

Brenchley and Matfield Parish Council
Code of Conduct

Part 1
General Provisions

Introduction and Interpretation

- 1.1 This Code applies to you as a member of an authority.
- 1.2 You should read this Code together with the general principles prescribed by the Secretary of State (see Annexure to this Code).
- 1.3 It is your responsibility to comply with the provisions of the Code.
- 1.4 In this Code:
“meeting” means any meeting of:
a) the authority;
b) any of the authority’s committees, sub-committees, joint committees or joint sub-committees;
- “member” includes a co-opted member and an appointed member.
- 1.5 References to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and standards committee of the district council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

- 2.1 Subject to paragraphs 2.2 to 2.5 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.
- 2.2 Subject to sub paragraphs 2.3 and 2.4 this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2c, 3.4 and 3.5a also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.3) includes a criminal offence for which you have been convicted (including an offence committed before the date you took office, but for which you are convicted after that date).
- 2.5 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 the authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General Obligations

- 3.1 You must treat others with respect.
- 3.2 You must not:
a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

- b) bully any person;
- c) intimidate or attempt to intimidate any person who 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.

4. 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:
 - (aa) reasonable and in the public interest; and
 - (bb) 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.

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

6. 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 the authority -
 - (i) act in accordance with your authority's reasonable requirements; and
 - (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.

Part 2 Interests

Personal Interests

8.1 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:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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 employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- b) 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 your authority's area.

8.2 In sub-paragraph 8.1(b) 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 sub-paragraph 8.1(a) (i) or (ii).

Disclosure of Personal Interests

9.1 Subject to sub-paragraphs 9.2 to 9.5, where you have a personal interest in any business of your authority 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 Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8.1(a)(i) or 8.1(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- 9.3 Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8.1(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9.4 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9.5 Where you have a personal interest but, by virtue of paragraph 14, 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.

Prejudicial Interest Generally

- 10.1 Subject to sub-paragraph 10.2, where you have a personal interest in any business of your authority you also have a prejudicial 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.
- 10.2 You do not have a prejudicial interest in any business of the authority where that business:
- a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - c) relates to the functions of your authority in respect of:
 - (i) 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;
 - (ii) an allowance, payment or indemnity given to members;
 - (iii) any ceremonial honour given to members; and
 - (iv) setting council tax or a precept under the Local Government Finance Act 1992.
11. Paragraph 11 does not apply to your authority.

Effect of Prejudicial Interests on Participation

- 12.1 Subject to paragraph 12.2, where you have a prejudicial interest in any business of your Authority:
- a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph 12.2 applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting:
unless you have received a dispensation from your authority's standards committee:

and
 - b) you must not seek improperly to influence a decision about that business.
- 12.2 Where you have a prejudicial interest in any business of your authority, you may attend a meeting 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.

Part 3
Registration of Members' Interests

Registration of Members' Interests

- 13.1 Subject to paragraph 14, you must, within 28 days of:
- a) this Code being adopted by or applied to your authority; or
 - b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8.1(a), by providing written notification to your authority's monitoring officer.
- 13.2 Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interests or change to any Interests registered under paragraphs 13.1, provide written notification to your authority's monitoring officer.

Sensitive Information

- 14.1 Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interests, or, as the case may be, a change to that interests under paragraph 13.
- 14.2 You must, within 28 days of becoming aware of any changes of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- 14.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Part 4
Dispensations

- 15.1 Unless a dispensation has been granted, you must withdraw from a meeting when it is considering a matter in which you have a disclosable pecuniary interest. You may return to the meeting after it has considered the matter.
- 15.2 Dispensation requests shall be in writing and submitted to the Proper Officer as soon as possible before the meeting, or failing that, at the start of the meeting for which the dispensation is required. Such dispensations shall be retained as Council records.
- 15.3 A decision as to whether to grant a dispensation shall be made by a meeting of the Council, or committee or sub-committee for which the dispensation is required, and that decision is final.
- 15.4 A dispensation request shall confirm:
- i. the description and the nature of the disclosable pecuniary interest or other interest to which the request for the dispensation relates;
 - ii. whether the dispensation is required to participate at a meeting in a discussion only or a discussion and a vote;
 - iii. the date of the meeting or the period (not exceeding four years) for which the dispensation is sought; and
 - iv. an explanation as to why the dispensation is sought.
- 15.5 A dispensation may be granted if, having regard to all relevant circumstances, any of the following apply:
- i. without the dispensation the number of persons prohibited from participating in the particular business would be so great a proportion of the meeting transacting the business as to impede the

- transaction of the business;
- ii. granting the dispensation is in the interests of persons living in the Council's area; or
- iii. it is otherwise appropriate to grant a dispensation.

Part 5 Complaints

- 16.1 Upon notification by the Borough Council that it is dealing with a complaint that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Proper Officer shall report this to the Council.
- 16.2 Where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of the Council of this fact, and the Chairman shall seek advice from the Monitoring Officer on how to secure the duties of the Proper Officer in relation to the complaint, until it has been determined and the Council has agreed what action, if any, to take.
- 16.3 The Council may:
 - i. provide information or evidence where such disclosure is necessary to investigate the complaint or is a legal requirement;
 - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;
- 16.4 Upon notification by the Borough Council that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Council shall consider what, if any, action to take against him. Such action excludes disqualification or suspension from office.

Annexure - The Ten General Principles

The general principles governing your conduct under the Relevant Authorities (General Principles) Order 2001 are set out below.

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. 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

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. 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

5. 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

6. 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

7. 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

8. 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

9. 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

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