



Nottingham

City Council

Constitution

Article Fifteen: Councillor/ Co-opted Member Code of Conduct

Draft

Article Fifteen: Councillor/ Co-opted Member Code of Conduct

15.1 Introduction

The role of Councillors across all tiers of local government is a vital part of this country's system of democracy. It is important that Councillors can be held accountable and demonstrate the behaviours and responsibilities associated with the role. Conduct as individual Councillors affects the reputation of all Councillors and any negative impact on this reputation may discourage individuals from a range of backgrounds and circumstances from putting themselves forward to become Councillors.

15.2 Councillors represent local residents, work to develop better services and deliver local change. The public have high expectations of Councillors and entrust them to represent our local area, taking decisions fairly, openly, and transparently. Councillors have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

15.3 Importantly, Councillors should be able to undertake their role without being intimidated, abused, bullied or threatened by anyone, including the general public. This Code has been designed to protect Councillors' democratic role, encourage good conduct and safeguard the public's trust in local government.

15.4 Definitions

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of a local authority. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:

- is a member of any committee or sub-committee of the authority, or
- is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

15.5 As a matter of best practice it is also expected that all non-voting co-opted members will also observe the principles contained in this Code of Conduct and comply with its requirements.

15.6 Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist Councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against them. It is also to protect Councillors, the public, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

15.7 **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These are outlined in Article 4 – Councillors. Building on these principles, the following general principles have been developed specifically for the role of Councillor.

15.8 In accordance with the public trust placed in them, on all occasions, Councillors will:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking their role Councillors will:

- impartially exercise their responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest.

15.9 **Application of the Code of Conduct**

This Code of Conduct applies to all Councillors as soon as they sign their declaration of acceptance of the office of Councillor or attend their first meeting as a co-opted member and continues to apply until they cease to be a Councillor.

15.10 This Code of Conduct applies to Councillors when acting in their capacity as a Councillor which may include when:

- they misuse your position as a Councillor
- their actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor.

15.11 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Councillors are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

15.12 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and Councillors are encouraged to seek advice from him/ her on any matters that may relate to the Code of Conduct.

Standards of Councillor conduct

15.13 This section sets out Councillors' obligations, which are the minimum standards of conduct required of them as a councillor. Should a Councillor's conduct fall short of these standards, a complaint may be made against them, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

15.14 **Respect**

Councillors:

- treat other Councillors and members of the public with respect.
- treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

15.15 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. Councillors can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Councillors should not, however, subject individuals, groups of people or organisations to personal attack. In their contact with the public, Councillors should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

15.16 In return, Councillors have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening Councillors are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with Article 6 – Councillor/ Officer Protocol.

15.17 **Bullying, harassment and discrimination**

Councillors:

- do not bully any person.
- do not harass any person.
- promote equalities and do not discriminate unlawfully against any person.

15.18 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

15.19 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

15.20 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

15.21 The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

15.22 **Impartiality of officers of the council**

Councillors:

- do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

15.23 Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Councillors can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, Councillors must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity. Further information on the relationship and between Councillors and officers can be found in Article 6 – Councillor/ Officer Protocol.

15.24 **Confidentiality and access to information**

Councillors:

- do not disclose information:
 - given to them in confidence by anyone
 - acquired by them which they believe, or ought reasonably to be aware, is of a confidential or exempt nature, unless
 - they have received the consent of a person authorised to give it
 - they are required by law to do so
 - the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person or
 - the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the local authority; and
 - they have consulted the Monitoring Officer prior to its release.
- do not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.
- do not prevent anyone from getting information that they are entitled to by law.

15.25 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. Councillors should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

15.26 **Disrepute**

Councillors:

→ do not bring their role or local authority into disrepute.

15.27 Councillors are trusted to make decisions on behalf of the community and their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Councillors should be aware that their actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in their or the Council's ability to discharge their/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

15.28 Councillors are able to hold the Council and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

15.29 **Use of position**

Councillors:

→ do not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

15.30 Councillors' positions as members of the local authority provides them with certain opportunities, responsibilities and privileges, and they make choices all the time that will impact others. However, Councillors should not take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

15.31 **Use of local authority resources and facilities**

Councillors:

→ do not misuse Council resources.

→ will, when using the Council's resources or authorising their use by others:

- act in accordance with the Council's requirements; and
- ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which they have been elected or appointed.

15.32 Councillors may be provided with resources and facilities by the Council to assist in carrying out their duties as a councillor. Examples include:

→ office support

→ stationery

- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to Councillors to help them carry out their role as Councillors more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

15.33 **Complying with the Code of Conduct**

Councillors:

- undertake Code of Conduct training provided by the Council
- cooperate with any Code of Conduct investigation and/or determination.
- do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.

15.34 The Council has agreed a complaints procedure which will be followed where it is alleged that a Councillor has breached this Code of Conduct. Details of this procedure can be found on the Council's website.

15.35 It is extremely important for Councillors to demonstrate high standards, for them to have your actions open to scrutiny and for them not to undermine public trust in the Council or its governance. If Councillors do not understand or are concerned about the Council's processes in handling a complaint they should raise this with the Monitoring Officer.

15.36 **Interests**

Councillors:

- register and disclose their interests.

15.37 Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

15.38 Councillors need to register their interests so that the public, local authority employees and fellow Councillors know which of their interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects Councillors by allowing them to demonstrate openness and a willingness to be held accountable. Councillors are personally responsible for deciding whether or not they should disclose an interest in a meeting, but it can be helpful for them to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

15.39 Failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011. Appendix A to this Article

sets out the detailed provisions on registering and disclosing interests. If in doubt the Monitoring Officer's advice should be sought.

15.40 **Gifts and hospitality**

Councillors:

- do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.

15.41 In order to protect Councillors' position and the reputation of the Council, Councillors should exercise caution in accepting any gifts or hospitality which are (or which are reasonably believed to be) offered to them because they are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case it can be accepted but Councillors must ensure it is publicly registered. Councillors do not need to register gifts and hospitality which are not related to their role as a Councillor. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with their duties as a councillor. In cases of doubt the Monitoring Officer can provide guidance.

15.42 **Local Provisions**

Councillors:

- do not obstruct or seek to obstruct the effective performance of the Council's functions concerning children, young people and vulnerable and elderly adults
- do not improperly seek to influence the outcome of any decision in relation to children, young people or vulnerable or elderly adults nor seek preferential treatment for any such person
- undertake training designated by the Corporate Director for People as mandatory
- cooperate fully with any Disclosure and Barring Service checks required in accordance with Council policy or practice or as required by the Monitoring Officer or the Corporate Director for People
- will be debarred from all offices and membership of committees, sub committees panels or outside bodies if they:
 - do not comply with the requirement to have a DBS test within one month of being elected; or
 - fail to maintain a valid DBS check; or
 - are subject to a DBS check that discloses a matter which suggests that, in the opinion of the Corporate Director for People and the Monitoring Officer, they may pose a risk children and vulnerable adults

15.43 Co-opted members:

- will take advice about whether the above provisions apply to them. This will depend on the Committee(s) or Sub Committee(s) they have been co-opted to.

Draft

Registering interests

1. Within 28 days of becoming a member or re-election or re-appointment to office Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". Councillors should also register details of their other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).
2. "Disclosable pecuniary interest" means an interest of their own, or of their partner if they are aware of their partner's interest, within the descriptions set out in Table 1 below.
3. "Partner" means a spouse or civil partner, or a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners.
4. Councillors must ensure that their register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
5. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
6. Where a Councillor has a 'sensitive interest' they must notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees he/she will withhold the interest from the public register.
7. **Non participation in case of disclosable pecuniary interest**
Where a matter arises at a meeting which directly relates to one of a Councillor's Disclosable Pecuniary Interests as set out in Table 1, they must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the meeting unless they have been granted a dispensation. If it is a 'sensitive interest', they do not have to disclose the nature of the interest, just that they have an interest. Dispensation may be granted in limited circumstances, to enable Councillors to participate and vote on a matter in which they have a disclosable pecuniary interest.
8. Where a Councillor has a disclosable pecuniary interest on a matter that is to be considered or is being considered by them as a Portfolio Holder in exercise of their Executive function, they must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

9. Where a co-opted member, has a Disclosable Pecuniary Interest arising from their employment, the course of action that they should take will depend on the particular circumstances. If they have been appointed by their employer as a co-opted councillor it may not be necessary or appropriate for them to be precluded from the meeting solely because the matter under consideration relates to something which affects their organisation. There may be circumstances where, because the matter affects them directly or, for some other reason, it would not be appropriate for them to participate. To determine this, they must ask themselves the question “would a reasonable member of the public with knowledge of all the circumstances consider the matter as so significant that it is likely to prejudice their judgement of the public interest.”

10. Disclosure of Other Registerable Interests

Where a matter arises at a meeting which directly relates to one of a Councillor’s Other Registerable Interests (as set out in Table 2), they must disclose the interest. They may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the meeting unless they have been granted a dispensation. If it is a ‘sensitive interest’, they do not have to disclose the nature of the interest.

11. Disclosure of Non- Registerable Interests

Where a matter arises at a meeting which directly relates to a Councillor’s well-being or financial interest (and is not a Disclosable Pecuniary Interest set out in Table 1) or the well-being or financial interest of a relative or close associate, Councillors must disclose the interest. Councillors may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the meeting unless they have been granted a dispensation. If it is a ‘sensitive interest’, Councillors do not have to disclose the nature of the interest.

12. Where a matter arises at a meeting which affects:

- A Councillor’s own well-being or financial interest
- the wellbeing or financial interest of a friend, relative or close associate or
- a body included in those that must be disclosed under Disclosable Pecuniary Interests as set out in Table 1

Councillors must disclose the interest. In order to determine whether Councillors can remain in the meeting after disclosing the interest the following test should be applied

13. Where a matter affects a Councillor’s wellbeing or financial interest:

- to a greater extent than it affects the wellbeing or financial interests of the majority of inhabitants of the ward affected by the decision and
- a reasonable member of the public knowing all the facts would believe that it would affect the Councillor’s view of the wider public interest

they may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote

on the matter and must not remain in the meeting unless they have been granted a dispensation. If it is a 'sensitive interest', Councillors do not have to disclose the nature of the interest.

14. Where a Councillor has a personal interest in any business of the Council and has made an Executive decision in relation to that business, the Councillor must make sure that any written statement of that decision records the existence and nature of the interest.

Draft

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession, or vocation carried on for profit or gain. Any unpaid directorship.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities** of) and the 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 and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

Licenses	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 councillor's knowledge): (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities** of.
Securities	Any beneficial interest in securities** of a body where— (a) that body (to the councillor'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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

***'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.

Table 2: Other Registerable Interests

A Councillor has a personal interest in any business of the Council where it relates to or is likely to affect:

- any body of which they are in general control or management and to which they are nominated or appointed by the Council
- any body in which they have a financial interest or management or decision making role and which:
 - exercises functions of a public nature
 - is directed to charitable purposes or
 - has a principal purpose which includes the influence of public opinion or policy (including any political party or trade union).
- any body of which they are a member which is a private club or society, such as the Freemasons, a recreational club, working men's club or private investment club.