

## **CODE OF CONDUCT FOR MEMBERS**

### **Preamble to Code of Conduct for Members**

Trafford Council's current Code of Conduct for Members was adopted by the Council on **19<sup>th</sup> September 2012**. The Code sets out the conduct expected of Members of the Council, both elected and co-opted.

Underpinning the Code of Conduct are the seven principles set out in section 28(1) of the Localism Act 2011. These principles define the standards that members should uphold and serve as a reminder of the purpose of the Code of Conduct.

#### **The General Principles**

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership**

## **THE CODE OF CONDUCT**

### **Part 1 General provisions**

#### **1. Introduction and interpretation**

- 1.1 This Code applies to you as a member of the Council.
- 1.2 It is your responsibility to comply with this Code. If you fail to do so it may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a disclosable pecuniary interest may result in a criminal conviction and a fine not exceeding level 5 on the standard scale and /or disqualification from office for a period of up to 5 years.
- 1.3 In this Code - “meeting” means any meeting of:
- (a) the Council;
  - (b) any of the Council's committees or sub-committees, joint committees or joint sub-committees;
  - (c) the Executive or any committee of the Executive.
- 1.4 “Member” includes a co-opted member and an appointed member.

#### **2. Scope**

- 2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a member or co-opted member of the Council or an appointed member of a joint committee, and, references to your official capacity are construed accordingly.
- 2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of the Council—
- (a) on another relevant authority, including the Greater Manchester Combined Authority, the Greater Manchester Fire & Rescue Authority and the Greater Manchester Waste Disposal 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 this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

#### **3. General obligations**

- 3.1 You must not:

- (a) do anything which may knowingly cause the Council to breach the Equality Act 2010;
- (b) be abusive to 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, the Council.
- (e) **raise trivial or malicious allegations against other Members of the Council.**

#### **4. You must not harass anyone**

**4.1** Harassment is any unwelcome behaviour or conduct, with no legitimate workplace purpose, which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable at work. Harassment can be experienced directly or indirectly (such as being in the room while unacceptable conduct is being displayed and being affected by it), and can occur as an isolated incident or as a course of persistent behaviour.

**4.2** It is important to note that even unintentional behaviour can still be classed as harassment. Harassment is essentially about what the recipient deems to be offensive, not about what was intended. You should be aware, therefore, of the impact your conduct has on others and that what may seem harmless to you can be offensive to someone else.

**4.3** Harassment can occur through physical contact or through oral or written comments (including ones made online). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

## **5. You must not bully anyone**

5.1 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

5.2 Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of interaction. Bullying tends to be a pattern of behaviour or can be a one off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidating behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

## **6. 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:
  - (a) reasonable and in the public interest; and
  - (b) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

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

**8. 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 your authority:
  - (i) act in accordance with the Council's reasonable requirements; and
  - (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.
- (d) **must, in the event that a complaint or allegation has been raised against you, comply with any formal standards investigation as outlined in the "Arrangements for dealing with complaints about the Code of Conduct for members" within the constitution.**

**9.**

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by**
  - (a) The Council's chief finance officer; or
  - (b) The Council's monitoring officer,where that officer is acting pursuant to his or her personal 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 - Disclosable pecuniary interests**

**10. Notification of disclosable pecuniary interests**

- 10.1 Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

*[Note: Standing orders require existing members and co-opted members of the Council to notify the Monitoring Officer of disclosable pecuniary interests within 28 days of the adoption of the Code]*

10.2 A 'disclosable pecuniary interest' is an interest of yourself or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

10.3 "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.

<b>Subject</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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 (a).
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) 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	Any beneficial interest in land which is within the area of Trafford Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Trafford Council for a month or longer.

Corporate Tenancies	Any tenancy where (to your knowledge) - (a) the landlord is the Council: and  (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where - (a) that body (to your knowledge) has a place of business or land in the area of Trafford 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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

#### 10.4 For the purposes of the above

- (a) "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- (b) "director" includes a member of the committee of management of an industrial and provident society.
- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- (d) "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.

## **11 Non participation in case of disclosable pecuniary interest**

11.1 If you are present at a meeting [of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, or the executive or committee of the executive] and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- You must not participate in any discussion of the matter at the meeting.
- You must not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

*[Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place, and in the case of a registered (as well as unregistered interest) to disclose it to the meeting].*

11.2 Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **12 Offences**

12.1 It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in a matter, taking any steps in relation to such a matter.



- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting
- 12.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### **Part 3 - Other interests**

#### **13 Notification of personal interests**

- 13.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of -
- (a) this Code being adopted by or applied to the Council; or
  - (b) your election or appointment to office (where that is later),
- notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.
- 13.2 You have a personal interest in any business of your authority where it relates to or is likely to affect –
- (a) any body of which you are in a position of general control or management and to which you are appointed or nominated by your authority;
  - (b) 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 in a position of general control or management;
  - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

#### **14 Disclosure of interests**

- 14.1 Subject to paragraphs 14.4 to 14.7, where you have a personal interest described in paragraph 13.2 above or in paragraph 14.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, 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.

- 14.2 You also have a personal interest in any business of your authority where 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 other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision;
- 14.3 In paragraph 14.2, 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 paragraph 13.2(a) or (b).
- 14.4 Where you have a personal interest in any business of the Council which relates to or is likely to affect a body described in paragraph 13.2(a) or 13.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 14.5 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 13.2(c), (gifts and hospitality) 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.
- 14.6 Where you have a personal interest but, by virtue of paragraph 18, 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.
- 14.7 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.

## **15 Non participation in case of prejudicial interest**

- 15.1 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 and where that business –
- (a) affects your financial position or the financial position of a person or body described in paragraph 14.3 ;or

- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 14.3.
- 15.2 Subject to paragraphs 15.3 and 15.4, where you have a prejudicial interest in any business of your authority—
- a) You must not participate in any discussion of the matter at the meeting.
  - b) You must not participate in any vote taken on the matter at the meeting.
  - c) If the interest is not registered, you must disclose the interest to the meeting.
  - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- [Note: In addition Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place].*
- 15.3 Where you have a prejudicial interest in any business of the Council, you may attend a meeting 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 and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 15.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of—
- (a) 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;
  - (b) 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; and
  - (c) any ceremonial honour given to members.
  - (d) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
  - (e) an allowance, payment or indemnity given to members;
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.
- 15.5 Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and

must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **16 Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of the Council (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 the executive or another of the 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, you may attend the meeting of the overview and scrutiny committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.

## **Part 4 - General Matters relating to Parts 2 and 3**

### **17 Register of interests**

Subject to paragraph 18 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

### **18 Sensitive interests**

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

### **19 Dispensations**

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.