

B7 – Code of Conduct for Members & General Guidance

Introduction and interpretation

1. (1) This Code applies to Councillors of Birmingham City Council, and also to co-opted committee members.
- (2) It is the responsibility of Councillors and co-opted Members to comply with the provisions of this Code.

Scope

2. (1) You must comply with this Code whenever you:-
 - (a) conduct the business of Birmingham City Council; or
 - (b) act, claim to act or give the impression you are acting as a representative of Birmingham City Council; or
 - (c) act as a representative of Birmingham City Council.and references to your official capacity are construed accordingly.
- (2) In addition to having effect in relation to conduct in your official capacity, this Code has effect, at any other time, where conduct constitutes a criminal offence for which you have been convicted or received a Police Caution.

General obligations

3. (1) Councillors and Co-Optees are committed to behaving in a manner that is consistent with the following principles of Public Life:

Selflessness — members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and integrity — members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity — members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability — members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness — members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement — members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others — members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law — members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them

Stewardship — members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership — members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

(2) Do:

- (a) Follow the Code of Conduct when you are representing your authority.
- (b) Be aware of what pecuniary and non-pecuniary interests are – refer to the Monitoring Officer if you are unsure.
- (c) Keep your register of interests up-to-date.
- (d) Treat others with respect.
- (e) Register gifts and hospitality, received in your role as a member, worth more than £25.

(3) Don't:

- (a) Bring your authority or office into disrepute.
- (b) Use the authority's resources which includes the Council's address and email address for any personal, party political or non-Council purposes.
- (c) Compromise the impartiality of people who work for your authority.
- (d) Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- (e) Bully, intimidate or attempt to intimidate others.

- (f) Use your position improperly for personal gain or to advantage your friends or close associates.
- (g) Participate in meetings or be involved in decision-making where you have a pecuniary interest – except when speaking when the general public are also allowed to do so.
- (h) Disclose confidential information, other than in exceptional circumstances – refer to the Monitoring Officer if you are unsure.
- (i) Prevent anyone getting information they are entitled to.

Disclosure of Pecuniary and Non-Pecuniary Interests

4. (1) Subject to the paragraph 5 below (Sensitive Interests), you must within 28 days of this Code being adopted, or of later election or appointment to office, and within 28 days of becoming aware of any new pecuniary or non-pecuniary interest or of any change to your registered interests, notify the Monitoring Officer on the form provided – or if only a 'change' in your interests then notification by email will suffice.
- (2) If a pecuniary or non-pecuniary interest arises from any business to be discussed at any committee or joint committee meeting of the Council then you must declare this interest either at the start of the meeting or immediately before the item is discussed.
- (3) If a non-pecuniary interest arises from any report to be determined by a Chief Officer in consultation with a Cabinet Member then the nature of that interest of the Cabinet Member (or the Chief Officer) must be written in the decision record. If a pecuniary interest arises then the Monitoring Officer must be notified and no further steps should be taken in the matter.
- (4) An interest to be disclosed at a meeting is either your interest or that of your husband, wife or civil partner or that of a person with whom you are living as husband or wife or as civil partners.
- (5) If you declare a pecuniary interest then you must not take part in any discussion of the matter at the meeting, and you must not vote on the matter. You need not withdraw from the meeting but any participation by yourself at the meeting in respect of the matter in which you have a pecuniary interest is a criminal offence for which you may be prosecuted as well as referred to the Standards Committee.
- (6) If you declare a non-pecuniary interest then you may remain in the meeting, you may take part in the discussion and you may vote on the matter.

Sensitive Interests

5. Where you consider that disclosure of the details of an interest could lead to you or a person connected to you being subject to violence, discrimination or intimidation, and the Monitoring Officer agrees, then the Register of Interest will disclose the interest but not the details which may accordingly be withheld from publication.

Exemptions

6. (1) Where you have a pecuniary interest in any business of the City Council you must declare that interest but you may speak at that meeting for the purpose of making representations, answering questions, or giving evidence relating to the business *providing* that the public are also allowed to attend the meeting for the same purpose.

(2) Dispensations are available by application to the Standards Committee in the limited circumstances that apply by law; please see page 13 of this Code. If required please write to the Monitoring Officer with reasons for the application.

Overview & Scrutiny Committees

7. Where you have participated in the executive decision of any committee and that decision is subject to scrutiny, you may not attend the meeting(s) of the Overview & Scrutiny Committee except for the purpose of making representations, answering questions or giving evidence.

Additional voluntary provisions

8. No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.

REGISTER OF COUNCILLORS INTERESTS

I,(name)

an Elected / Co-opted Member of Birmingham City Council do hereby give notice that I have set out below my interests which I am required to declare under Birmingham City Council's Code of Conduct for Members.

within 28 days of election to office, an Elected or Co-opted Member must register his/her pecuniary and non-pecuniary interests in a public register by providing written notification to the City Council's Monitoring Officer (Director of Legal & Democratic Services)

You must declare your own interests on the form below and also those of your husband/wife/civil partner, which includes any person with whom you are living as husband/wife/civil partner. You do not need to name your husband/wife/civil partner.

Pecuniary Interests	Pecuniary Interests
<p>1. Employment, office, trade, profession or vocation:</p> <p>Your employment, office, trade, profession or vocation carried on for profit or gain, and that of your husband/wife/civil partner.</p>	
<p>2. Sponsorship</p> <p>Any payment or provision of any other financial benefit in respect of any expenses incurred in carrying out duties or towards election expenses; this includes any payment or financial benefit from a trade union.</p>	

Pecuniary Interests	Pecuniary Interests (continued)
<p>3. Contracts</p> <p>Any contract which is made between you or your husband/wife/civil partner (or a body in which you or your husband/wife/civil partner has a beneficial interest) and the City Council under which goods or services are to be provided or works are to be executed and which has not been fully discharged.</p>	
<p>4. Land</p> <p>Any beneficial interest in land held by you or your husband/wife/civil partner which is within the area of the City Council</p>	
<p>5. Licences</p> <p>Any licence (alone or jointly with others) to you or your husband/wife/civil partner to occupy land in Birmingham for a month or longer.</p>	
<p>6. Corporate tenancies</p> <p>Any tenancy where the landlord is the City Council and the tenant is a body in which you or your husband/wife/civil partner has a beneficial interest.</p>	

Pecuniary Interests	Pecuniary Interests (continued)
<p>7. Securities</p> <p>Any beneficial interest in which you or your husband/wife/civil partner has in securities of a body where:</p> <p>(a) that body has a place of business or land in the area of the City Council; 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 you or a relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>	
<p>8. Personal Wellbeing</p> <p>you also have a pecuniary interest where you attend a meeting of the Council where the business concerns your personal wellbeing or financial position or that of your husband/wife/partner – to a greater extent than the majority of residents in your Ward affected by the decision.</p>	<p>You will only know this when you attend a meeting of the Council and an item on the agenda affects your wellbeing or that of your husband/wife/partner, to the extent described.</p> <p>You must then declare a pecuniary interest at the beginning of the meeting or before the relevant item is discussed and not take part in the meeting when that agenda item is discussed.</p>

Non-Pecuniary Interests	
<p>1. any organisation of which you are a member or in a position of general control or management and to which you are appointed or nominated by Birmingham City Council.</p>	

If there is insufficient space in any of the boxes provided, please use a supplementary sheet.

This is a public document to which members of the public will have free access to during normal office hours and copies will also be published on the City Council's Website.

Declaration

I recognise that I will be in breach of Birmingham City Council's Code of Conduct for Members if I:

- (a) omit information that ought to be given in this notice; or
- (b) provide information that is materially false or misleading; or
- (c) fail to give further notices within 28 days of any change to the information set out above in order to bring up to date the information given in this notice.

Signed

Dated

Please return the signed Declaration to the Monitoring Officer [Director of Legal and Democratic Services].

STATUTORY REGISTER OF GIFTS OR HOSPITALITY

An Elected or Co-opted Member must, within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's Monitoring Officer [currently the Director of Legal and Democratic Services] of the existence and nature of that gift or hospitality.

I,

being an Elected / Co-opted Member of Birmingham City Council do hereby give notice that I have received the gift or hospitality detailed overleaf.

Signed

Dated

Please return the signed Notice to the Monitoring Officer [Director of Legal and Democratic Services].

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STATUTORY REGISTER OF GIFTS OR HOSPITALITY

Date upon which the Gift or Hospitality was received	Person / Organisation offering or providing the Gift or Hospitality	Brief details of Gift or Hospitality received	Estimated or actual value of the Gift or Hospitality	Any reasons for accepting the Gift or Hospitality

Register of : Elected / Co-opted Member

Guidance : If any hospitality is provided at an official function of the City Council, there will be no need to declare any such hospitality in this Register.

DISPENSATIONS AVAILABLE FROM BIRMINGHAM CITY COUNCIL'S STANDARDS COMMITTEE

Circumstances in which dispensations may be granted

The Standards Committee, or in urgent situations, the Independent Chairman of the Standards Committee, may grant a dispensation to a Member in the following circumstances:

- that so many Members of the decision making body have disclosable pecuniary interests in the matter that the meeting would be inquorate; or
- that the representation of different political groups on the decision making body would be so upset as to alter the likely vote on the matter; or
- that it is in the interests of persons living within Birmingham; or
- that it is otherwise considered appropriate to grant a dispensation.

Records of dispensations

The Monitoring Officer will ensure that:

- the existence, duration and nature of any dispensation is recorded in writing; and
- that such record is kept with the register of interests.



BIRMINGHAM CITY COUNCIL DECLARATION OF ACCEPTANCE OF OFFICE

I, «First_Name» «Surname»

having been elected to the office of Councillor for the City of Birmingham, declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.

I affirm my commitment to Corporate Parenting in respect of the City Council's children in care and will encourage others to do so. Furthermore I pledge to take every opportunity presented to me by virtue of my role as a Councillor to promote the wellbeing of children in the care of the City Council.

I have received a copy of Birmingham City Council's Code of Conduct for Members, been encouraged to read the same and to obtain appropriate guidance from the Council's Monitoring Officer if I am unsure about any matter contained in it.

In performing any of my functions and duties as a Member of Birmingham City Council, I undertake to observe and abide by Birmingham City Council's Code of Conduct for Members or any amendments to it.

Dated this day of

Signature

.....

This declaration was made and subscribed before me

.....

CHIEF EXECUTIVE

CODE OF CONDUCT FOR COUNCILLORS (MEMBERS) **COMPLAINTS PROCESS**

1 Context

This guidance sets out how you may make a complaint that an elected or co-opted Member has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

2 The Code of Conduct

The Council has adopted a Code of Conduct for Councillors, which is attached at Appendix One and available for inspection on the Council's website.

3 Making a Complaint

If you wish to make a complaint, please write or email to:-

The Monitoring Officer
P O Box 15992
Birmingham
B2 2UQ
David_Tatlow@birmingham.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the complaints system of Councillor misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Council's website, or is available on request.

4 Will your complaint be investigated?

The Chairman of the Standards Committee will review every complaint received and, after consultation with the Monitoring Officer, take a decision as to whether it merits formal investigation. You will be informed of the decision and the reasons for that decision, as also will be the Member against whom you have complained and his/her political group Leader.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where a complaint is resolved in this way, and agreed by the Standards Committee Chairman, a notice will be sent to you, the Member against whom you have complained and his/her political group Leader.

Where the Member or the Council makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Chairman of the Standards Committee will take account of this in deciding whether the complaint merits formal investigation.

The Chairman of the Standards Committee may decide to refer any complaint by one Councillor against another Councillor to the Political Group Secretaries for them to mediate between the parties. If the matter cannot be resolved or if mediation is not thought to be possible then the Group Secretaries will refer the matter back to the Standards Committee.

5 How is the investigation conducted?

If the Chairman of the Standards Committee decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer who will be the Deputy Monitoring Officer or other Senior Council Lawyer. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Standards Committee will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you, to the Member concerned and to his/her political group Leader notifying that the Committee is satisfied that no further action is required, and enclose a copy of the Investigation Officer's final report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Standards Committee will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 Resolution before Hearing

The Standards Committee may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct

was unacceptable and offering an apology. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Chairman of the Standards Committee may refer the matter for a local hearing.

7.2 Local Hearing

The Monitoring Officer will copy the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct, and, if so, whether to take any action in respect of the Member.

The procedure for local hearings is as follows.

- The Monitoring Officer may conduct a "pre-hearing process, requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.
- At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct.
- The Investigating Officer may ask you as the complainant to attend and to give evidence to the Hearings Panel.
- The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel concludes that the Member did not fail to comply with the Code of Conduct it will dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding. The Hearings Panel will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will then decide what action, if any, to take in respect of the matter.

As soon as reasonably practicable, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Member, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

8 What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel powers to take action in respect of individual Members to promote and maintain high standards of conduct. The Hearings Panel may:-

- Reprimand the Member;
- Request that the Member be required to make an apology at Council;
- Publish its findings in respect of the Member's conduct;
- Report its findings to Council for information;
- Recommend that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Member be removed from the Cabinet.
- Recommend to Council that the Member be replaced as Executive Leader;
- Instruct the Monitoring Officer to arrange training for the Member, which the Member is obliged to attend;
- Remove from all outside appointments to which he/she has been appointed or nominated by the Council;
- Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

9 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration.

10 Who is the Independent Person?

The Independent Person is a person who has applied for the post, and is appointed by the Council.

11 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

12 Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Standards Committee, the Hearings Panel, or the Chairman of the Standards Committee

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

13 Transparency

All decisions of the Standards Committee, the Standards Committee Chairman, and the Hearings Panel will be recorded and posted on the City Council's Website. These decisions include the following:-

- decision that the complaint does not merit investigation
- decision to resolve the complaint prior to formal investigation
- decision of no breach of the Code following formal investigation
- decision of local resolution following formal investigation
- decision following full Hearing by Panel

COUNCILLOR INTERESTS

POSITITON PRE AUGUST 2012	NEW POSITION
REGISTERABLE INTERESTS	<p style="text-align: center;">REGISTERABLE PECUNIARY INTERESTS</p> <p>These interests are the same or very similar to what was previously called “Registerable Interests”. There are 8 in the revised Code. You will be asked to complete a new form for registration purposes.</p> <p>NB: If you have a pecuniary interest in any item of Council business you must <i>not</i> take part in the meeting for this agenda item but need not leave the meeting unless you choose to leave.</p>
PERSONAL INTERESTS	<p style="text-align: center;">NON-PECUNIARY INTERESTS</p> <p>Note that there are only 1 non-pecuniary interest in the revised Code.</p>
PERSONAL & PREJUDICIAL INTERESTS	<p style="text-align: center;">PECUNIARY INTERESTS</p> <p>The complex definition of Personal & Prejudicial Interests is abolished, but please note carefully Pecuniary Interest at No 8.</p>