Cheshire East Council – Councillor Code of Conduct

Cheshire East Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the Authority and its Councillors and co-opted Members (referred to collectively in this Code as "Councillors").

1. All Town and Parish Councils that are within the Borough boundary have been invited to adopt this Code. It is acknowledged that town and parish councils that choose to adopt this Code may wish to amend its provisions to reflect local circumstances and preferences.

2. It is important that as Councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Conduct as an individual Councillor affects the reputation of all Councillors. The Council wants the role of Councillor to be one that people aspire to. The Council also wants individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

3. As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We 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.

4. Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

5. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

This Councillor Code of Conduct has been adopted under the Localism Act 2011 and is supported by a process that will be followed if a complaint is made. A complaint should be made to the Monitoring Officer with sufficient information to substantiate it. The form may be found on the Cheshire East Council website.

Support for Town and Parish Councils may be accessed through their membership of the Cheshire Association of Local Councils (ChALC) or the National Association of Local Councils (NALC).

Guidance that may assist Councillors in interpreting and understanding aspects of the code can be found here; https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct

Definitions

For the purposes of this Code of Conduct, a "Councillor" means an elected Councillor or co-opted Member of Cheshire East Council or of one of the Town and Parish Councils that have adopted this Code of Conduct

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:

a) is a member of any committee or sub-committee of the authority, or;

b) is a member of, and represents the authority on, any joint committee or joint subcommittee 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”.

For the purposes of this Code of Conduct, “local authority” includes Cheshire East Council and / or one of the parish councils, town councils within the Borough.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of your Council and of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

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 (as set out at Appendix A). The Nolan Principles are:

1. Selflessness;
2. Integrity;
3. Objectivity;
4. Accountability;
5. Openness;
6. Honesty;
7. Leadership.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

• I act with integrity and honesty

• I act lawfully

• I treat all persons fairly and with respect; and

• I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

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

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member, and it continues to apply to you until you cease to be a Councillor or Co-Opted Member.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor or Co-opted Member which may include if:

- you misuse your position as a Councillor
- Your 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

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.

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

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. **Respect**

As a Councillor:

1.1 I treat other Councillors and members of the public with respect.

1.2 I 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.

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. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from others. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the relevant local authority, 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 the local authority's Member/officer protocol.

2. Bullying, harassment and discrimination

As a Councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

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.

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.

Because bullying and harassment can be subjective by its very nature, any complaints of such behaviour will be subject to an objective assessment of all the circumstances surrounding the allegation.

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.

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.

3. Impartiality of officers of the council

As a Councillor:

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

Officers work for the local authority as a whole and must be politically neutral (there are no political assistants in Cheshire East). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, for having acted in a particular way, or in respect of the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Councillors should always use the appropriate routes to raise issues and inform decision making.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information given to me in confidence by anyone, or acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:

a) I have received the consent of a person authorised to give it;

b) I am required by law to do so;

c) 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

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 access to information procedure rules; and

iii. I have sought the views of the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Cheshire East Council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances.

You 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.

5. Disrepute

As a Councillor:

5.1 I do not bring my role or Council into disrepute;

5.2 I am seen as a representative of Cheshire East Council or my Town or Parish Council and seek to uphold the image and reputation of the Council and will not bring my Council into disrepute.

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

You are able to hold the Council and fellow Councillors to account and are able to bring legitimate challenge in relation to Council functions and operation, criticise and express concern about decisions, services and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct. The Code of Conduct does not stifle political debate, or prevent Councillors from campaigning on issues of local concern.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a Councillor of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others.

However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a Councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

a. act in accordance with the local authority's requirements; and

b. 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 local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your 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 you to help you carry out your role as a Councillor more effectively and are not to be used for business, personal, or political 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.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my Council.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting your reputation and the reputation of the local authority

9. Interests

As a Councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Councillors of the Council this includes Town and Parishes.

You need to register your interests so that the public, council employees and fellow Councillors know which of your 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 you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you 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 you or other 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.

You should note that 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 B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10.Gifts and hospitality

As a Councillor:

10.1 I 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.

10.2 I will only accept gifts and hospitality when on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the gift or hospitality. Hospitality is usually acceptable when the invitation is corporate not personal.

10.3 I will register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

Whatever gift or hospitality is provided to you, other than a gift or hospitality of nominal value only (such as drink, or small items of stationery), you should report the circumstances and the type of hospitality to the Monitoring Officer. Small insignificant gifts of a value of less than £50, such as pens, diaries, calendars, mouse mats or mugs, may be accepted.

In order to protect your position and the reputation of your Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you 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 you could accept it but must ensure it is publicly registered.

Corporate gifts and/or hospitality may on occasion be offered to Councillors carrying out duties associated with a ceremonial role such as Mayor. If the gift or hospitality is offered in ceremonial capacity, it can be accepted and noted on the register for the office being held. For example, the Mayor receives a gift on behalf of the Council, the gift will be recorded in the Mayors register and retained by the Council. A gift received by the Mayor as a token of thanks for attending a function, such as flowers, will be recorded as a personal gift within the register as appropriate. Gifts of a greater value should only be accepted on the basis that the gift or hospitality is declared. Gifts or hospitality (if appropriate) accepted in a ceremonial capacity may be donated to charitable or other appropriate causes such as the Mayors Charity.

You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact the Monitoring Officer for guidance.

11. Predetermination, predisposition and bias

Issues of predetermination, predisposition and bias can arise in parallel to the provisions of the Code of Conduct, but are not part of the Code itself. For further information, please consult specific guidance available at the following links:

https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

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 disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

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.

Openness

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.

Honesty

Holders of public office should be truthful.

Leadership

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.

Appendix B - Registering interests

Within 28 days of becoming a Councillor or your re-election or re-appointment to office you 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”. You should also

register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests).**

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your 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.

2. 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.

3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. You are able to make a brief statement prior to leaving the meeting to describe the context of your decision. Specific guidance regarding the declaration of interests at planning committee is available here: https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you are the Chairperson of any committee and have a disclosable pecuniary interest on a matter to be considered by you or you are being consulted upon for an officer decision, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for the Vice Chairperson or someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You 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 room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (**and is not a Disclosable Pecuniary Interest set out in Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the

meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest. You are able to make a brief statement prior to leaving the meeting to describe the context of your decision. Specific guidance regarding the declaration of interests at planning committee is available here: https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions

8. Where a matter arises at a meeting which ***affects*** –

a. your own financial interest or well-being;

b. a; or

c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

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

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. You are able to make a brief statement prior to leaving the meeting to describe the context of your decision. Specific guidance regarding the declaration of interests at planning committee is available here: https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you are the Chairperson of any committee and have another Registrable Interest or Non-Registrable Interest on a matter to be considered by you or you are being consulted upon for an officer decision, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for the Vice Chairperson or someone else to deal with it.

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.

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 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 (Consolidation) Act 1992.

Contracts

Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Subject Description Employment, office, trade, profession or vocation 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 Member'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 have 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 Registrable Interests

You must register as an Other Registerable Interest:

a) any unpaid directorships

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) 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 you are a member or in a position of general control or management spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.