of the council and
 - (b) not obstructing third parties' legal rights of access to information
- 3.6 not conduct themselves in a manner which could reasonably be regarded as bringing his/her office or the Authority into disrepute

- 3.7 not use or attempt to use his/her position as a Member improperly to confer on or secure for themselves or for any other person, an advantage or disadvantage
- 3.8 when using or authorising the use by others of the resources of the Authority:
- (a) act in accordance with the Authority's reasonable requirements and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes)
- 3.9 exercise his/her own independent judgement, taking decisions for good and substantial reasons:
- (a) attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - (b) paying due regard to the advice of officers, in particular to the advice of the statutory chief officers and specifically the Chief Finance Officer and the Monitoring Officer in fulfilling their roles and
 - (c) stating the reasons for decisions where those reasons are not otherwise apparent
- 3.10 submit themselves to whatever scrutiny is appropriate to his/her office
- 3.11 whilst exercising his/her duties, ensure that they uphold the rule of law and
- 3.12 not intimidate or attempt to intimidate any person who is or is likely to be:
- (a) a complainant
 - (b) a witness or
 - (c) involved in the administration of any investigation or proceedings, in relation to any allegation that the Member or any other Member has failed to comply with this 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 the Authority

Part 2: Registration, disclosure and duties on interests held by a Member

A Disclosable Pecuniary Interests

Every Member of Luton Borough Council must:

1. comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which they have a Disclosable Pecuniary Interest, as defined by the Localism Act 2011 and set out at Table 1 in the Schedule to this Code
2. ensure that his/her Register of Interests is kept up to date and notify the Monitoring Officer in writing with twenty eight (28) days of becoming aware of any change in respect of his/her Disclosable Pecuniary Interests
3. make verbal declaration of the existence and nature of any Disclosable Pecuniary Interest at any Meeting at which he/she is present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent (unless the interest is a sensitive interest in which event they need not disclose the nature of the interest) and
4. if a Member has disclosed a Disclosable Pecuniary Interest whether or not the same has been registered the Member may not, unless he/she has obtained a Dispensation:
 - (a) participate, or participate further, in any discussion of the matter or vote at the Meeting or
 - (b) remain in the Meeting room whilst the matter is being debated or participate in any vote taken on the matter at the Meeting

B Personal Interests: other pecuniary interests other than Disclosable Pecuniary Interests

Every Member of Luton Borough Council must:

1. in addition to the requirements at A. above, if he/she attends a Meeting at which any item of business is to be considered and he/she is aware that he/she has a Personal Interest in that item, he/she must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
2. recognise that he/she will have a pecuniary interest or an interest other than a pecuniary interest (a 'Personal Interest') in an item of business where:

- (a) a decision in relation to that item of business might reasonably be regarded as affecting the wellbeing or financial standing of:
 - (i) himself/herself
 - (ii) a member of his/her family
 - (iii) a person* with whom he/she has a close association or
 - (iv) a person* from whom he/she has in the previous twelve months (12) received a gift or hospitality with an estimated value of at least £75.00* as a Member (other than when as part of his/her approved duties) this includes a series of gifts or hospitality which add up to £75.00 in any one calendar year, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which they have been elected (or otherwise of the Authority's administrative area) or
 - (b) it relates to or is likely to affect any of the interests listed in the Table 1 in the Schedule to this Code, but in respect of a member of his/her family (other than his/her spouse, civil partner or person with whom he/she is living as spouse or civil partner) or a person with whom he/she has a close association, and that interest is not a Disclosable Pecuniary Interest
3. it relates to or is likely to affect:
- (a) any body of which he/she is a member or in a position of general control or management and to which he/she is appointed or nominated by the 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 he/she is a member or in a position of general control or management
 - (c) any person or body who employs or has appointed him/her or
 - (d) the interests of any person from whom he/she received a gift or hospitality with an estimated value of at least £75.00 or a series of gifts or hospitality amounting to £75.00 in any one calendar year or
4. a decision in relation to that business might reasonably be regarded as affecting the Member's well-being or financial position or the wellbeing 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

*A person includes a natural person and also a legal person in the form of a company, a charitable, or other incorporated body or, for these purposes, an unincorporated association

5. note that a 'relevant person' is:
 - (i) a member of the Member's family or any person with whom he/she has a close association
 - (ii) a 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 3(a) or 3(b)(i) or (ii) of this Part B to this Part 2 of this Code and
6. note that personal interests of the kind listed in the Table 2 in the Schedule to this Code may be added to the Member's Register of Interests for reasons of openness and transparency

C Disclosure of Personal Interests which are not Disclosable Pecuniary Interests

1. Subject to paragraphs 2 to 5 to this Part C of this Part 2 of this Code where a Member has a Personal Interest in any business of the Authority and he/she attends a Meeting of the Authority at which the business is considered, he/she 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 a Member has a Personal Interest in any business of the Authority which relates to or is likely to affect a person described in paragraph 3(a) or 3(b)(ii) of Part B to this Part 2 to this Code, the Member need only disclose to the Meeting the existence and nature of that interest when he/she addresses the Meeting on that business.
3. Where a Member has a Personal interest in any business of the Authority of the type mentioned in paragraph 3(d), the Member need not disclose the nature or existence of that interest to the Meeting if the interest was registered more than three (3) years before the date of the Meeting.
4. Paragraph 1 of this Part C of this Code only applies where the Member is aware or ought reasonably to be aware of the existence of the Personal Interest.
5. Where a Member has a Personal Interest but, by virtue of paragraph 3 to Part 3 of this Code, sensitive information relating to it is not registered in the Authority's Register of Interests, the Member shall indicate to the Meeting that he/she has a Personal interest, but need not disclose the sensitive information to the Meeting.

D Prejudicial Interest Generally

1. Subject to paragraph 2 to this Part D of this Part 2 of this Code where a Member has a Personal Interest in any business of the Authority he/she also has 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 his/her judgement of the public interest.

2. A Member does not have a Prejudicial Interest in any business of the Authority where that business:
 - (a) does not affect his/her financial position or the financial position of a person or body described in paragraph 3 or 4 to Part B of this Part 2 of this Code
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to that Member or any person or body described in paragraph 3 to Part B of this Part 2 of this Code
 - (c) relates to the functions of the Authority in respect of:
 - (i) housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to his/her tenancy or lease
 - (ii) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends
 - (iii) statutory sick pay under Part IX of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is 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 Act 1992

E Prejudicial Interests arising in relation to Overview and Scrutiny Board

1. A Member has a Prejudicial Interest in any business before the Overview and Scrutiny Board (or of a Committee thereof) where:
 - (a) that business relates to a decision made (whether implemented or not) or taken by the Authority' Executive or another Local Authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees and
 - (b) at the time the decision was made or action was take, the Member was a member of the Executive, Committee, Sub- Committee, Joint Committee or Joint Sub-Committee mentioned in (a) above and the Member was present when that decision was made or action was taken

F Effect of Prejudicial Interests on participation

1. Subject to paragraph 2 to this this Part F to Part 2 to this Code, where a Member has a Prejudicial Interest in any business of the Authority:
 - (a) the Member must withdraw from the room or chamber where a Meeting considering the business is being held:
 - (i) in a case where (ii) below applies, immediately after making representations, answering questions or giving evidence and
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at the Meeting, unless the Member has obtained a dispensation
 - (b) the Member must not exercise functions in relation to that business and
 - (c) the Member must not seek improperly to influence a decision about that business.
2. Where a Member has a Prejudicial Interest in any business of the Authority, the Member may attend a Meeting (including a Meeting of the Overview and Scrutiny Board or of a Committee or Sub-Committee thereof) 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 or not under a statutory right or otherwise.

G Compliance with Standing Orders relating to Interests

Every Member of Luton Borough Council must:

1. in addition to the requirements above, comply with any and all obligations contained within the council's standing orders, namely:
 - (a) Council Procedure Rules and
 - (b) Executive Procedure Rules

relating to interests.

Part 3: Registration of a Member's Interests

1. Registration of Disclosable Pecuniary Interests

1.1 Subject to paragraph 3 a Member must within twenty eight (28) days of:

- (a) this Code being adopted or applied by the Authority or
- (b) the election or appointment of the Member (where this is later)

notify the Monitoring Officer in writing of any Disclosable Pecuniary Interest which he/she may have at that time.

- 1.2 Subject to paragraph 3 a Member must, within twenty eight (28) days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Monitoring Officer in writing of the new Disclosable Pecuniary Interest or change.

2. Registration of Personal Interests that are not Disclosable Pecuniary Interest

- 2.1 Subject to paragraph 3 a Member must within twenty eight (28) days of:

- (a) this Code being adopted or applied by the Authority or
- (b) the election or appointment of the Member (where this is later)

register in the Register of Interests (maintained under section 29(1) Localism Act 2011) details of the Member's Personal Interests where they fall within a category mentioned in paragraph 3 to Part B to part 2 of this Code, by providing written notice to the Monitoring Officer.

- 2.2 Subject to paragraph 3 of this Part 3 a Member must within twenty eight (28) days of becoming aware of any new Personal Interest or change to any Personal Interest registered under paragraph 2.1 of this Part 3, register details of that new Personal Interest or change by providing written notification to the Monitoring Officer.

3. Sensitive Information

- 3.1 Where a Member considers that the information relating to his Personal Interests or Disclosable Pecuniary Interests is sensitive information, and the Monitoring Officer agrees, the Member need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 3 to Part B to part 2 of this Code.
- 3.2 A Member must, within twenty eight (28) days of becoming aware of any change of circumstances which means that information excluded under paragraph 3.1 is no longer sensitive information, notify the Monitoring Officer asking that the information be included in the Member's Register of Interests.
- 3.3 In this Code, 'sensitive information' means information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with him/her may be subjected to violence or intimidation.

4. Gifts and Hospitality

- 4.1 Every Member of Luton Borough Council must for inclusion in the Register of Interests for a period of three (3) years, notify the Monitoring Officer within twenty eight (28) days and in writing of the receipt of any gift, benefit or hospitality with a value in excess of £75 which they have accepted as a Member from any person or body other than the Authority.
- 4.2 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved for this purpose as set out in the council's protocol on gifts and hospitality.

In Section 1 below:

'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 [a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union]

'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 section 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

Section 1

Disclosable Pecuniary Interests (under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

1. Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

2. 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 M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3. Contracts

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:

- (a) under which goods or services are to be provided or works are to be executed and
- (b) which has not been fully discharged

4. Land

Any beneficial interest in land which is within the area of the relevant authority

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 M's 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 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

Section 2

Other Interests (Voluntary addition)

8. Public Bodies

Bodies of which you are a member or hold a position of general control or management which exercise functions of a public nature.

9. Charitable bodies

Bodies of which you are a member or hold a position of general control or management which are directed to charitable purposes.

10. Bodies which influence public opinion or policy

Bodies of which you are a member or hold a position of general control or management whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).