



**Town and Parish Councils**

**Code of Conduct: Brief Overview**

## ROLES

- **Role of Clerk**

The role of Clerk is effectively the local council's Chief Executive Officer. The Clerk is a professional officer employed by the council to manage its activities, provide administrative support and professional advice.

The Clerk is often given additional delegated responsibility, including:

- **Responsible Financial Officer:** maintaining the financial records of the council, ensuring they are kept up-to-date and comply with set regulations and proper practices.
- **Proper Officer:** the Proper Officer can grant dispensations relieving members from the restrictions applied in the event of a Disclosable Pecuniary Interest.

The council **must** pass resolutions to delegate these additional responsibilities to their Clerk.

- **Role of Chair**

The Chair is the lead councillor of the council, responsible for managing the Clerk and other officers employed by the council. This includes responsibility for conducting performance appraisal reviews with council employees.

The Chair is elected by the council at their annual meeting (each May) and is chiefly responsible for convening meetings and control of council's procedure, for the purpose of enforcing law and good order. This includes ensuring councillors and members of the public have their point heard, while maintaining orderly conduct and discussions in line with the published items of business (agenda).

In addition, the Chair has a casting vote and the authority to evict people displaying inappropriate behaviour from the council chamber (meeting room).

**Advisory Note:** It is vital that there is a positive relationship between the Chair and Clerk as they are partners in guiding the council. They should be able to talk openly to each other and to recognise each other's strengths and understand their roles. Although it is not prohibited, it is not recommended best practice for individuals with personal relationships outside the council (such as spouses) to act in the capacity of Chair and Clerk.

- **Role of Vice-Chair**

The position of Vice-Chair is **optional**. Where opted, the Vice-Chair is elected by the council at their annual meeting immediately after the Chair is elected. The Vice Chair's duties are the same as those for the Chair either in the Chair's absence or the event of the Chair having a Disclosable Pecuniary or Personal Interest.

- **Role of Councillors**

Each councillor contributes to the work of the whole council and the decision-making process. As such, councillors should actively:

- suggest ideas
- engage in constructive debate
- respond to the needs and views of the community
- represent their constituents
- comment on proposals to ensure the best outcome
- vote to enable the council to make decisions
- behave in an ethical way and be open about their interests

**Important Note:** An individual councillor – including the Chair – **cannot** make a decision on behalf of the council.

- **Role of Monitoring Officer**

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members (District, Town and Parish Councils);
- (b) Assisting the Councillors and co-opted members to observe the Member's Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Advice to Councillors on the interpretation of the Code of Conduct or Register of Interests;
- (e) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) Legally responsible for establishing and maintaining the Register of Interest for District, Town and Parish Councillors; and
- (g) Dealing with any complaints made about Councillors.

## STANDING ORDERS

It is recommended best practice for a council to make a set of Standing Orders to regulate its business and proceedings. Model Standing Orders are published by the National Association of Local Councils.

Standing Orders should be reviewed at least annually and whenever there are changes of legislation that affect local councils.

## CODE OF CONDUCT

- **Personalisation** - Your parish council's adopted Code of Conduct should be personalised with your Parish Council's information (eg if you use the template MDDC Code of Conduct, you would need to replace the relevant references to MDDC with the name of your council). You might wish to save your Code of Conduct on a document using your council's letterhead.
- **Changing Codes of Conduct** – At your annual council meeting, or following an election or changes to legislation, you should review your council's adopted Code of Conduct. If you wish to make changes to it, you need to “publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area” (eg, you should include this on your council meeting agenda).
- **Nolan Principles** – The Code of Conduct must include reference to DPIs and the following seven NOLAN principles:

**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 material 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 performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders 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.

**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 protect the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

**Important Note:** A Council's Code of Conduct and Standing Orders should be published on their website.

## **RECORDING OF MEETINGS**

Please note that the public can record your council meetings without first notifying you. We recommend that you record your own council meetings to ensure you have an accurate record in case of complaints.

## DECLARING INTERESTS

A councillor must disclose any disclosable interest of which he/she is aware (including any such interest which is not registered on the Member's ROI form). If the declared interest is not on the register, it must be registered within 28 days of its declaration.

- **Disclosable Pecuniary Interests (DPIs):** Councillors should only declare financial interests that affect them as an individual or where a financial relationship with a third party may or may not benefit them.
- **Prejudicial Interests:** Councillors are **not** required to declare "prejudicial interests"; this requirement was removed with the changes to the Standards Regime in 2011.
- **Dispensations:** Dispensations to vote where Members have a DPI can be granted to individual Members or for a whole council. Dispensations are normally granted where non-voting would lead to a council being non-quorate. This normally affects councils where councillors are members of a community land trust. Each councillor must make a written request for a Dispensation.

**Advisory Note:** Councillors do not need a Dispensation for taking part in setting of parish precept / Council Tax decisions as this is not a DPI.

- **Sensitive Interests:** Where a Member has a sensitive disclosable interest, the existence of the interest must be disclosed but not its nature. An interest is sensitive if the Member and the Monitoring Officer (or the Proper Officer for Dispensations) considers that disclosure could lead to the Member being subject to violence or intimidation.
- **ROI Forms** – all councillors must return a signed and completed Register of Interests Form to the Monitoring Officer within 28 days of accepting office. It is a criminal offence to fail to declare a DPI, potentially leading to a five-year disqualification from being a councillor and/or a £5,000 fine. In addition, failure to declare interests leaves councillors at risk of being subject to complaints.

- **Codes of Conduct** - All councillors should familiarise themselves with the requirements listed in their council's adopted Code of Conduct. There are differences between the various codes (such as MDDC and NALC) regarding interests and eligibility to vote. For example:

**DPIs:** the law states that you declare the interest and you are not allowed to take part in any discussion or vote. If something comes up in public question time that relates to a DPI, councillors should leave the room then as well.

**Personal Interests:** this is up to individual councils and councillors should check their Code of Conduct.

#### **Important Notes:**

- ROI forms should list information about the individual councillor **and** their spouse/partner. Other family members (whether or not they reside with the councillor) do not need to be included on the form.
- ROI forms should include full address information (not just a postcode or property reference) for property and land for which they own, reside at or lease.
- Councillors should make clear on ROI forms any memberships they hold or committees they attend, whether they are representing themselves as an individual or representing their council.
- Interests should be recorded in council meeting minutes, stating their nature (DPI or Personal Interest).
- The Localism Act requires that all ROI forms be available to view online. We publish all Mid Devon (District and Town and Parish) ROI forms on our website with the signatures redacted. Any information agreed to be sensitive by the Monitoring Officer may also be redacted but should still be recorded on the form. The Monitoring Officer (as per the Localism Act) is required to maintain a register containing all interests, therefore we ask town and parish councils to link to our website rather than publish copies of ROI forms on their own sites.



## COMPLAINTS ABOUT COUNCILLORS

- (a) The Monitoring Officer receives a complaint and will decide whether it is appropriate to be treated as a complaint.
- (b) If it is not appropriate to treat it as a complaint the Monitoring Officer will write to the complainant explaining why this is the case
- (c) If it is appropriate to treat it as a complaint the Monitoring Officer will log the complaint and then do the following:
- (d) Inform the Councillor being complained about that there has been a complaint made about them, giving them a copy of the complaint (including details as to who has made the complaint) and ask them for their version of events
- (e) Get more detail from the complainant, if appropriate
- (f) Contact any witnesses listed for their statement
- (g) Obtain any relevant or appropriate sources of evidence
- (h) Once this has been concluded the Monitoring Officer will take a view as to whether there has been a breach of the Code of Conduct.
- (i) If there has been a breach of the code of conduct the Monitoring Officer will make a report to the Standards Sub Committee/Standards Committee and they will suggest a course of action, if appropriate. This will be put in writing to the Councillors Town or Parish Council for consideration.
- (j) If there has not been a breach of the code of conduct the Monitoring Officer will write to all parties outlining why there is no breach. The complainant has a right of appeal but in order to do this they must provide new information/evidence. Any appeals are considered by the Deputy Monitoring Officer to ensure that there is independence

## FURTHER GUIDANCE

- Association of Council Secretaries and Solicitors: Parish Council Toolkit (Third Edition) (2009)
- Department of Communities and Local Government: Open and Accountable Local Government: A Guide for the Press and Public on Attending and Reporting Meetings of Local Government (August 2014)
- Department of Communities and Local Government: Openness and Transparency on Personal Interests: A Guide for Councillors (March 2013)
- Local Government Association: Finding Your Way: A Guide for New Councillors 2013/14 (May 2013)
- Planning Advisory Service: Probity in Planning for Councillors and Officers (April 2013)
- Society of Local Council Clerks: The Essential Clerk: An Introduction to the Role of Local Councils
- The National Training Strategy for Town and Parish Councils: The Good Councillor's Guide: Essential Guidance for Town and Parish Councillors (Fourth Edition) (2013)

## CONTACT INFO

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