

# Sharow Parish Council

## Code of Conduct for Councillors

*Re-adopted at Annual Parish Council Meeting 20<sup>th</sup> May 2019*

### Preamble

When a person has been elected as a Councillor they are never a member of the general public in relation to any matter before the Council. Although this means they lose certain privileges available to the general public, that is the consequence of holding public office. This situation continues at all times until the Councillor ceases to be a member of Council.

### The General Principles of Public Life

At all times regard shall be had to the principles governing the conduct of Members and coopted Members of Council as set out under Section 28 of the Localism Act 2011, namely:

- a *Selflessness*: Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person or in order to gain any personal financial or other material benefits.
- b *Integrity*: Members should not place themselves in situations where their integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour. Members may take into account the views of others, including political groups to which they may belong or have sympathies, but must reach their own conclusion on the issues and act in accordance with those conclusions.
- c *Objectivity*: Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- d *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.
- e *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. They should restrict information only when the wider public interest demands.
- f *Honesty*: Members 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.
- g *Leadership*: Members should promote and support these principles by leadership, and by example.

### 1.0 Scope of Rules

- 1.1 These rules apply to all decision making processes of the Council in which Members are involved and whenever they are acting as a Councillor.
- 1.2 These rules apply to co-opted members of Committees in their position as such members; a copy of the Code of Conduct including these rules will be given to all co-opted Members on co-option to a Committee.
- 1.3 A record shall be kept by the Clerk of all declarations of interest, wherever in the decision making processes of the Council the declaration is made, together with the record of the decision in relation to which the declaration is made, usually in the minutes of the relevant meeting.
- 1.4 The Code of Conduct as adopted by this Council forms Appendix 1 to these Rules.

## **2.0 Inspection of Land, Premises, Etc**

- 2.1 Unless specifically authorised to do so by the Council, a Councillor shall not issue any order respecting any works which are being carried out by or on behalf of the Council, nor claim by virtue of membership of the Council any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

## **3.0 Legal Advice on Interests Issues**

- 3.1 Where a Member has sought advice from the Clerk, and/or a relevant district council officer relating to whether to declare an interest, and been advised that an interest does exist under these rules, the Member is expected to act on that advice.
- 3.2 If a Member fails to act on such advice then the Clerk shall inform the district council, who shall consider whether a prima facie case exists for further investigation under the procedures set out in this part of the Constitution.
- 3.3 Where such advice is sought and the Member is advised that an interest exists but does not follow that advice, then the district council in the first instance shall consider whether a prima facie case exists for further investigation under the procedures set out in this part of the Constitution.
- 3.4 Where a Member does not take advice as above, but seeks independent legal advice relating to whether to declare an interest, the view of the district council on the interpretation of the law, the Code of Conduct and these rules shall prevail, should a complaint be made against the Member.

## **4.0 Complaints on Conduct of Members**

- 4.1 Where a complaint has been made against a Member then it shall automatically and without delay, be forwarded to the relevant district council officer for investigation and administration in accordance with their adopted policy (copy available upon request).
- 4.2 Where a complaint has been made against a Member then the Member shall:
- a. co-operate with the investigation in consideration of the complaint at the initial stage;
  - b. co-operate with the investigation during preparation of the report;
  - c. attend the district council body meeting at which the report to be considered.
- 4.3 At such a meeting the Member, against whom a complaint has been made which is the subject of a report to the Committee will be expected to:
- a. answer questions put by the panel;
  - b. co-operate in resolving the complaint
- 4.4 Any Member who has made a complaint against another Member shall:-
- a. cooperate fully with the district council to bring forward the complaint expeditiously;
  - b. 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 as set out below.

# Appendix 1

## Council Members' Code of Conduct

### Introduction

This Code sets out the standards of behaviour required of Councillors whenever they are acting, or claim or give the impression that they are acting, as a Member or Co-opted Member of Sharow Parish Council.

The Code requires compliance with the general principles of public life set out in the preamble.

In any case where a Member has an interest in a matter which is not a disclosable pecuniary or registerable interest under the Localism Act 2011 or regulations, but in which participating or voting (or further participating or voting) on the matter would conflict with the general principles of public life, they must declare that interest and take no further action with regard to that matter as if it were a disclosable pecuniary interest.

### General Provisions

- 1 Councillors must not treat others with disrespect.
- 2 Councillors must not do anything which may cause the Parish Council to breach any equality law.
- 3 Councillors must not bully or intimidate any person, or attempt to bully or intimidate them.
- 4 Councillors must not do anything which compromises the impartiality of anyone who works for or on behalf of the Parish Council, or do anything that is likely to compromise their impartiality.
- 5 Councillors must not disclose information given in confidence or which they believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:
  - a They have the permission of a person authorised to give it; or
  - b They are required by law to disclose the information; or
  - c They disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - d The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.

Before disclosing any information under this paragraph, Councillors must consult the Parish Clerk for advice.

- 6 Councillors must not prevent another person gaining access to information which that person is entitled to by law.
- 7 Councillors must not conduct themselves in a manner which could reasonably be regarded as bringing the Parish Council into disrepute, or their position as a Parish Councillor into disrepute.
- 8 Councillors must not use their position as Parish Councillor improperly to obtain any advantage or disadvantage for themselves or any other person, or attempt to do so.
- 9 Councillors must not take part in the scrutiny of any decision they have been involved in making – except when providing evidence or opinion to those undertaking any scrutiny process.
- 10 Councillors must not accept any gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon themselves as a Councillor. If any gift or hospitality which might be attributable to membership of the Council (other than the refreshments which might usually be expected at Council meeting or civic function) is accepted or offered, it must be disclosed to the relevant officer at the district council.
- 11 Councillors must act in accordance with the Council's guidance or requirements when using the resources of the Council (including but not limited to officer time, IT equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly.

- 12 Councillors must have regard to relevant advice given by the Council's Responsible Financial Officer or Proper Officer (Clerk) when making decisions, and must give reasons for those decisions in accordance with any requirements imposed by statute or by the Council.
- 13 Councillors must comply with Part 2 of this Code. Councillors are also required to withdraw to the public section of the chamber during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed, except where a dispensation is granted under standing order 13 of Sharow Parish Council.

## **PART 2**

### **Disclosable Pecuniary Interests**

- 14 (1) A Member or Co-opted Member must, before the end of 28 days beginning with the day on which the person becomes a Member or Co-opted Member of the authority, notify Harrogate Borough Council of any disclosable pecuniary interests which the person has at the time when the notification is given. This information must be given via the Clerk, who will retain a copy.
- (2) A pecuniary interest is a disclosable pecuniary interest if it is of a description specified in regulations by the Secretary of State and it is either:
- (a) An interest of the Members; or
  - (b) It is an interest of
    - (i) the Member's spouse or civil partner;
    - (ii) a person with whom the member is living as husband or wife; or
    - (iii) a person with whom the Member is living as if they were civil partners.
- 15 Disclosable Pecuniary Interests have been defined by the Secretary of State in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 1464) as follows:
- (1) Employment, office, trade, profession or vocation      Any employment, office, trade, profession or vocation carried on for profit or gain.
  - (2) 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 the Member in carrying out duties as a Member, or towards the election expenses of the Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
  - (3) 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.
  - (4) Land      Any beneficial interest in land which is within the area of the relevant authority.
  - (5) Licences      Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
  - (6) Corporate tenancies      Any tenancy where (to the Member'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.

- (7) Securities
- Any beneficial interest in securities of a body where:
- (a) that body (to the Member'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.

## 16 Effect of Interests on Participation

- 1 When a Councillor has a disclosable pecuniary interest in any business of the Parish Council and attends a meeting of the Council at which the business is considered, they must disclose to that meeting the existence and nature of that interest at the commencement of that meeting (or when the interest becomes apparent if it had not previously been considered disclosable).
- 2 Where a Councillor has a disclosable pecuniary interest and has not obtained a dispensation, they must withdraw to the public section of the meeting during discussion of the relevant business.
- 3 Where a Councillor has an interest where their participation or voting on a matter might be seen as conflicting with the general principles set out in the preamble to this Code of Conduct, they must declare it, cease to participate or vote, and withdraw to the public section of the meeting as if it were a disclosable pecuniary interest.
- 4 Where a Councillor has an 'other interest' which is registered in accordance with the Code of Conduct that interest should be disclosed to the meeting of the Parish Council at which the business is considered. However in this instance the Councillor is able to continue to participate in the consideration of that item of business.

## 17 Other Interests

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

- (a) body to which a Councillor has been appointed or nominated by the Parish Council 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;
- (f) also included should be the name and address of any person or body from whom a Councillor has received a gift or hospitality with an estimated value of at least £25 directly connected with their work as a Councillor. (Private gifts or hospitality do not need to be recorded.)

## 18 Sensitive Interests

- 1 Where a Member or Co-opted Member has an interest (whether or not a disclosable pecuniary interest) and the nature of that interest is such that the Member and relevant district council officer both consider that disclosure of the details of the interest could lead to

the Member or someone connected to them being subject to violence or intimidation, any published version of the register must not include the details of the interest. The register may state that the Member has an interest but the details are withheld under Section 32 (2) of the Localism Act.

- 2 In the event that a matter relating to a sensitive interest as set out in sub-paragraph (1) above is being considered at a meeting, the Member is required to disclose the fact that they have a disclosable pecuniary interest (when it is such an interest) but not the nature of it.
- 3 Members must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the district council asking that the information be included in the register of members' interests.