

5. CODES AND PROTOCOLS

PART 5.1 MEMBERS' CODE OF CONDUCT

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SCARBOROUGH BOROUGH COUNCIL

PART A – GENERAL

1. Introduction and Interpretation

1.1 This Code of Conduct ('the Code') has been adopted by the Council pursuant to the requirements of the Localism Act 2011 ('the Act') and the duty to promote and maintain high standards of conduct by Members of the Council set out at section 27 of the Act.

1.2 In this Code:

1.2.1 "Meeting" means any meeting of:

- (a) the Council;
- (b) any of the Council's committees or sub-committees;
- (c) the Executive or any committee or sub-committee of the Executive; or
- (d) a joint committee or joint sub-committee.

1.2.2 "Member" includes a co-opted Member and an appointed Member.

2. Scope

2.1 This Code applies to you whenever you are acting in your capacity as a Member of the Council, including (but not limited to):

- (a) at formal Meetings;
- (b) when acting as a representative of the Council;
- (c) in taking any decision as an Executive Member or a Ward Councillor;
- (d) in discharging your duties as a Ward Councillor;
- (e) at briefing meetings with Officers;
- (f) at site visits; and
- (g) when corresponding with the Council other than in a private capacity.

2.2 This Code does not have effect in relation to your conduct other than where such conduct is in your official capacity as a Member.

3. The Nolan Principles

3.1 This Code is consistent with and based upon the principles set out at section 28(1) of the Act, being:

- (a) selflessness;**
- (b) integrity;**
- (c) objectivity;**
- (d) accountability;**
- (e) openness;**
- (f) honesty; and**
- (g) leadership**

The above principles are explained in more detail at Schedule 1 of this Code.

PART B – OBLIGATIONS AND CONDUCT

- 1. You must** treat others with respect;
- 2. You must not:**
 - i. do anything or attempt to do anything which may cause the Council to breach the Equality Act 2010;
 - ii. bully, intimidate or be abusive to, or attempt to bully, intimidate or be abusive to, any person;
 - iii. 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 an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;

- iv. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3. **You must not:**

- i. 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:
 - (a) you have the consent of the person authorised to give it;
 - (b) you are required by law to do so;
 - (c) 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
 - (d) the disclosure is;
 - i. reasonable and in the public interest; and
 - ii. made in good faith and in compliance with the reasonable requirements of the Council;
- ii. prevent another person from gaining access to information to which that person is entitled by law.

4. **You must not** conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

5. **You:**

- i. **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;
- ii. **must** have regard to the Council's Protocol on Member/Officer Relations;
- iii. **must**, when using or authorising the use by others of the resources of the Council;
 - (a) act in accordance with the Council's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes);

- iv. **must** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
6. When reaching decisions on any matter **you must** have regard to any relevant advice provided to you by Officers, and in particular to relevant advice given to you by the Statutory Officers, namely:
- i. the Head of Paid Service;
 - ii. the Chief Finance Officer; and
 - iii. the Monitoring Officer.
7. **You must** exercise your own independent judgement, and give good and substantial reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

PART C – DISCLOSABLE PECUNIARY INTERESTS

An interest is a ‘Disclosable Pecuniary Interest’ (‘DPI’) in relation to a Member if it is of a description specified in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (and **as set out in Schedule 2 of this Code**), and is either:

- (a) an interest of the Member; or
- (b) an interest of;
 - i. the Member’s spouse or civil partner;
 - ii. a person with whom the Member is living as husband and wife; or
 - iii. a person with whom the Member is living as if they were civil partners; and the Member is aware of that interest.

1. Notification of Disclosable Pecuniary Interests

- 1.1 **You must** within 28 days of becoming a Member notify the Council’s Monitoring Officer in writing of any DPI.
- 1.2 Where you become a Member as a result of re-election or reappointment, the duty set out in paragraph 1.1 of Part C of this Code only applies to DPIs not already entered in the Council’s Register of Interests.

- 1.3 **You must** within 28 days of becoming aware of any new DPI, or a change to a DPI already registered, provide the Council's Monitoring Officer with written notification of the same.
- 1.4 Where a Member gives a notification the Monitoring Officer is to cause the interests notified to be entered into the Council's Register of Interests (whether or not they are DPIs).

2. Non-Participation in case of Disclosable Pecuniary Interest

- 2.1 Where you are present at any Meeting and have a DPI in or that relates to any matter being considered at the Meeting, and you are aware of the same;
 - (a) **you must not** participate, or participate further, in any discussion of the matter at the Meeting;
 - (b) **you must not** participate in any vote, or further vote, taken on the matter at the Meeting;
 - (c) **you must** withdraw from the room or chamber where a Meeting considering the matter is being held whenever it becomes apparent that the business is being considered at that meeting unless you have obtained a dispensation from the Council's Monitoring Authority of the Standards Committee;
 - (d) if the DPI is not registered, **you must** disclose the DPI at the Meeting; and
 - (e) if the DPI is not registered and is not the subject of a pending notification, **you must** notify the Monitoring Officer in writing of the interest within 28 days.
- 2.2 Where you are authorised to discharge a function of the Council acting alone and have a DPI in or that relates to any matter being considered by you in the course of discharging that function, and you are aware of the same;
 - (a) **you 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 yourself); and
 - (b) if the DPI is not registered and is not the subject of a pending notification, **you must** notify the Monitoring Officer in writing of the interest within 28 days.

3. Offences

- 3.1 You commit a criminal offence if, without reasonable excuse, you:

- (a) fail to comply with the obligations imposed by paragraph 1, paragraph 2.1 (d) and (e), or paragraph 2.2 (b) of Part C of this Code;
 - (b) participate in any discussion or vote in contravention of paragraph 2.1 (a) and (b) of Part C of this Code; or
 - (c) take any steps in contravention of paragraph 2.2 (a) of Part C of this Code.
- 3.2 You commit a criminal offence if under paragraph 1, paragraph 2.1(d) and (e), or paragraph 2.2 (b) of Part C of this Code you provide information that is false or misleading and you:
- (a) know that the information is false or misleading; or
 - (b) are reckless as to whether the information is true and not misleading.
- 3.3 A person guilty of a criminal offence under paragraphs 3.1 or 3.2 of Part C of this Code is liable on summary conviction to a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

IF YOU ARE IN ANY DOUBT ABOUT YOUR POSITION UNDER THIS CODE PLEASE CONSULT THE MONITORING OFFICER

PART D – OTHER INTERESTS

1. Personal Interests

- 1.1 You have a personal interest in any business of the Council where 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 the Council;
 - (b) any body;
 - i. exercising functions of a public nature;
 - ii. directed to charitable purposes; or
 - iii. one of whose principle 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) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.
- (d) 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 your electoral division or ward, as the case may be, affected by the decision.

1.2 In paragraph 1.1 (d) of Part D of this Code a 'relevant person' is:

- (a) a member of your family or any person with whom you have a close association;
- (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 a director;
- (c) any body or person that has a place of business or land in the Council's area, and in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower).

2. Disclosure of Personal Interests

- 2.1 Where you have a personal interest in any business of the Council and you attend a Meeting 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.
- 2.2 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 1.1 (c) of Part D of this Code, you need not disclose the nature or existence of that interest to the Meeting if that interest was registered more than three years before the date of the Meeting.
- 2.3 Paragraph 2.1 of Part D of this Code only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 2.4 Where you have a personal interest but by virtue of Part E of this Code sensitive information relating to it is not registered in the Council's Register of Interests, **you must** indicate to the Meeting that you have a personal interest, but need not disclose the sensitive information to the Meeting.
- 2.5 Where you are authorised to discharge a function of the Council acting alone and have a personal interest in or that relates to any matter being considered by you in the course of discharging that function, and you are aware of the same, **you must** ensure that any written statement of that decision records the existence of

that interest, and the nature of the same unless it is considered to be a sensitive interest by virtue of Part E of this Code.

3. Prejudicial Interests

3.1 Subject to paragraph 3.2 of Part D of this Code, 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.

3.2 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 1 of Part D of this Code;
- (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 1 of Part D of this Code;
- (c) relates to the functions of the Council in respect of:
 - i. housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
 - ii. 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;
 - iii. any ceremonial honour given to a Member;
 - iv. an allowance, payment or indemnity given to Members;
 - v. setting council tax or a precept under the Local Government Finance Act 1992.

4. Prejudicial Interests arising in relation to the Overview and Scrutiny Board

4.1 You also have a prejudicial interest in any business before the Overview and Scrutiny Board of the Council (or of a sub-Committee of the Overview and Scrutiny Board) where you were involved in the making of the decision being considered by the Overview and Scrutiny Board.

4.2 You are however permitted to attend at the Overview and Scrutiny Board where paragraph 5.2 of Part D of this Code applies.

5. Effect of Prejudicial Interests on participation

- 5.1 Subject to paragraph 5.2 of Part D of this Code, where you have a prejudicial interest in any business of your authority;
- (a) **you must** withdraw from the room or chamber where the Meeting is being held;
 - i. in a case where paragraph 5.2 of Part D of this Code 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 the Monitoring Officer or the Standards Committee;
 - (b) **you must not** seek to improperly influence a decision about that business.
- 5.2 Where you have a prejudicial interest in any business of the Council, you may attend a Meeting (including a meeting of the Overview and Scrutiny Board or of a sub-Committee of such Board) 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.
- 5.3 Where you are authorised to discharge a function of the Council acting alone and have a prejudicial interest in or that relates to any matter being considered by you in the course of discharging that function, and you are aware of the same, **you must not** take any steps or further steps in the matter, or seek to influence a decision about the matter, and **you must** as soon as is reasonably practicable notify the Monitoring Officer of that prejudicial interest in writing.

6. Registration of Other Interests

- 6.1 When requested by the Monitoring Officer, **you must** complete a Register of Interests form.
- 6.2 In addition to the requirement to notify the Monitoring Officer of any DPI as set out in Part C of this Code of Conduct, you will also be required to provide details of other interests within the Register of Interests form that are from time to time deemed appropriate.

PART E – SENSITIVE INTERESTS

1. Paragraphs 2 and 3 of Part E of this Code apply where:
 - i. you have an interest (whether a DPI or an ‘other interest’); and
 - ii. the nature of the interest is such that you, and the 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.
2. If the interest is entered in the Council’s Register of Interests, copies of the register that are made available for inspection, and any published version of the register, shall not include details of the interest (but may state that you have an interest the details of which are withheld under Part E).
3. Where you are present at a Meeting and have an interest in or that relates to any matter being considered at the Meeting, and the registration of that interest (whether a DPI or ‘other interest’) is pending entry in the Council’s Register of Interests, you need not disclose the interest but merely the fact that you have an interest in the matter concerned.

PART F – DISPENSATIONS

1. Upon a written request being made by a Member to the Council’s Monitoring Officer, the Monitoring Officer may grant the Member a dispensation to;
 - (a) participate in a discussion; and/or
 - (b) vote on a matter at a Meeting; or
 - (c) remain in the chamber or room where that business is being considered; even where that Member has a DPI or an ‘other interest’ in or relating to the business under consideration.
2. A dispensation can only be granted if, after having had regard to all relevant circumstances, the Monitoring Officer or the Standards Committee:
 - (a) considers that without the dispensation the number of persons prohibited 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) considers that without the dispensation each member of the authority's executive would be prohibited 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. Where the Monitoring Officer deems it appropriate, they may refer a written request for a dispensation to the Standards Committee for determination.
 4. Any dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
 5. Paragraph 2.1 of Part C of this Code does not apply to a Member in relation to anything done for the purpose of deciding whether to grant a dispensation under this Part.

SCHEDULE 1 – THE NOLAN PRINCIPLES

Principle	Revised Description
<i>Preamble</i>	<p>The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services.</p> <p>All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.</p>
<i>Selflessness</i>	<p>Holders of public office should act solely in terms of the public interest.</p>
<i>Integrity</i>	<p>Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.</p>
<i>Objectivity</i>	<p>Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.</p>
<i>Accountability</i>	<p>Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.</p>
<i>Openness</i>	<p>Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.</p>
<i>Honesty</i>	<p>Holders of public office should be truthful.</p>
<i>Leadership</i>	<p>Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</p>

SCHEDULE 2 – DISCLOSABLE PECUNIARY INTERESTS - DEFINITIONS

<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	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.
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.
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	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.
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.

Definitions

“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 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.