

DERBYSHIRE FIRE & RESCUE AUTHORITY

CODE OF CONDUCT FOR MEMBERS

PART 1

GENERAL PROVISIONS

1. INTRODUCTION AND INTERPRETATION

- (1) This code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:

“meeting” means any meeting of:

- a) the authority
- b) the executive of the authority
- c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees.

“member” includes a co-opted member and an appointed member.

- (5) In relation to a parish council, references to an authority’s Monitoring Officer and an authority’s Standards Committee shall be read, respectively, as references to the Monitoring Officer and the Standards Committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

2. SCOPE

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
 - a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - b) act, claim to act or give the impression you are acting as a representative of your authority,- and references to your official capacity are construed accordingly.
- (2) Subject to Sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c) 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:
- a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. GENERAL OBLIGATIONS

- (1) You must treat others with respect.
- (2) You must not:
- a) do anything which may cause your authority to breach any of the equality enactments (as defined in the Equality Act 2010);
 - b) bully any person;
 - c) intimidate or attempt to intimidate any person who is or is likely to be:
 - i) a complainant,
 - ii) a witness, or
 - iii) 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; or
 - d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. CONFIDENTIALITY

- (1) You must not:
- a) 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:

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

5. CONDUCT

- (1) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Confidentiality

- (2) You:

- a) 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; and
- b) must, when using or authorising the use by others of the resources of the authority:
 - i) act in accordance with your authority's reasonable requirements;
 - ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 (a).

6. DECISION MAKING

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- a) your authority's Chief Finance Officer; or
 - b) your authority's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART 2
INTERESTS

7. PERSONAL INTERESTS

(1) You have a personal interest in any business of your authority where either:

a) it relates to or is likely to affect:

- i) anybody of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- ii) any body
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;
- iii) any employment or business carried on by you;
- iv) any person or body who employs or has appointed you;
- v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- ix) any land in your authority's area in which you have beneficial interest;
- x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

- xi) any land in the authority's area for which you are have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - b) a decision in relation to that business might reasonably be regarded as affecting 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
 - i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision or (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is:
- a) a member of your family or any person with whom you have a close association; or
 - 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 directors;
 - c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

8. DISCLOSURE OF PERSONAL INTERESTS

- (1) Subject to sub-paragraphs (2) to (7) where you have a personal interest in a business of your authority and you attend a meeting of your authority 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) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8 (1)(a)(i) or 8 (1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8 (1)(a)(viii) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(a).

9. PREJUDICIAL INTEREST GENERALLY

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority 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.
- (2) You do not have a prejudicial interest in any business of the authority where that business
 - a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - 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 8; or
 - c) relates to the functions of your authority in respect of
 - i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends.
 - iii) 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;
 - iv) an allowance, payment or indemnity given to members;
 - v) any ceremonial honour given to members; and

- vi) setting council tax or a precept under the Local Government Finance Act 1992.

10. PREJUDICIAL INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES

- (1) You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where
 - a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

11. EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION

- (1) Subject to sub-paragraph (2) where you have a prejudicial interest in any business of your authority:
 - a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - i) in a case where sub-paragraph (2) 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 your authority's Standards Committee.
 - b) you must not exercise executive functions in relation to that business; and
 - c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.

PART 3

MEMBERS' INTERESTS

12. REGISTRATION OF MEMBERS' INTERESTS

- (1) Subject to paragraph 14, you must within 28 days of:
 - a) this Code being adopted by or applied to your authority; or
 - b) your election or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 81 (1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8 (1)(a) by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

13. SENSITIVE INFORMATION

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of member's interests.
- (3) In this Code "sensitive information" means information whose availability for inspection by the public creates or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

14. PRE-DETERMINATION OR BIAS

- (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as a member. However, do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (2) When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

INDEMNITY FOR OFFICERS AND MEMBERS

Issued in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.

(1) The Authority will provide an indemnity, which may or may not be supported by insurance, to members and officers in the following circumstances:-

a) In relation to any action, or failure to act which:

- i) is authorised by the authority; or
- ii) forms part of, or arises from, any powers conferred, or duties placed, upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function he does so in his capacity as a member or officer of the authority) – at the request of, or with the approval of the authority, or for the purposes of the authority.

(2) No indemnity will be provided in relation to:

a) any action, or failure to act, by a member or officer which:

- i) constitutes a criminal offence; or
- ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

b) Notwithstanding paragraph (a)(i), an indemnity will be provided in relation to:

- i) subject to paragraph 5 below, the defence of any criminal proceedings brought against the member or officer; and
- ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

c) No indemnity is provided in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against the member or officer.

(3) Actions exceeding the powers of the authority or member or officer. An indemnity is provided:

a) To the extent that the member or officer in question:

- i) believed that the action, or failure to act, in question was within the powers of the authority; or

- ii) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the authority, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true, and it was reasonable for that member or officer to hold that belief at the time of action or failure.
 - b) An indemnity is provided in relation to an act or omission which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or omission in question was within the powers available at the time of action.
- (4) Where the member or officer is acting on behalf of another organisation then the activities covered will be deemed to have arisen in the capacity as a "member or officer of the authority" where:
- a) the appointment to that outside body was made by the authority; or
 - b) the nomination to that outside body was made by the authority; or
 - c) such appointment to that outside body was specifically approved for the purpose of these indemnities.
- (5) Terms of Indemnity
- a) The level of fees which will be reimbursed will be those which are deemed reasonable. The Monitoring Officer should be consulted prior to advice being sought under the terms of this indemnity, with regard to the prevailing level of fees that are deemed acceptable.
 - b) Where the indemnity has effect in relation to the defence of any criminal proceedings, any Part 3 proceedings or any other civil proceedings then it is provided on the terms that:-
 - i) in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and
 - ii) in the case of Part 3 proceedings, if a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following any appeal, or if the member admits failure to comply with the Code of Conduct, and
 - iii) in the case of civil proceedings should a court find against the indemnified or should any admission of liability be made that member or officer shall reimburse the authority or the insurer (as the case may be) for any sums expended by the authority or insurer in relation to those proceedings pursuant to the indemnity or insurance. Any such sum is recoverable as a civil debt.

- c) In the case of Part 3 proceedings which are being considered by the Standards Committee of the Authority then the question of whether representation in connection with such proceedings shall be indemnified will be at the discretion of the Standards Committee.

- d) At any point in the defence of any proceedings, be they criminal or civil, once it becomes known to the member or officer, that their case has little reasonable prospect of success, then the member or officer shall inform the Monitoring Officer forthwith. The member or officer shall incur no further expenses from that date. The indemnity will not cover any expenses incurred after that date.

PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

1. The Monitoring Officer acknowledges receipt of the complaint within 5 working days of receipt.
2. Within 5 working days of receipt of the complaint, the Monitoring Officer informs the subject member of:
 - (a) The complaint, giving a summary of it and the name of the complainant;
 - (b) His/her right to consult one of the Independent Persons appointed by the Derbyshire Fire & Rescue Authority (the Authority) through the Monitoring Officer.
3. The Monitoring Officer, in consultation with an Independent Person (other than one consulted by the subject member under paragraph 2 (b)), decides, within 20 working days of receipt of the complaint, that:
 - (a) The complaint does not come within the remit of the Code of Conduct;
 - (b) The complaint is not sufficiently serious to warrant an investigation;
 - (c) He/she should seek to resolve the complaint without the need for an investigation (e.g. by an apology or training by the subject member);
 - (d) An investigation should take place;
 - (e) The complaint should not be investigated because it is vexatious, malicious or obsessive;
 - (f) The complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident;
 - (g) The complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint.
4. Before coming to his/her decision under paragraph 3 the Monitoring Officer may request further information and/or clarification from the complainant and/or the subject member. The time period may be extended accordingly and parties notified of this.
5. If the Monitoring Officer decides that the complaint should be investigated, or his/her attempts to resolve the complaint without an investigation do not succeed, then he/she will carry out an investigation or appoint an investigator to carry out an investigation on his/her behalf. The Monitoring Officer will notify the parties of the time period for the investigation to take place and for a report to be prepared.
6. The Investigator appointed under paragraph 5 by the Monitoring Officer may be:
 - (a) A senior officer of the Authority
 - (b) A senior officer of another Council or Fire & Rescue Authority
 - (c) An external investigator with relevant experience.
7. A report into an investigation shall include the Investigator's findings on whether the Code has been breached.

8. Before finalising his/her report the Investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.
9. If the investigator's final report finds there has not been a breach of the Code the Monitoring Officer can, in consultation with the Independent Person, decide to:
 - (a) Take no action;
 - (b) Refer the report to the Standards Committee Hearing Panel.
10. If the Investigator's report finds there has been a breach of the Code then the Monitoring Officer must refer the matter to the full Standards Committee Hearing Panel.
11. When the matter has been referred to the Standards Committee Hearing Panel by the Monitoring Officer, it will:
 - (a) Allow the Investigator to present his/her report and call witnesses, including the complainant;
 - (b) Allow the subject member to make representations and call witnesses;
 - (c) Decide if the subject member has breached the Code of Conduct;
 - (d) Decide what sanction should be imposed if they decide the Code has been breached.
12. The sanctions the Standards Committee Hearing Panel can impose if they find a breach of the Code are:
 - (a) Censuring the member
 - (b) Reporting its findings to the Authority for information;
 - (c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to the Authority or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Authority;
 - (d) Recommending to the Authority that the member be replaced as a member of the Authority;
 - (e) Recommending to the Chair of the Authority that the member be removed from the Authority, or removed from particular Portfolio responsibilities;
 - (f) Recommending the Monitoring Officer arrange training for the member;
 - (g) Recommending to the Authority that the member be moved from all outside appointments to which he/she has been appointed or nominated by the Authority.
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed by the Standards Committee Hearing Panel they will consult and take into account the views of the Independent Person who will attend such hearings.
14. Following any final decision by the Monitoring Officer or the Standards Committee Hearing Panel at whatever stage the Monitoring Officer shall inform

the complainant and the subject member of the decision and the reasons for it within 10 working days.

15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Authority's website in a prominent position.
16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Authority's website, in a prominent position if the subject member wishes it to be.
17. Any decision of the Monitoring Officer or Standards Committee Hearing Panel shall be final and binding.
18. The Monitoring Officer will every 6 months take a report to the Standards Committee giving:
 - (a) The number of complaints received and brief details;
 - (b) How they are progressing;
 - (c) What decisions have been made;
 - (d) What action has, where appropriate, been taken.
19. The Monitoring Officer has delegated power, in consultation with the Independent Person and the Chair of the Standards Committee, to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.