

CODE OF CONDUCT FOR MEMBERS

Introduction and interpretation

1. This code applies to **you** as a member, or co-opted member, of Birmingham City Council ("the Council"), The code is required by Section 27 of the Localism Act 2011.
2. It is **your** responsibility to comply with the provisions of this Code and uphold the seven principles of public life set out in paragraph number 3 below. Failure to do so may result in a sanction being applied by the Council and in respect of the disclosure of statutory disclosable Pecuniary Interests the potential of criminal liability.

2. Scope

- 2(1) You must comply with this Code whenever you:-

- (a) Conduct the business of Birmingham City Council; or
- (b) Act, claim to act or give the impression you are acting as a representative of Birmingham City Council;

References to your official capacity will be construed accordingly.

- 2(2) In addition to having effect in relation to conduct in your official capacity, this Code has effect, at any time, where conduct constitutes a criminal offence for which you have been convicted or received a Police Caution.

3. General obligations

- 3(1) Councillors and Co-optees are committed to behaving in a manner that is consistent with the seven principles of public life, as detailed in the Localism Act 2011 and set out below:

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holder of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

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.

3(2) Specific Duties

3.2.1 You **must** follow the Code of Conduct when you are representing your authority.

3.2.1 You **must** treat others with respect. This includes avoiding unfair, unreasonable or demeaning behaviour directed to another person.

3.2.2 You **must** promote equality in your actions and behaviours.

3.2.3 When carrying out your public duties such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, you must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

3.2.4 You must at all times facilitate and engage with the council and its committees on probity and ethical matters and submit yourself to the scrutiny necessary to ensure this without any undue delay

3.2.5 You **must** not –

(a) Do anything which may cause the Council to breach any of the equality duties, this means you **must not** discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age or do anything which may knowingly cause the Council to breach the Equality Act 2010

(b) Bully any person, this means you **must not** bully, intimidate or attempt to intimidate any council officer or other person. [An example of this could be an attempt to undermine another person and have an adverse effect on them in terms of upset, detriment and ill health]. This applies both in the physical realm and social media / cyberspace.

(c) Intimidate or attempt to intimidate any person who is likely to be: a complainant, witness or person involved in the administration of any proceedings in relation to an allegation that a member [including yourself] has failed to comply with

Birmingham City Council's or any other Authority's Code of Conduct for Members

- (d) Do anything which compromises or is likely to compromise the impartiality of on those who work for, or on behalf of the Council.
- (e) You **must** not conduct yourself in a manner which could reasonably be seen as bringing your office or the council into disrepute.

- 3.2.6 You **must not** participate in meetings or be involved in decision-making where you have a Statutory Disclosable pecuniary or Personal interest, to do so in the cases of statutory disclosable pecuniary interest is a criminal offence.
- 3.2.7 You **must not** compromise the impartiality of people who work for your authority or on its behalf. Please refer to the Member and Officer protocol.
- 3.2.8 When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's –
 - (a) The Head of Paid service (the Chief Executive)
 - (b) Chief Finance Office (the Corporate Director of Finance & Governance); or
 - (c) Monitoring Officer (the City Solicitor & Monitoring Officer) where that officer is acting pursuant to his or her statutory duties.
- 3.2.9 Harassment of any form against colleagues is not acceptable. Colleagues for this purpose include Members and Officers of Birmingham City Council.
- 3.2.10 You **must not** use / or attempt to use your position improperly for personal gain or to advantage / disadvantage to your friends or close associates and others.
- 3.2.11 You **must not** disclose personal information or information given to you in confidence by anyone, or information acquired by you which you believe, or ought to believe, or ought reasonably to be aware, is of a confidential nature.
- 3.2.12 You **must not** prevent anyone getting information they are entitled to.
- 3.2.13 You **must not** place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your duties.
- 3.2.14 You **must** be aware of what statutory disclosable pecuniary and personal interests are and take steps to register the same in accordance with the guidance set out below, if you are unsure – refer to the Monitoring Officer for advice. You are under a legal duty to disclose statutory disclosable pecuniary interests; failure to do so is a criminal offence.

3.2.15 You **must** keep your Register of Interest form including statutory disclosable Pecuniary and Personal Interests up-to-date and review annually at the start of the municipal year each May.

It is **your** responsibility to complete the declaration and update the same with any interests as they arise. You must then complete a new form. This should be done within 28 days of the awareness of the interest and no later than 28 days after the adoption of the code or your appointment (or re-appointment) as a councillor.

https://www.birmingham.gov.uk/info/50069/councillors/285/councillors_interests

3.2.16 You must register Gifts and Hospitality worth more than £25, which are received in your role as a member

3.2.17 You **must** comply with the law as it applies to your role and the Council.

3.2.18 You **must** be aware and follow the Council's policies in respect of email and information technology use and policies on the use of Social media. In particular, with social media, when you are communicating you should consider the distinction between private and official communications.

3.2.19 You **must** not use the Council's resources, which includes the Council's address and email address, for any personal, party political or non-Council purpose.

PART 2 Interests

Personal interests

4. You have a personal interest in any business of the Council where either it relates to or is likely to affect –
- (i) anybody 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 –
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes;
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or
 - (d) which is a private club or society, such as the Freemasons, a recreational club, working men's club or private investment club, of which you are a member or in a position of general control or management;
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25 or;
 - (iv) Or a decision is to be considered which might reasonably be regarded as affecting the well-being or financial position of you or a member of your family or a close friend or someone with whom you have a close association. It could also be a decision which to a greater extent than it would affect the majority of other council tax payers, ratepayers or inhabitants of your ward or electoral area.

5. Statutory Disclosable pecuniary interests

In accordance with Section 30(3) of the Localism Act 2011 a pecuniary interest is “statutory Disclosable pecuniary interest” in relation to a member, if it is of a description specified below and either

- is an interest of the member, or
- is an interest of:-

- (a) the member's spouse or civil partner
- (b) a person with whom the member is living as husband and wife, or
- (c) a person with whom the member is living as if they were civil partners,

and the member is aware that the other person has the interest.

However it should be noted that the disclosure of sponsorship is only in relation to the sponsorship of the member and not in relation to a spouse or civil partner.

In the table below :

“body in which you have 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;

“relevant period” means the period of 12 months ending with the day on which the Member gives notification of a disclosable pecuniary interest;

“relevant person” means **you** (as a member) or your spouse or civil partner; a person with whom you are living as husband and wife; or a person with whom you are living as if you were civil partners;

“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.

DISCLOSABLE PECUNIARY INTERESTS

Subject	Prescribed description
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 Council) 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 the member. 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).
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 Council: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer
Corporate Tenancies	Any tenancy where (to the member's knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where: (a) that body (to the member's knowledge) has a place of business or land in the area of the Council; 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.

6. Notification of interests

6.1. You must notify the Council's monitoring officer of any interest that is classed as a personal interest or a statutory disclosable pecuniary interest –

- (a) within 28 days of becoming a member or co-opted member of the Council;
- (b) within 28 days of acquiring any interest or becoming aware of any such interest;
- (c) within 28 days of any change to an interest that you have previously registered; or
- (d) within 28 days of disclosing an interest at a meeting of the Council

7. Disclosure of interests

- 7.1 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 unless the interest is a sensitive interest (see paragraph 7(3)), you must disclose the existence and nature of that interest and then consider whether the interest is of such significance that it warrants withdrawal from and no further participation in the discussion or vote on that item, with any such withdrawal from the meeting being recorded in the minutes.
- 7.2 Where you have a statutory disclosable pecuniary interest in any business of the Council and you attend a meeting of the Council at which the business is considered, unless the interest is a sensitive interest (see paragraph 7 (3)), you must disclose the existence and nature of that interest and, unless you have been granted a dispensation (see subparagraph 7(4)), you must not take part in the discussion or vote on that item and must withdraw from the meeting room, including the public gallery, before the item is considered by the meeting.
- 7.3 You need not disclose the nature of any personal interest or disclosable pecuniary interest in an item of business where the Council's monitoring officer considers that disclosure of the details of the interest ("a sensitive interest") could lead to you or a person connected with you being subject to violence or intimidation.
- 7.4 Paragraph 7(2) and 7(3), do not apply where the monitoring officer or the Standards Committee, as the case may be, has granted a dispensation to enable you to take part in the discussion of, or vote on that item, or both.

Dispensations available

Circumstances in which dispensations may be granted

The Independent Chair of the Standards Committee and/or the Monitoring Officer (including his/her Deputy), may grant a dispensation to a Member in the following circumstances:

- that so many Members of the decision making body have disclosable pecuniary interests in the matter that the meeting would be inquorate; or
- that the representation of different political groups on the decision making body would be so upset as to alter the likely vote on the matter; or
- that it is in the interests of persons living within Birmingham; or
- that it is otherwise considered appropriate to grant a dispensation.

Records of dispensations

The Monitoring Officer will ensure that:

- the existence, duration and nature of any dispensation is recorded in writing; and
- that such record is kept with the register of interests.

8. Disclosure of Non-Pecuniary Interests

8.1 You should in the spirit of openness, disclose any other interests on a matter being, or to be, considered at a meeting or informal meeting which a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgment of the public interest, and such declarations:

- ii. should include the nature and extent of your interest;
- ii. do not impact on your ability to participate or further participate in any discussion of the matter at the meeting or participate in any vote or further vote on the matter at the meeting.

9. Overview & Scrutiny Committees

9.1 Where you have participated in the executive decision of any committee and that decision is subject to scrutiny, you may not attend the meeting(s) of the Overview &

Scrutiny Committee except for the purpose of making representations, answering questions or giving evidence.

10. Additional voluntary provisions

10.1 No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.

11. Offences

11.1 You commit an offence if without reasonable excuse –

- (a) you fail to notify the Monitoring officer within 28 days of becoming a member of the Council of any statutory disclosable pecuniary interests that you have;
- (b) you fail to disclose at a meeting of the Council the nature and extent of a statutory disclosable pecuniary interest that you have, and are aware of having, in an item of business that is being considered at the meeting, unless –
 - (i) the interest is a sensitive interest and paragraph 7(3) applies;
 - (ii) the interest is entered in the Register of Members' Interests maintained by the monitoring officer; or
 - (iii) the monitoring officer has been notified that you have such an interest but the register has not yet been updated ("a pending notification");
- (c) you fail to notify the monitoring officer of a Statutory disclosable pecuniary interest when you have declared the same where it has arisen at a meeting or other decision making forum and you have not registered the same within 28 days of the date on which you made the disclosure;
- (d) you participate in any discussion of, or vote on, any item of business at a meeting of the Council in which you have a statutory disclosable pecuniary interest of which you are aware, unless you have been granted a dispensation in accordance with paragraph 7 (4), or
- (e) you have a disclosable pecuniary interest of which you are aware in any item of business to be dealt with, or being dealt with, by you as a member of the Cabinet acting under delegated powers and despite having that interest continue to deal with that item of business, except where such dealing is for the purpose of arranging for the item to be dealt with otherwise than by you.

Terms within this Code of Conduct are given their normal English meaning, for example, to bully is defined in the Oxford English Dictionary as "to use superior strength or influence to intimidate (someone) typically to force them to do something"