

# Agenda Item 34.

<b>TITLE</b>	<b>Revised Councillor Code of Conduct</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on 2 April 2015
<b>WARD</b>	None Specific
<b>DIRECTOR</b>	Andrew Moulton, Head of Governance and Improvement Services

## **OUTCOME / BENEFITS TO THE COMMUNITY**

A more effective, clear and robust process for the consideration of Misconduct Complaints against Councillors which will help support high standards of ethical governance.

## **RECOMMENDATION**

That the Standards Committee request that the Constitution Review Working Group recommend the revised Councillor Code of Conduct to Council.

## **SUMMARY OF REPORT**

Appendix B sets out a proposed revised Code of Conduct for members of Wokingham Borough Council.

## Background

Under the Localism Act 2011, the Council was required to adopt a Code of Conduct for Councillors.

## Analysis of Issues

Appendix A is a copy of the **existing** Code of Conduct.

Appendix B is a copy of the **proposed** Code of Conduct.

1. The new Code of conduct was based on a model code of conduct designed by Paul Hoey, who is an acknowledged expert on Councillor Code of Conduct matters. However, some of the old parts of para. 9.2 have been retained.
2. With regard to the 'seven principles of public life' it was always the government's intention that all Codes of Conduct should be based on these seven principles. Some local authorities' Codes of conduct contain only these seven principles. However, in the past, including them into the body of our Code of conduct provided a wide field for complainants, which were often spurious and difficult to assess. These have now been moved to the introductory part of the code, and not kept as part of the operative part of the Code of conduct. (see 9.2.4 et seq of the old code, and 9.2.1 of the new code)
3. The introduction part of the code gives definitions, as before. However, it also describes the three areas of the Code, to help Members make easier reference to it, when needed. It describes therefore, registration of interests, declaration of interests in meetings, and rules about general behaviour.
4. The old code was not very clear about what kind of interests should be declared in their interest forms. The new code attempts to clarify the two different kinds of interests to be registered, see Appendix A (statutory Disclosable Pecuniary Interests), and Appendix B (non-statutory 'Registered Personal Interests'). Guidance is currently being drafted to give Members more detail about when interests should be registered. This will be shown to the next Standards Committee.
5. There has also been a great deal of confusion about when to declare interests in meetings. The rules are the same, but the new code attempts to make this as clear as possible.
6. Declarations of personal interests are described in the same detail as the old code. (see 9.2.14.2 of old code, and 9.2.5 of new code). However, the criteria of the 'relevant person' has been removed, (see 9.2.14.2a) of the old code) and has been replaced in more simple terms in 9.2.5.1 of the new code. The rule about simply declaring it at a meeting but remaining in the room to participate in the discussion and vote are the same.
7. The type of interest which requires a Member to declare it and leave the room whilst the item is discussed and voted upon has been changed. This is now referred to as 'Prejudicial Interests'. (These used to be referred to as 'Pecuniary

Interests’, but this caused confusion with ‘Disclosable Pecuniary Interests’). Again, guidance is currently being drafted to help members understand what personal interests and prejudicial interests need to be declared in meetings. This is a difficult area, even for professional officers.

8. The term ‘General Obligations’ has now been changed to ‘Behaviour’ (see 9.2.5 of old code, and 9.2.8 of new code). Each ‘behaviour’ is given it’s own paragraph number to make for easier reference. In addition the word ‘bullying’ is linked with ‘intimidation’. It was felt that no person should be subject to intimidation, so there is no need to differentiate between a complainant, witness of anyone involved in the investigation of a complaint. The rule in 9.2.5.2d) in the old code is now gone, since this is dealt with in the Member/Officer protocol. There has never been a complaint about this rule, so it was felt to be unnecessary. The rule about disclosing confidential information has been trimmed down too. Professional advice will always be subject to confidentiality, and this is covered by their professional bodies. Also, putting a caveat on disclosure being ‘reasonable and in the public interest’ and ‘made in good faith’ was felt to cause confusion. This has therefore been removed. Finally, the rule about bringing the authority into disrepute has also been removed. This is another common area of complaint, but in reality behaviour conducted by a single member is unlikely to bring the authority into disrepute.
  
9. The new guidance about Behaviours will also help the Standards Committee and Members of Hearings Panels when making decisions. It should also help complainants clarify their complaint. For example, what constitutes ‘bullying’. This is a difficult area, and a common area of complaint.

## **FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue
Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

### **Other financial information relevant to the Recommendation/Decision**

None

### **Reasons for considering the report in Part 2**

None

<b>List of Background Papers</b>
----------------------------------

Attached
----------

<b>Contact</b> Mary Severin	<b>Service</b> Governance and Improvement Services
<b>Telephone No</b> 0118 974 6539	<b>Email</b> mary.severin@wokingham.gov.uk
<b>Date</b> 25 March 2015	<b>Version No.</b> 1.00

### PRESENT CODE OF CONDUCT

#### CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS

##### 9.2.1 Preamble

This Code was prepared and adopted by Wokingham Borough Council in accordance with Sections 27 to 37 of the Localism Act 2011.

##### 9.2.1.1

Every Councillor, as well as any co-opted member, must act in accordance with this Code and supporting protocol with the Council's Constitution when acting in an official capacity. Any person may then make a written complaint to the Council's Monitoring Officer that a Member has acted in breach of the Authority's code.

##### 9.2.1.2

This Code was adopted by the Council on 19 July 2012 under Section 27 of the Localism Act 2011 and defines the standards of conduct which will be required of all Members of the Authority in the carrying out of their duties, and in their relationships with the Authority, the public and the Authority's employees.

##### 9.2.1.3

The Code represents the standard against which the public, their fellow Councillors, Officers and the Authority's Standards Committee will judge their conduct. The Local Government Ombudsmen may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Authority in these circumstances.

##### 9.2.1.4

References to 'you' or 'your' within this document should be interpreted as applying to Members or co-opted Members of the Authority.

##### 9.2.1.5

References to 'co-opted members' should be interpreted as applying to a person who is not a member of the Council but who is either a member of any committee, sub-committee, panel etc, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council.

#### 9.2.2 Introduction and Interpretation

##### 9.2.2.1

This Code applies to you as a Member of an authority when acting in that capacity.

##### 9.2.2.2

You should read this Code together with the Member/Officer Protocol and other sections of the Council's Constitution relating to ethical and financial probity.

##### 9.2.2.3

It is your responsibility to comply with the provisions of this Code.

##### 9.2.2.4

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 committees, sub-committees, joint-committees, joint sub-committees, or area committees;

#### **9.2.2.5**

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

### **9.2.3 Scope**

#### **9.2.3.1**

Subject to Rules 9.2.3.2 to 9.2.3.3 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.

#### **9.2.3.2**

Subject to 9.2.3.3, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

#### **9.2.3.3**

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 this Authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **9.2.4 Guiding Principles**

In undertaking your duties, you should be mindful and act in accordance with the following overarching guiding principles of good governance:

#### **9.2.4.1 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 material benefits for themselves, their family, or their friends;

#### **9.2.4.2 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;

**9.2.4.3 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;

**9.2.4.4 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;

**9.2.4.5 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;

**9.2.4.6 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;

**9.2.4.7 Leadership:** Holders of public office should promote and support these principles by leadership and example.

## **9.2.5 General Obligations**

### **9.2.5.1**

You must treat others with respect.

### **9.2.5.2**

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.

### **9.2.5.3**

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

#### **9.2.5.4**

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

#### **9.2.5.5**

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 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.

#### **9.2.5.6**

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.

### **9.2.6 Notification of Interests (Disclosable Pecuniary Interests and Interests and other Personal Interests)**

### **9.2.6.1**

In accordance with the Localism Act 2011 (sections 29-34) and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 subject to Rule 9.2.8 below, you must, within 28 days of:

- a) this Code being adopted by or applied to your Authority; or
- b) you becoming a Member or co-opted Member (where that is later),

provide written notification to the Monitoring Officer of any Disclosable Pecuniary Interests (where they fall within the categories set out in Rule 9.2.9) or any Personal Interests (where they fall within the categories set out in Rule 9.2.14).

### **9.2.6.2**

Subject to Rule 9.2.8, you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or other Personal Interests or change to any Disclosable Pecuniary Interest or other Personal Interests registered 9.2.14, register details of that new Personal Interest or change by providing written notification to the Monitoring Officer.

### **9.2.7 Register of Interests**

Any 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 under the Localism Act must be published on the Council's website.

### **9.2.8 Sensitive Information**

#### **9.2.8.1**

Where you consider that disclosure of the details of an interest (either a Disclosable Pecuniary Interest or any other interest which the Member is required to disclose), at a meeting or on the Register of Members' interests, is likely to lead to you, or a person connected with you, being subject to violence or intimidation, you may request that the Monitoring Officer agree that such interest is a sensitive interest.

#### **9.2.8.2**

If the Monitoring Officer agrees that the interest is a sensitive interest the Member must disclose that the interest exists at the relevant meeting but is not required to provide the exact details of the sensitive interest during the meeting. The Monitoring Officer shall also exclude the details of the sensitive interest from the published version of the Register of Members' interest.

#### **9.2.8.3**

You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Rule 9.2.8.1 is no longer sensitive information, notify the Monitoring Officer asking that the information be included on the register of Members' interests.

### **9.2.9 Disclosable Pecuniary Interest**

#### **9.2.9.1**

A pecuniary interest is a Disclosable Pecuniary Interest if it is an interest of yours or your partner (which means spouse or civil partner; a person with whom you are living as

husband and wife; or a person with whom you are living as if you were civil partners) and you are aware that the other person has the interest.

### 9.2.9.2

The Disclosable Pecuniary Interests which are specified for the purposes of Section 30(3) of the Localism Act 2011 are as specified below:

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above)

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vacation	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 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. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— 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 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	Any tenancy where (to M's knowledge)— a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	---

These descriptions on interests are subject to the following definitions;

The Act	means the Localism Act 2011
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 section 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.

### **9.2.10 Effect of Disclosable Pecuniary Interests on Participation at Meetings including Individual Executive Member Decisions**

#### **9.2.10.1**

If you are a Member or co-opted member of a relevant Authority and you are at a meeting of that Authority, or any committee, sub-committee, joint committee, joint sub-committee, panel or working group of that Authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at that meeting:

- a) you must disclose the interest even if you have registered it at the beginning of the meeting or immediately prior to the item being discussed;
- b) you may not participate in any discussion or any vote taken on the matter and should withdraw from the room or chamber where a meeting considering the business is being held prior to any discussion on the matter taking place;

- c) 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;
- d) you must not seek improperly to influence a decision about that business.

Where you have a Disclosable Pecuniary 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 a panel or sub-committee of such a committee) but only for the purposes 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 purposes, whether under a statutory right or otherwise.

### **9.2.10.2 Individual Executive Member Decisions**

Where an Executive Member is undertaking an Individual Executive Member Decision and becomes aware of a Disclosable Pecuniary Interest in the matter being dealt with or due to be dealt with by him/her, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

### **9.2.11 Dispensations**

#### **9.2.11.1**

Under Section 33 of the Localism Act 2011 a Member or co-opted member of the Authority who has a Disclosable Pecuniary Interest may apply for a dispensation to be granted to allow them to participate in any discussion or vote on a particular matter. The application for dispensation must take the form of a written request to the Proper Officer of the Council.

#### **9.2.11.2**

The criteria for granting a dispensation are as follows:

- a) that so many Members of the relevant decision making body have Disclosable Pecuniary Interests in a matter that it would “impede” the transaction of the business of that body i.e. the decision making body would not be quorate;
- b) that without the dispensation the representation of different political groups on the body transacting the business would be such as to alter the likely outcome of the vote on that particular matter;
- c) that the Council considers that the dispensation is in the interests of persons living in the Authority’s area;
- d) that without a dispensation no member of the Executive would be able to participate in a particular matter;
- e) that the Council considers that it is “otherwise appropriate” to grant a dispensation.

#### **9.2.11.3**

In each case when a dispensation is granted it must specify how long the dispensation is for. A dispensation must not exceed a period of four years.

### **9.2.12 Process for Granting and Recording a Dispensation**

The process for granting a dispensation is as follows:

- a) a Member must apply in writing to the Monitoring Officer for a dispensation as soon as possible, setting out why it is required;
- b) the Monitoring Officer will make a decision in accordance with the rules set out in Section 33 of the Localism Act 2011 and will advise the Member accordingly.

### **9.2.13 Offences**

#### **9.2.13.1**

Under the Localism Act 2011 it is a criminal offence if a Member or co-opted Member:

- a) fails to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- b) fails to disclose a Disclosable Pecuniary Interest at a meeting of the Authority whether or not it is included on the register;
- c) participates in any discussion or vote on a matter in which they have a Disclosable Pecuniary Interest;
- d) fails to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not included on the register that they have disclosed to a meeting;
- e) as an Executive Member discharges a function acting alone i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, fails to notify the Monitoring Officer within 28 days of the interest;
- f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such an interest to a meeting.

#### **9.2.13.2**

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.

### **9.2.14 Other Personal Interests**

The Localism Act further provides that Members must notify the Monitoring Officer in writing of the details of other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

You have a personal interest in any business of your Authority where either:

- a) it relates to or is likely to affect:
  - i) any body 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 of which you are a member;

- exercising functions of a public nature; or
  - directed to charitable purposes; or
  - 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 easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- b) You must, within 28 days of becoming aware of any new interest or change to any interest registered under Rule 9.2.14 or as a Disclosable Pecuniary Interest notify the Monitoring Officer of the details of that new interest or change.

#### **9.2.14.1 Disclosure of interests**

Subject to Rules 9.2.14.2 to 5, where you have a personal interest described in Rule 9.2.14 above or in Rule 9.2.14.2 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.

#### **9.2.14.2**

You have a personal interest in any business of your Authority:

- a) 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 division or ward, as the case may be, affected by the decision; or
- b) it relates to or is likely to affect any of the interests you have registered as a Disclosable Pecuniary Interest.

#### **9.2.14.3**

In Rule 9.2.14a) 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 Rule 9.2.14a)i) or ii).

#### **9.2.14.4**

Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in Rule 9.2.14a)i) or a)ii)(a) you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

#### **9.2.14.5**

Where you have a personal interest but, by virtue of Rule 9.2.8, 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.

#### **9.2.14.6**

Where you have a personal interest in any business of your Authority and you have made an Individual Executive Member Decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **9.2.15 Effect of Pecuniary Interests on Participation at Meetings including Individual Executive Member Decisions**

#### **9.2.15.1**

Where you have a personal interest in any business of your Authority you also have a pecuniary 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 paragraphs 9.2.14 or 9.2.14.2; 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 paragraphs 9.2.14 and 9.2.14.2.

#### **9.2.15.2**

Subject to Rules 9.2.15.3 and 9.2.15.4 where you have a pecuniary interest in any business of your Authority:

- a) you must disclose the interest even if you have registered it at the beginning of the meeting or immediately prior to the item being discussed;
- b) you may not participate in any discussion or any vote taken on the matter and should withdraw from the room or chamber where a meeting considering the business is being held prior to any discussion on the matter taking place;
- c) 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;
- d) you must not seek improperly to influence a decision about that business.

#### **9.2.15.3**

Where you have a Pecuniary Interest in any business of your Authority, you may attend a meeting (including a meeting of the Overview and Scrutiny Committees of your Authority or of a panel or 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.

#### **9.2.15.4**

Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Pecuniary Interest that relates to the functions of your Authority in respect of:

- a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- b) 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;
- c) 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;
- d) an allowance, payment or indemnity given to Members;
- e) any ceremonial honour given to Members; and
- f) setting council tax or a precept under the Local Government Finance Act 1992.

#### **9.2.15.5 Individual Executive Member Decisions**

Where an Executive Member is undertaking an Individual Executive Member Decision and becomes aware of a Pecuniary Interest in the matter being dealt with or due to be dealt with by him/her, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

#### **9.2.15.6 Interests Arising in Relation to Overview and Scrutiny Committees**

In any business before an Overview and Scrutiny Committee of your Authority (or of a Panel or 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 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.

You may only attend a meeting of the Overview and Scrutiny Committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

#### **9.2.16 Gifts and Hospitality**

You must disclose and record any gift or hospitality with an estimated value of at least £25 that you have received in your capacity as a Member of the Council, as well as those that were offered and not accepted. Such disclosure should be made in writing or by e-mail to the Monitoring Officer where it will be included in the Register of Gifts and Hospitality.

A copy of the Register will be made available for public inspection and made available on the Council's website.

Wokingham Borough Council's Monitoring Officer is:

Mr Andrew Moulton  
Head of Governance and Improvement Services  
Civic Offices  
Shute End  
Wokingham  
Berks RG40 1BN

Wokingham Borough Council's Deputy Monitoring Officer is:

Mrs Mary Severin  
Corporate Counsel  
Civic Offices  
Shute End  
Wokingham  
Berks RG40 1BN

**PROPOSED REVISED CODE OF CONDUCT**

**CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS**

**9.2.1 Introduction**

This Code of Conduct applies to Councillors and Co-opted Members whenever they are acting as a Member or as a representative of the Council or when they claim to act or give the impression of acting as a representative of the Council.

It does not apply to when the Councillor or Co-opted Member is acting in a private capacity.

When carrying out their public role, Councillors and Co-opted Members should always have regard to the seven principles of public life. These are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councillors and Co-opted Members should also read the Code of Conduct together with the Member/Officer Protocol and other sections of the Council's Constitution relating to ethical and financial probity.

Any person may make a complaint if a Councillor or Co-opted Member does not act in accordance with this Code. The Local Government Ombudsmen may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Council in some circumstances. It is the Councillor and Co-opted Member's sole responsibility to comply with the Code.

A Members' Interest form is provided by the Monitoring Officer to register interests. It should be noted that the form will be published on the Council's website. When a Councillor or Co-opted Member declares an interest at a meeting of the Council, they should be aware that this will be noted in the Minutes of the Meeting, which is a public document, and also on the Member's page on the website.

If any Councillor or Co-opted Member is unsure about any part of the Code of Conduct, they are urged to seek advice from the Monitoring Officer or Deputy Monitoring Officer.

There are three areas to the Code of Conduct:

- 1 Rules about registration of Disclosable Pecuniary Interests and Personal Interests with the Monitoring Officer, using the Members Interest Form (rule 9.2.3)
- 2 Rules about declaring interests in meetings where items on the agenda conflict with those interests (rules 9.2.4, 9.2.5 and 9.2.6)
- 3 Rules about general behaviour (rule 9.2.8)

## **9.2.2 Interpretation**

- “Co-opted Member” means a person who is a member of any committee or sub-committee of the Council or is a member of and represents the authority on any joint committee of the Council and who is entitled to vote on any question which falls to be decided at any committee or sub-committee.
- “Councillor” means a Member or Co-opted Member of this Council.
- “Meeting” means any meeting of:
  - a) the Council;
  - b) the Executive of the Council, including when making an Individual Executive Decision;
  - c) any of the Council’s or the Executive’s committees, sub-committees, joint-committees, joint sub-committees, or area committees;
- “Member” includes a co-opted Member and an appointed Member of this Council

## **9.2.3 Registration of Disclosable Pecuniary Interests and Personal Interests**

### **9.2.3.1**

Within 28 days of this Code being adopted by the Council, OR the Councillor’s election, OR the Co-opted Member’s appointment (whichever is later) Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

### **9.2.3.2**

Upon the re-election of the Councillor or the re-appointment of the Co-opted Member, Councillors must within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.

### **9.2.3.3**

Councillors must register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of the change.

### **9.2.3.4**

Councillors need not register any interest which the Monitoring Officer agrees is a ‘sensitive interest’ A sensitive interest is one which, if made public, could lead to the Councillor or a person connected to a Councillor being subject to violence or intimidation.

## **9.2.4 Declaration of Disclosable Pecuniary Interests at meetings**

**9.2.4.1** Where a matter arises at a meeting which relates to an interest in Appendix A, Councillors must do the following:

**9.2.4.2** They should declare their interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed. They must do so regardless of whether or not the interest is registered in their Members Interest form.

**9.2.4.3** Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in rules in 9.2.4.4 and 9.2.4.5 below

**9.2.4.4** When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for the same purpose.

**9.2.4.5** They must then leave the room before the matter is discussed and voted upon.

### **9.2.5 Declaration of Personal Interests at meetings**

**9.2.5.1** Where a matter arises at a meeting which relates to or affects an interest in Appendix B or a financial interest of the Councillor, a friend, relative or close associate (and it is not a Disclosable Pecuniary Interest listed in Appendix A), Councillors must do the following:

**9.2.5.2** They should declare the interest at the beginning of the meeting when asked to do so by the Chairman or Mayor as a “Personal Interest” or if not then, they must do so before the matter is discussed or voted upon. They must do so regardless of whether or not the interest is registered in their Members Interest form.

**9.2.5.3** Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest

**9.2.5.4** They may however participate in the discussion and vote on the matter, subject to rule 9.2.6 below.

### **9.2.6 Declaration of Prejudicial Interests at meetings**

**9.2.6.1** Where the matter affects the declared interest under rule 9.2.5.1 more than the majority of people in the area affected by the decision, and a reasonable member of the public would think the Councillor’s view of the public interest would be adversely affected, the Councillor must do the following:

**9.2.6.2** They should declare this as a Prejudicial interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed.

**9.2.6.3** Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in rules 9.2.6.4 and 9.2.6.5 below.

**9.2.6.4** When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for the same purpose.

**9.2.6.5** They must then leave the room before the matter is discussed or voted upon.

### **9.2.7 Dispensations**

**9.2.7.1** On a written request, the Monitoring Officer or Deputy Monitoring Officer may grant a Councillor a dispensation to participate in a discussion and/or vote on a

matter at a meeting where they would otherwise not be allowed to if the Monitoring Officer or Deputy Monitoring Officer believes that the number of Councillors otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the Councillor to take part or it is otherwise appropriate to grant a dispensation. The dispensation will last no longer than 4 years from the date of the dispensation.

## **9.2.8 Behaviour**

### **9.2.8.1**

Councillors must not behave such a way that a reasonable person would regard as disrespectful to others.

### **9.2.8.2**

Councillors must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others.

### **9.2.8.3**

Councillors must not seek to improperly confer an advantage or disadvantage on any person.

### **9.2.8.4**

Councillors must only use the resources of the Council when undertaking Council business.

### **9.2.8.5**

Councillors must not disclose information which is confidential or where disclosure is prohibited by law, unless he or she has the consent of the person authorised to give it, or he or she is required by law to do so.

### **9.2.8.6**

Councillors must respect the impartiality of officers and not put undue pressure on them.

### **9.2.8.7**

Councillors must not do anything which may cause their Council to breach any of the equality enactments (as defined in the Equality Act 2010).

### **9.2.8.8**

Councillors must notify the Monitoring Officer of any gifts or hospitality worth more than an estimated value of £25 which the Councillor has received by virtue of his or her office or any gifts or hospitality worth more than an estimated value of £25 which they have been offered but which they subsequently declined.

**APPENDIX A  
DISCLOSABLE PECUNIARY INTERESTS**

Interests defined by regulations made under s30(3) of the Localism Act 2011 and described in the table below.

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner). “Partner” means a spouse or civil partner of M, or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vacation	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 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. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— 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 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	Any tenancy where (to M’s knowledge)— a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	---

These descriptions on Disclosable Pecuniary Interests above are subject to the following definitions;

The Act	means the Localism Act 2011
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 section 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.

## IMPORTANT NOTE:

Under s34 of the Localism Act 2011 it is a criminal offence if a Member or co-opted Member:

- a) fails to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- b) fails to disclose a Disclosable Pecuniary Interest at a meeting of the Council if that interest is not included on the register;
- c) participates in any discussion or vote on a matter in which they have a Disclosable Pecuniary Interest;
- d) fails to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not included on the register that they have disclosed to a meeting;
- e) as an Executive Member discharging a function acting alone i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, fails to notify the Monitoring Officer within 28 days of the interest;
- f) As an Executive Member discharging a function acting alone, i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, participates in any steps, or further steps in relation to the matter.
- f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such an interest to a meeting.

## **APPENDIX B REGISTERED PERSONAL INTERESTS**

Councillors must register:

- i) any body of which the Councillor is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- ii) any body
  - exercising functions of a public nature; or
  - directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
  -of which the Councillor is a member or in a position of general control or management;

This page is intentionally left blank