



DARLEY AND MENWITH PARISH COUNCIL

Councillor Code of Conduct

Preamble

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

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

Definitions

For the purposes of this Code of Conduct: a "councillor" means a member or co-opted member of a local authority or a directly elected mayor.

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 Harrogate Borough Council and all parish and town councils in the Harrogate District.

General principles of councillor conduct

Everyone in public office at all levels should uphold the Seven Principles of Public Life, also known as the Nolan Principles (set out in Appendix A). This includes all who serve the public or deliver public services including:

- ministers;
- civil servants;
- councillors; and
- local authority officers.

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 councillors, on all occasions councillors must:

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

In undertaking the role of councillor, individuals must:

- impartially exercise their responsibilities in the interests of the local community;
- not improperly seek to confer an advantage, or disadvantage, on any person;
- avoid conflicts of interest;
- exercise reasonable care and diligence; and

- ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to councillors as soon as they sign their declaration of acceptance of the office of councillor or attend their first meeting as a co-opted member. It continues to apply to them until they cease to be a councillor.

This Code of Conduct applies to councillors when they are acting in their capacity 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; and
- in electronic and social media communication, posts, statements and comments.

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

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and councillors are encouraged to seek advice from the 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 councillors' obligations, which are the minimum standards of conduct required of councillors. Should a councillor's conduct fall short of these standards, a complaint may be made against the councillor, 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

Councillors must:

1.1 treat other councillors and members of the public with respect.

1.2 treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with personal respect and respect for 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. Councillors may express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Councillors should not, however, subject individuals, groups of people or organisations to personal attack.

When in contact with members of the public, councillors should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

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

2. Bullying, harassment and discrimination

Councillors must:

2.1 not bully any person.

2.2 not harass any person.

2.3 promote equalities and 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.

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. These are defined as 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

3.1 Councillors must 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 (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Councillors can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, councillors must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

4.1 Councillors must not disclose information:

a. given to them in confidence by anyone

b. acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless

i. they have received the consent of a person authorised to give it;

ii. they are required by law to do so;

iii. 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

iv. the disclosure is:

1. reasonable and in the public interest; and

2. made in good faith and in compliance with the reasonable requirements of the local authority;

and

3. the councillor has consulted the Monitoring Officer prior to its release.

4.2 Councillors must not improperly use knowledge gained solely as a result of their role as a councillor for the advancement of themselves, their friends, their family members, their employer or their business interests.

4.3 Councillors must not prevent anyone from getting information that they are entitled to by law.

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

5. Disrepute

5.1 Councillors must not bring their role or local authority into disrepute.

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

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

6. Use of position as a councillor:

6.1 Councillors must not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

6.2 Councillors must not take part in the scrutiny of any decision they have been involved in making – except that they may provide evidence or opinion to those undertaking any scrutiny process.

A councillor's position as a member of the local authority provides them with certain opportunities, responsibilities and privileges, and they make choices all the time that will impact others. However, councillors should not take advantage of these opportunities to further their or others' private interests or to disadvantage anyone unfairly.

7. Local authority resources and facilities

7.1 Councillors must not misuse council resources.

7.2 Councillors must, when using the resources of the local 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.**

Councillors may be provided with resources and facilities by the local authority to assist them in carrying out their duties as a councillor.

Examples include:

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

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

8. Complying with the Code of Conduct

Councillors must:

- a. undertake Code of Conduct training provided by the local authority;**
- b. co-operate with any Code of Conduct investigation and/or determination;**
- c. not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings; and**
- d. comply with any sanction imposed following a finding that they have breached the Code of Conduct.**

It is extremely important for all councillors to demonstrate high standards, for all councillors to have their actions open to scrutiny and for all councillors not to undermine public trust in the local authority or its

governance. If a councillor does not understand or is concerned about the local authority's processes in handling a complaint, they should raise this with the Monitoring Officer.

More particularly where a complaint has been made against a councillor then the councillor shall: co-operate with the Monitoring Officer in consideration of the complaint at the initial stage; co-operate with any investigating officer; co-operate with the Monitoring Officer during preparation of the report to a Standards Panel of the General Purposes Committee; attend the meeting of the Standards Panel of the General Purposes Committee at which the report of the Monitoring Officer is to be considered and answer questions put by the Panel.

Any councillor who has made a complaint against another councillor shall co-operate fully with the Monitoring Officer to bring forward the complaint expeditiously; not give or make any statement concerning the existence of the complaint, the subject matter of the complaint, or details of the complaint either to the press or other media, or to the general public or their own political group or party except that disclosure to a political group or party on the Council may be made confidentially if, and only if, the complaint involves a member of the same political group or party as the complainant provided that that councillor reasonably believes the complaint is so serious that it reflects on their political group or party on the Council.

Every councillor has an obligation to report lapses in the high standards expected of councillors to their Group Leader and the Monitoring Officer. All Group Leaders have an obligation to speak to the Monitoring Officer as soon as they hear of any lapse in the standard of a councillor's conduct.

The political group on the Council of which a councillor, against whom a complaint has been made to the Monitoring Officer, is part, may consider and take disciplinary action against that councillor in advance of any decision of the Standards Panel IF: -

- a) they are instructed so to do by their party organisation nationally; or
- b) they are instructed so to do by the Ward organisation of the councillor concerned or by the Ward organisation of any other councillor of the same political group; or
- c) the political group on the Council consider it necessary or expedient to uphold the good name or discipline of their political group or party or the Council.

If a political group of the Council gives notice to its members that it intends to consider whether to take disciplinary action or intends to take disciplinary action against one of its members then no Councillor who is a member of the Standards Panel shall take part in any discussion or decision of their political group on the issue and shall absent themselves from any meeting during such discussion or decision making as if they had a disclosable pecuniary interest in the matter and the political groups of the Council shall make every effort to assist their members on the Standards Panel in this.

Protecting Councillors' reputations and the reputation of the local authority

9. Interests

9.1 All councillors must register and disclose their interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. Councillors need to register their interests so that the public, local authority employees and fellow councillors know which of each councillor's interests might give rise to a conflict of interest.

The register is a public document that can be consulted when (or before) an issue arises. The register also protects councillors by allowing councillors to demonstrate openness and a willingness to be held accountable. Councillors are personally responsible for deciding whether or not they should disclose an interest in a meeting, but it can be helpful for a councillor 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 a councillor 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.

Councillors 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, councillors should always seek advice from the Monitoring Officer.

10. Gifts and hospitality

All councillors must:

10.1 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 their 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 register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 must register with the Monitoring Officer any significant gift or hospitality that a councillor has been offered but has been refused.

In order to protect councillors' positions and the reputation of the local authority, councillors should exercise caution in accepting any gifts or hospitality which are (or which councillors reasonably believe to be) offered to them because they are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case councillors could accept it but must ensure it is publicly registered.

Councillors do not need to register gifts and hospitality which are not related to their role as a councillor, such as Christmas gifts from friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with duties as a councillor. If councillors are unsure, they should contact the Monitoring Officer for guidance.

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 re-election or re-appointment to office, councillors must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”.

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

“**Disclosable pecuniary interest**” means an interest of the councillor, or of their partner if they are aware of their partner's interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom the councillor is living as husband or wife, or a person with whom the councillor is living as if they are civil partners.

1. Councillors must ensure that their register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
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 a councillor has a ‘sensitive interest’ they must notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees 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 a councillor's Disclosable Pecuniary Interests as set out in **Table 1**, that councillor must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. If it is a ‘sensitive interest’, the councillor does not have to disclose the nature of the interest, just state that the councillor has an interest and then leave the room. Dispensations may be granted in limited circumstances, to enable councillors to participate and vote on a matter in which they have a disclosable pecuniary interest.
5. Where a councillor has a disclosable pecuniary interest on a matter to be considered or is being considered by the councillor as a Cabinet member in exercise of their executive function, the councillor must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.
6. Where a councillor has a disclosable pecuniary interest as defined in any matter which is the subject of discussion at a meeting of the political grouping of which that councillor is a part then the interest shall be declared at the group meeting as if it were a formal meeting of the Council and the councillor shall leave the meeting during discussion of the matter.

Disclosure of Other Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to one of a councillor's other Registerable Interests (as set out in Table 2), the councillor must disclose the interest. The councillor 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 the councillor has been granted a dispensation. If it is a ‘sensitive interest’, the councillor does not have to disclose the nature of the interest.

Disclosure of Non- Registerable Interests

8. Where a matter arises at a meeting which **directly relates** to a councillor's 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, the councillor must disclose the interest. The councillor 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 they have been granted a dispensation. If it is a ‘sensitive interest’, the councillor does not have to disclose the nature of the interest.
9. Where a matter arises at a meeting which **affects** –
 - a. a councillor's own financial interest or well-being;
 - b. a financial interest or well-being of a councillor's friend, relative, close associate; or

c. a body included in those a councillor needs to disclose under Disclosable Pecuniary Interests as set out in **Table 1** the councillor must disclose the interest. In order to determine whether that councillor can remain in the meeting after disclosing their interest the following test should be applied:

10. Where a matter **affects** a councillor's 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 the councillor's view of the wider public interest the councillor 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 they have been granted a dispensation.

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

11. A Cabinet Member is deemed to have an interest in relation to any matter within their portfolio where the decision of the individual Cabinet Member is required and the matter arises in their wards or the matter arises in an adjoining ward and will significantly affect the Cabinet Member's ward whether the effect is beneficial or adverse. The Cabinet Member shall so notify the Leader of the Council in accordance with these and the Executive Procedure Rules so that a substitute or deputy can be appointed to make or be involved in making any decision affecting the Cabinet Member's Ward.

12. Cabinet Members shall not make nor be involved in making any decision in relation to their ward unless the decision is being made by Cabinet, when they shall be entitled to take part in the meeting and vote.

13. Where a Cabinet Member is precluded from making or being involved in making a decision because of an interest arising they shall still be entitled to exercise their rights as the Ward Member under the opportunity to speak scheme.

Legal Advice on Interests

14. Where a councillor has sought advice from a legal officer of the authority relating to whether to declare an interest and the officer has advised that an interest does exist under these rules the councillor will be expected to act on that advice.

15. If a councillor fails to act on such advice, then the legal officer shall inform the Monitoring Officer who shall consider whether a case exists for further investigation under the code of conduct complaint procedures.

Table 1: Disclosable Pecuniary Interests

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
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 councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

For the purposes of this Code of Conduct 'other interests' which must be included in the Register of Interests include membership of or a position of general control or management in any: -

- (a) body to which you have been appointed or nominated by the authority as its representative;
- (b) public authority or body exercising functions of a public nature;
- (c) body directed to charitable purposes;
- (d) body whose principal purposes include the influence of public opinion or policy; (membership of a political party should be declared under this heading);
- (e) trade union or professional association; and
- (f) the name and address of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 in the course of your work as a Councillor – private gifts or hospitality do not need to be recorded.