

## REVIEW OF MEMBERS' CODE OF CONDUCT

Councillor H Mordue

Chairman of the Standards Committee

### 1. Purpose

- 1.1. To approve a revised Code of Conduct for Aylesbury Vale District Council.

### 2. Recommendation

- 2.1 Council is asked to adopt the revised Code of Conduct for Members, attached as an Appendix to this report (as recommended by the Standards Committee).

### 3. Supporting Information

- 3.1 In response to specific events during the course of last year, Officers were asked to carry out some refresher training for Members on the Code of Conduct. Three separate sessions were arranged and were well received. Coincidentally, the Council commissioned an independent review of the activities of Aylesbury Vale Broadband (AVB). The Audit Committee considered the AVB review conclusions and asked that any review of the Code of Conduct should address the situation in relation to the handling of confidential information.
- 3.2 During the course of the Member training sessions it became apparent that there had been difficulty in interpreting the existing Code of Conduct. This is mainly due to the format, which involves quite a lot of cross referencing and the legal terminology used. Officers were asked to look at the current Code and endeavour to make it clearer. The Lead Legal and Monitoring Officer together with the Deputy Monitoring Officer researched best practice across a wide spectrum of local authorities, but tailoring any changes to local circumstances.
- 3.3 This research resulted in the production of a first draft for informal consideration by the Chairman of this Committee, the Chairman of the Audit Committee and a Member who had asked specifically to be involved in any revision of the Code. The draft was discussed at considerable length, seeking to make the Code as understandable as possible. The revised draft was then submitted to the Standards Committee for consideration. For comparison purposes, the existing Code, which was last reviewed (and adopted) in 2012, can be viewed at <https://democracy.aylesburyvaledc.gov.uk/documents/s11194/SectionGCodesProtocols2017.pdf>
- 3.4 Members may recall that at the last Council meeting the Chairman of the Audit Committee referred to the proposed revised Code of Conduct in connection with the work of his Committee in relation to the guidance document on working with AVDC companies. That work had resulted from the independent auditor's report on the activities of AVB. It had been proposed to submit the revised Code to the last Council meeting, but just before the agenda was published, the Committee on Standards in Public Life published its final report on a review of ethical standards in local authorities. That report includes a number of recommendations which in the main require legislative changes and there is as yet no indication if and when those changes will come into effect.
- 3.5 The Report also however includes some best practice guidance and it was felt that the revised Code of Conduct should be revisited to include that guidance where

appropriate. The Chairmen of the Audit and Standards Committee's have been consulted on these late changes.

- 3.5** The revised Code requires formal adoption by full Council. By way of explanation, the new unitary authority will need in due course to approve its own Code of Conduct. The revised Code attached as an Appendix to this report will serve AVDC up to 1 April, 2020.

**4. Options Considered/Reasons for Recommendations**

- 4.1** There were a number of different formats that could have been selected, but it was felt Standards that the draft attached best meets AVDC's requirements. The reasons prompting the revision include clarity and ease of understanding.

**4. Resource Implications**

None.

**Contact Officers:** Bill Ashton (01296) 585040 (Democratic Services Manager) and Ifty Ali (Lead Legal and Monitoring Officer)

**Background documents:** None

# AYLESBURY VALE DISTRICT COUNCIL

## MEMBER CODE OF CONDUCT

### MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and Co-opted Members of the Council.

The Code sets out the standard of service that is expected from Councillors and Co-opted Members of the Council. In particular, Councillors and Co-opted Members should act in an open and transparent manner and should not do anything which would prejudice the reputation of the Council.

It is important Councillors and Co-opted Members carry out their duties having regard to the Council's expected standards of conduct, and if in any doubt they should seek guidance from the Lead Legal and Monitoring Officer. This is because in some circumstances a breach of the Code could be a criminal offence, and because any person can make a complaint to the Council if they believe that a Councillor or Co-opted Member has breached the Code. Where Members believe they may have an interest, they should consult the Lead legal and Monitoring officer in advance of the meeting they will be attending. A considered answer cannot be given at the meeting itself in the absence of all the facts.

This Code is adopted in accordance with Section 27(2) of the Localism Act 2011. This requires local authorities to adopt a Code of Conduct that is expected of Members and co-opted Members of the authority.

This Code will be reviewed annually.

### UNDERLYING PRINCIPLES

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting its meaning:-

- i. **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- ii. **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii. **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

- iv. **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v. **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi. **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii. **Leadership** - Holders of public office should promote and support these principles by leadership and example.

**APPENDIX A TO THIS CODE:**

**Sets out the definitions of Disclosable Pecuniary Interests.**

**APPENDIX B TO THIS CODE:**

**Gives guidance on confidentiality.**

## PART 1

### GENERAL PROVISIONS

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

- 1.1. This Code applies to **you** whenever you are acting in your capacity as a Member of Aylesbury Vale District Council including:-
- (a) When acting as a representative of the authority;
  - (b) In taking any decision as a Ward Councillor;
  - (c) At briefing meetings with officers;
  - (d) When corresponding with the authority other than in a private capacity.
- 1.2. The term “**the Authority**” used in this Code refers to Aylesbury Vale District Council.
- 1.3. “**Member**” means any person being an elected or Co-opted Member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. In this code:
- “**Meeting**” means **any** meeting of:-
- a) The Authority;
  - b) The Authority’s Cabinet, Committees, Sub-Committees, Joint Committees or Joint Sub- Committees;
  - c) Any of the Authority’s advisory groups and boards, working parties and panels
- 1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011 and is Aylesbury Vale District Council.

#### 2. **General obligations**

##### 2.1. **You must treat others with respect.**

##### 2.2. **You must not:**

- (a) do anything which may cause the Authority to breach UK equalities legislation;
- (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.
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

### **3. You must not:**

- 3.1. 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:-
  - (a) you have the consent of a person authorised to give it;
  - (b) you are required by law or a court of law to do so;
  - (c) 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
  - (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 authority.
- 3.2. prevent another person from gaining access to information to which that person is entitled by law.
- 3.3. Papers issued to Members on yellow pages and marked as confidential, as well as papers marked either "not for publication" or "AVDC secure" **should not be disclosed to third parties** unless any of the provisions referred to in (a) – (d) above apply.

### **4. You must not:**

- 4.1. use or attempt to use your position as a Member improperly to:-
  - (a) confer on, or secure for yourself an advantage; or

- (b) confer on or secure for any other person an advantage or disadvantage.

**5. You must:**

- 5.1. when using or authorising the use by others of the resources of your Authority:

- (a) act in accordance with your Authority's reasonable requirements;
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) have regard to any Local Authority Code of Publicity. (Commonly known as the purdah rules).

- 5.2. Comply with any formal standards investigation and refrain from making trivial or malicious allegations against fellow Councillors.

**PART 2**  
**INTERESTS**

**6. Disclosable Pecuniary Interests**

- 6.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.
- 6.2. You have a disclosable pecuniary interest if it is of a description specified in Regulations made by the Secretary of State, (attached at Appendix A), and either:
- (a) it is an interest of yours, or
  - (b) it is an interest of:
    - (i) your spouse or civil partner;
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if you were civil partners
- and you are aware that that other person has the interest.

**7. Registration of Disclosable Pecuniary Interests**

- 7.1. Subject to paragraph 9 below, (sensitive interests), you must, within 28 days of:
- (a) this Code being adopted or applied by the Authority; or
  - (b) your election or appointment (where that is later),
- notify the Authority's Lead Legal and Monitoring Officer in writing of any Disclosable Pecuniary Interests you have at that time.
- 7.2. Subject to paragraph 9 below, (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority's Lead Legal and Monitoring Officer in writing of that new pecuniary interest or change.

**8. Disclosable Pecuniary Interests in Matters Considered at Meetings**

- 8.1. If you attend a meeting and have and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at that meeting:-

if the interest is not entered in the Authority's register of Members' interests, you must, subject to sub-paragraph 9 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority's



Lead Legal and Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and

- (a) irrespective of whether the interest is registered **you must not** – unless you have obtained a dispensation from the Authority’s Lead Legal and Monitoring Officer:
  - (i) participate, or participate further, in any discussion of the matter at the meeting; or
  - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

**9. Non Statutory Disclosable Interests (Personal)**

9.1. A non statutory interest can be pecuniary or non pecuniary.

9.2. You have a “non-statutory disclosable interest” in an item of business of your authority where:

- i) a decision in relation to that business might reasonably be regarded as positively affecting the well-being or financial standing\* of you or a member of your family or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the Ward or electoral area for which you have been elected or otherwise of the authority’s administrative area;

or

- ii) it relates to or is likely to affect any of the interests listed in the Table in the Appendix A to this Code, but in respect of a member of your family (other than a “relevant person”) or a person or body with whom you have a close association

and that interest is not a disclosable pecuniary interest.

\* Please note that it is not sufficient for the Member simply to have a financial interest; he or she must also reasonably be considered to have the potential to benefit from the specific decision made to a greater extent than the majority of the Council tax payers, ratepayers or inhabitants of the Ward or electoral area for which he or she has been elected or otherwise of the authority’s administrative area.

9.3. If you attend a meeting and are aware that you have a “Non Statutory Disclosable Interest” in any matter to be considered, or being considered, at that meeting:

- (a) If the interest is not entered in the Authority’s register of Members’ interests, you must, subject to sub-paragraph 9 above (sensitive interests), disclose to the meeting the fact that you have a Non-Statutory Disclosable Interest in that matter, and

- (b) If the interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant as to prejudice your judgement of the public interest, you **must not**:
- (i) participate, or participate further, in any discussion of the matter at the meeting; or
  - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting;

apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter in a situation where a member of the public would be able to do so.

## 10. **Sensitive Interests**

- 10.1. Where you consider (and the Authority's Lead Legal and Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Non-Statutory Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of this Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed to the Lead Legal and Monitoring Officer.

## 11. **Dispensations**

- 11.1. Where a Member is prohibited from voting on or participating in discussions on matters in which they have a Disclosable Pecuniary Interest or a Non-statutory Disclosable Interest within the meaning of paragraph 10.1 of this Code ("**Relevant Non-Statutory Disclosable Interest**"), a Member may on written notice to the Lead Legal and Monitoring Officer (by letter or email) request the grant of a dispensation to permit them to participate in the voting or discussions on such matters.
- 11.2. A dispensation requested under paragraph 11.1 may be granted only if, after having regard to all relevant considerations, the Lead Legal and Monitoring Officer is satisfied that one of the following grounds for the grant of dispensations applies:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) granting the dispensation is in the interests of persons living in the authority's area; or
  - (d) if, as in the case of AVDC, it is an authority to which Part 1A of the

Local Government Act 2000 applies and is operating executive arrangements (Cabinet), considers that without the dispensation each Member of the authority's executive would be prohibited by section 31(4) of the Act from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

11.3. A dispensation granted in accordance with paragraph 11 must:

(a) specify the period for which it is granted which must not exceed four years.

(b) specify whether the dispensation allows the Member to take part in discussions on and/or vote on the matter in which they have a Disclosable Pecuniary Interests or Relevant Non-Statutory Pecuniary Interest.

11.4. Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which the dispensation relates.

11.5. A copy of the dispensation, in writing, shall be kept by the Lead Legal and Monitoring Officer.

## **12. Gifts and Hospitality (As a Member)**

12.1. You must, within 28 days of receipt, notify the Lead Legal and Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the authority.

12.2. The Lead Legal and Monitoring Officer will place your notification on a public register of gifts and hospitality, which may be inspected on the Council's web site and which will be updated quarterly.

# Appendix A

## Disclosable Pecuniary Interests (DPIs)

The duties to register, disclose and not to participate in respect of any matter in which a Member has a DPI are set out in Chapter 7 of the Localism Act 2011.

DPI's are defined in Regulations made in 2012 as follows:-

<b><i>Interest</i></b>	<b><i>Prescribed description</i></b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge) -</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where -</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

**DRAFT 07 March 2019**  
**Council 17 April 2019**  
**Definitions**

For this purpose –

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a Member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a Member of a relevant authority;

“member” includes a Co-opted Member;

“relevant authority” means the authority of which M is a Member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30 (3) (b) of the Act;

“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.

## APPENDIX B

### MEMBERS' CODE OF CONDUCT - GUIDANCE ON CONFIDENTIALITY

Information about the following matters should be regarded as confidential except in the circumstances outlined in paragraphs (i) - (v):

1. Any information which is marked as being confidential, Not for Publication, AVDC Secure or printed on yellow paper
2. Information where the recipient has been advised by a Council officer or member that the information is confidential
3. Information about individual service users or clients (past, present and prospective)
4. Information about individual employees or office holders (past, present and prospective)
5. Information relating to the names of tenderers, contractors, companies and the amounts and terms of contracts with the Council (past, present and prospective) prior to such information being released into the public domain when the tendering process has been completed
6. Information relating to potential or actual criminal proceedings
7. Information in documents which are circulated in draft
8. Personal information covered by the current data protection legislation
9. Information relating to any court case or legal action which is not already in the public domain, unless there is specific legal advice to the contrary
10. Information supplied at lead member briefings, joint member meetings with the Strategic Management Team, and Advisory Groups. Members will be advised whether the information may be made public.

Information is not confidential if it is already in the public domain. This will be:

- (i) Information contained in a published official document
- (ii) Information reported at a meeting which is open to the public
- (iii) Information on the Council's website (this does not include the Council's Intranet)
- (iv) Information where the member has been advised that it is in the public domain

Members **must** seek advice from the Lead Legal and Monitoring Officer on the disclosure of confidential information in advance of the information being disclosed.

### **Disposal of confidential papers**

Red waste paper bins are situated at various locations around the Council's offices where Members can dispose of any unwanted confidential papers. Alternatively Members can hand back their confidential papers to one of the Committee administrators after the particular meeting, who will arrange for their disposal. Failing this, Members should shred the documents.