

## **PREAMBLE TO THE CODE OF CONDUCT**

(Draft to be considered by the Parish Council on 18 May 2017)

This Preamble provides an explanatory introduction to the Members' Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence.

### **Introduction**

Aldcliffe – with – Stodday Parish Council adopted the following code on 18 May 2017 dealing with the conduct that is expected of members and co-opted members of the Authority when they are acting in that capacity, as required by section 27 of the Localism Act 2011 ("the Act").

The Parish Council has a statutory duty under the Act to promote and maintain high standards of conduct by Members, and the Code sets out the standards that the Council expects Members to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code and the Protocols contained in the Council's Constitution, as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.

Members have a responsibility to ensure that they comply with the Code of Conduct in all respects. They should regularly review their personal circumstances and intended actions in the context of the Code.

If in doubt, Members should seek advice from the clerk, but the final decision and responsibility on how to act rests with Members themselves.

Members should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Members' conduct and what the public believe about their conduct will affect the reputation and credibility of Members and the Parish Council as a whole.

It is not enough to avoid impropriety; perception is also important. Members should at all times avoid any occasion for suspicion and any appearance of improper conduct.

## **SEVEN GENERAL PRINCIPLES OF CONDUCT**

The Code is intended to be consistent with the following seven principles, as required by the Act.

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. .

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## CODE OF CONDUCT

### Part A General provisions

#### Introduction and interpretation

1. —(1) This Code applies to you as a member of the Council
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) In this Code—

"meeting" means any meeting of—

- (a) the parish council;
- (c) any of the parish council's committees

"member" includes a co-opted member and an elected member.

#### Scope

2. —(1) Subject to sub-paragraph (2) you must comply with this Code whenever you—
- (a) conduct the business of the parish council (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 the parish council,
- and references to your official capacity are construed accordingly.
- (2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

#### General obligations

3. (1) You must treat others with respect.
- (2) You must not—
- (a) do anything which may cause the parish council to breach the Equality Act 2010 (or subsequent legislation)
  - (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, the parish council.

**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 parish council; 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 the parish council or the office of councillor into disrepute.**

**6. You must:**

(a) champion the needs of residents- the whole community and in a special way your constituents, including those who did not vote for you - and put their interests first, and

(b) deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

**7. 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 Council—

(i) act in accordance with the parish council'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.

8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the clerk to the parish council where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the parish council.

## **Part B Interests**

### **Section 1 Disclosable Pecuniary Interests**

This part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

Within 28 days of becoming a member or co-opted member, you must notify the clerk of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:

(a) Details of any employment, office, trade, profession or vocation carried on for profit or gain

(b) Details of 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 you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(c) Details of 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 under which goods or

services are to be provided or works are to be executed; and which has not been fully discharged.

- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that 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.

For the purposes of the foregoing “relevant authority” means the Parish Council; “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

## **2. Register of interests**

Any interests notified to the clerk will be notified to the Monitoring Officer at Lancaster City Council, and included in the parish council’s register of interests.

A copy of the register will be available for public inspection and will be published on Lancaster City Council’s website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the clerk and the City Council’s Monitoring Officer agree, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

## **4. Non participation in case of disclosable pecuniary interest**

- a) If you are present at a meeting of the parish council, or one of its committees, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
  - You may not participate in any discussion of the matter at the meeting.
  - You may not participate in any vote taken on the matter at the meeting.
  - If the interest is not registered, you must disclose the interest to the meeting.
  - If the interest is not registered and is not the subject of a pending notification, you must notify the clerk of the interest within 28 days.

It is good practice to declare your disclosable pecuniary interest to the meeting and then leave the room where the meeting is taking place whilst that business is transacted.

## 5. Dispensations

The clerk may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## 6. Offences

It is a criminal offence to

- Fail to notify the clerk within 28 days of election of any disclosable pecuniary interest
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the clerk within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- Knowingly or recklessly provide information that is false or misleading in notifying the clerk of a disclosable pecuniary interest or in disclosing such interest to a meeting

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.

## 7. Notification of changes

Whilst not a requirement of the statute, the Council under this Code of Conduct requires you to notify the clerk within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## Section 2 Other Interests

### 8. Notification of Other Interests

- (1) In addition to the foregoing, you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the clerk in writing of the details of your interests within the following categories, for inclusion in the register of interests:
  - (a) Details of 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 the parish council;
  - (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body 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;
  - (c) Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a member of the parish council, and details of the donor.
- (2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the clerk of the details of that new interest or change.

## **9. Disclosure of Other Interests**

- (1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8(1) above or in paragraph (2) below in any business of the parish council, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of the parish council 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.
- (2) You have an interest in any business of the parish council 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 member of your family or any person with whom you have a close association, to a greater extent than the majority of other council tax payers.
- (3) Where you have an interest in any business of the authority of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) 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.
- (4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have an interest in any business of your authority by virtue of paragraph 8(1) or 9(2), and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

- (1) Any interests notified to the clerk under paragraph 8 above will be included in the register of interests.
- (2) A copy of the register will be available for public inspection and register of interest forms will be published on the Lancaster City Council website.
- (3) Where a disclosable pecuniary interest is notified to the clerk it need not be separately notified or separately registered as an interest under this section of the Code.

## **11. Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the clerk and the City Council's Monitoring Officer agree, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

## **12. Non participation in case of certain other interests**

- (1) Subject to paragraphs (2) and (3) below, where you have an interest in any business of the parish council by virtue of paragraph 8(1) or 9(2) **AND** 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 judgment of the public interest **AND** where that business—

- (a) affects your financial position or the financial position of a person or body through whom the interest arises; or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting. It is good practice to declare your interest to the meeting and then leave the room where the meeting is taking place whilst that business is transacted.

- (2) Where you have an interest in any business of the parish council to which paragraph 12(1) applies, 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, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of your authority in respect of—
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) an allowance, payment or indemnity given to members;
  - (iii) any ceremonial honour given to members; and
  - (iv) setting a precept under the Local Government Finance Act 1992.