

Code of Conduct

North West Leicestershire District Council
9 May 2019

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Principles Underpinning the Code

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

Applies when acting in capacity Councillor

Overview

- Paragraph 1 - The Code applies to you as a councillor.
- Paragraph 2 - The Code only applies when you are acting in the capacity of councillor.
- Paragraph 3 - Treating others with respect.
- Paragraph 4 - Confidentiality.
- Paragraph 5 - Bringing your authority into disrepute:
 - put in a position where you might be unduly influenced;
 - use your position to confer an advantage;
 - improper use of Authority's resources.



Overview

- Paragraph 6 - Have regard to advice, give reasons for decisions and make decisions on merit.
- Paragraph 7 - Duty to be accountable for your decisions - co-operate fully with scrutiny
- Paragraph 8 - Disclosable Pecuniary Interests:
- Paragraph 9 - Disclosable Non-Pecuniary Interests
- Paragraph 10 - Dispensations
- Paragraph 11 - Sensitive Interests



Case Studies

- What is "acting in your capacity as a Councillor"?
 - Taking part in Council Meetings
 - Giving an interview on a Council policy
 - "I'm a Councillor and ..."
 - Acting as Council representative on another body
 - Posting messages on social media



Disclosable Pecuniary Interests

What are they?

Under the Regulations

- An interest in which **you** or **your spouse** has a **financial connection**

Under the Locally Adopted Code

- Extended to any family member or close associate



Disclosable Pecuniary Interest

What to do?

- Disclose at the meeting where that interest arises
- Leave the meeting at the point where that interest arises
- Possible criminal offence
- Failure to do so is a breach of the Code of Conduct and you could be subject to sanctions



Disclosable Pecuniary Interest

Register of Interests

- Requirement to register your interest(s)
- What needs to be on the form?
- Interests that are disclosed at a meeting and have not been previously disclosed
- Your responsibility



Disclosable Non Pecuniary Interest

What are they?

- Matters in which you have some sort of interest, but not a financial connection
- They must be disclosed when they arise
- Don't need to be on the register of interests
- You may remain and vote provided other Code of Conduct obligations are not breached



Sensitive Interests

What are they?

- Matters in which you have some sort of interest, but not a financial connection
- They must be disclosed when they arise
- Don't need to be on the register of interests
- You may remain and vote provided other Code of Conduct obligations are not breached



Decision Making

Issues to Consider:

- Bias
- Predetermination
- Predisposition



Bias

- Predisposition or prejudice against one party's case or evidence on an issue for reasons unconnected with the merits of that issue
- Leading case – Porter v Magill [2001] UKHL 67 which ruled that the test to be applied for determining the existence of apparent bias was whether a fair-minded and informed adviser would conclude that there was a real possibility of bias



Examples of Bias

- Having a personal interest in the outcome case and the outcome could realistically affect that interest
- Your decision will lead to the promotion of a cause in which you are involved in
- Having a pecuniary or proprietary interest in the outcome of a case may mean that a presumption of bias is made
- If a fair-minded and informed observer, who has considered the facts, concludes that there is a real possibility that you are biased



Predetermination

- A closed mind
- Where the member has come to the table having already come to a decision, regardless of what they subsequently hear
- Different to predisposition and is unlawful
- Risk of Judicial Review



Predisposition

- Have had some involvement in the matter in the past
- An open mind
- Willing to listen to all considerations presented before deciding on the matter
- Different to predetermination and is lawful
- Can stay and vote/discuss the matter



Case Study

- LE Homes Ltd has appealed against a decision granting planning permission on land owned by Greenland District Council
- CD Homes Ltd's application for planning permission was made, considered and granted during the course of a local authority election
- Following the election there was a change of political control at Greenland District Council
- LE Homes Ltd has challenged the grant of planning permission



Case Study Continued ...

- The grounds for challenge are that there has been an appearance of bias or predetermination on the part of members who have voted in favour of the grant
- LE Homes Ltd contend that a politically controversial decision should not have been made during an election period, and, in the absence of a good reason for having done so, an independent observer would find that there is a real possibility that minds were closed to the planning merits



R. (Lewis) v Redcar and Cleaveland Borough Council [2009]

- Leading case concerning predetermination
- Ruled that elected members of the local authority were entitled and indeed expected to have and to have expressed views on planning issues (predisposed)
- Members had to have regard to material considerations, but they were not required to cast aside views on planning policy that they had formed when seeking election. However the decision maker should be open to new arguments up to the moment of the decision



Acceptable Comments

- I come with an open mind and will make a decision based on the information put in front of me today
- I may have taken part in discussions concerning the matter previously and voted in favour/against it at the Parish Council meeting/committee meeting previously but my decision today is made taking into account all of the facts in front of me today as Councillor/committee member
- I am predisposed in this matter as I have made comments on this previously however these comments were based on the information presented to me
- On making a decision today I come with an open mind and with a willingness to make a decision based on the new information in front of me today
- All matters/applications in this committee will be decided on the merits of the case and the information in front of me today



Comments to Avoid

- I have already made up my mind on how I will be voting in this application/matter and nothing will change my mind
- Because I voted in favour/against the matter at the Parish Council meeting/committee meeting I will vote in the same way at this meeting as well
- I will never vote for/against this type of application/matter (e.g. wind farms)
- All applications made in this parish should be approved/rejected



Sanctions

Disclosable Pecuniary Interests

- Criminal offence (for self or spouse/equivalent)
- For family members/close associate – breach of the Code
- Case example – *R v Flower*



Sanctions

Breaches of the Code

- Letter of censure
- Censure by motion
- Removal from sub-committees
- Adverse publicity
- Training requirement



Dispensations

- May be occasions where even though there is an interest, a member still needs to take part
- One dispensation can be granted by the Monitoring Officer
- Subsequent dispensations need to be granted by the Audit and Governance Committee



Top Tips

- Be polite
- Be aware of your interests
- Be open to discussion



Any questions?



Our team is ready to help

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