PART 9.1 CODE OF CONDUCT FOR MEMBERS

INTRODUCTION

The Text of the Code

This code has been prepared and adopted by Brighton & Hove City Council ("the authority") in accordance with Section 51 of the Local Government Act 2000. The text of the code follows this introduction and is in 3 parts: 1 General Provisions; 2 Interests and 3 Registration of Members' Interests. All text printed in ordinary type comprises the mandatory provisions prescribed by the Secretary of State under Section 50 of the Local Government Act 2000. Any text underlined comprises additional or variant text approved by the authority. Any text in italics comprises comments and informal guidance only and is not part of the authority's code.

The authority's code applies to you if you are an elected Member of the authority or a co-opted Member with voting rights.

The Undertaking

You must sign a formal undertaking to observe the authority's code. If you fail to do so, you will not be able to act as Member of the authority.

Sanctions for Breach of the Code

Any person may make a written complaint that you have acted in breach of the code. Investigation of any such complaint may lead to sanctions being applied to you by a Case Tribunal or, where the Secretary of State provides by regulations, by a panel of the authority's Standards Committee. It should be noted that a Case Tribunal has power to order you to be suspended or partially suspended from the authority for a period not exceeding one year, or to be disqualified from being a Member of the authority for a period not exceeding five years.

Observing the Code

You should make sure that you are familiar with the requirements of the code, including any guidance issued by the Standards Board for England and the Authority's standards committee. It is your responsibility to make sure that you comply with the code. You should regularly review your personal circumstances with this in mind, particularly when those circumstances change. If in any doubt, you should seek advice from the authority's monitoring officer or from your own legal adviser. (The Standards Board for England is unable to give guidance on specific cases.) In the end, however, the decision and the responsibility are yours in each case.

Documents forming part of the constitution issued by the authority which include some particularly relevant guidance on, or requirements relating to, conduct, are:-

- *Part 3.2 – Council Procedure Rules*
- *Part 9.2 - Arrangements regarding the register of Members' Interests*
- *Part 9.3 - Practice Note – Use of Council Facilities*
- *Part 9.5 - Protocol for Members regarding Planning Applications*
- *Part 9.7 - Code of Conduct for Member/Officer relations*

Also relevant are the following strategy / policy documents:-
- *Anti-Fraud and Corruption Strategy,*
- *Whistleblowing Policy*
- *Full Inclusive Council Policy*

You should familiarise themselves with all the above documents.

Main Provisions of the Code

You should note that:

- *The code must be observed when you are acting in an official capacity, defined in Paragraph 2. There are some circumstances, also mentioned in paragraph 2, where the code will apply at other times if you are convicted of a criminal offence.*

- *Any personal interest (defined in Paragraph 8) in a matter under consideration must usually be disclosed by you at meetings where the matter is being considered, but there are some limited exceptions, mentioned in Paragraphs 9(2) to 9(5).*

- *You may have a personal interest through your family or any person with whom you have a close association.*

- *Any personal interest which is also a prejudicial interest (defined in Paragraph 10) in a matter under consideration must be disclosed by you at meetings where the matter is being considered and you must withdraw from the meeting, except in the limited circumstances set out in Paragraph 12.*

- *To determine whether you have a prejudicial interest, you should*
    - *(1) bear in mind the ten principles of public life (set out below)*
    - *(2) consider how the public would judge you if you were to participate in discussing and/or deciding the relevant matter and*
    - *(3) apply the provisions in Paragraphs 10 and 11 of the code.*

- *You must keep up to date the information held on the Register of Interests maintained by the Monitoring Officer and give due notification of any gift or hospitality received as failure to do so will automatically be a breach of the code even though the circumstances may not seem important.*

- *There is provision in the code for you to make a voluntary declaration of your membership of private clubs.*

The Ten General Principles of Public Life

The ten general principles are the fundamental values which, by virtue of the relevant Authorities (General principles) Order 2001, underpin the code. You should therefore read them in conjunction with the code, even though they are not directly part of the code.

***1. Selflessness** - You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.*

***2. Honesty and Integrity** - You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.*

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

***4. Accountability** - You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.*

***5. Openness** - You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.*

***6. Personal Judgement** - You may take account of the views of others, including their political groups, but should reach your own conclusions on the issues before you and act in accordance with those conclusions.*

***7. Respect for Others** - You 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. You should respect the impartiality and integrity of the authority's statutory officers, and its other employees.*

***8. Duty to Uphold the Law** - You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.*

***9. Stewardship** - You should do whatever you are able to do to ensure that your authority uses its resources prudently and in accordance with the law.*

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

BRIGHTON & HOVE CITY COUNCIL

CODE OF CONDUCT FOR MEMBERS
(Adopted 15 May 2008)

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.

1(3) It is your responsibility to comply with the provisions of this Code.

1(4) In this Code—

"meeting" means any meeting of—

(a) the authority;

(b) the executive of the authority

(c) any of the authority's or its executive's committees, sub-committees, joint committees, or joint sub-committees, or area committees;

"Member" includes a co-opted Member and an appointed Member.

Scope

2(1) Subject to sub-paragraphs (2) to (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 (3) and (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(2)(c), 5 and 6(a) 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 (3)) includes a criminal offence for which you are convicted (including an offence you 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 your 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 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, 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 your 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).

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

7(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

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 the electoral division or ward, as the case may be, affected by the decision.

8(2) In sub-paragraph (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 (1)(a)(i) or (ii).

Disclosure of personal interests

9(1) Subject to sub-paragraphs (2) to (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 (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.

9(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority 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.

9(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

Prejudicial interest generally

10(1) Subject to sub-paragraph (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) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) 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;

(iv) an allowance, payment or indemnity given to Members;

(iv) any ceremonial honour given to Members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12(1) Subject to sub-paragraph (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 (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 obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) 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 (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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 interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing 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 interest, or, as the case may be, a change to that interest under paragraph 13.

14(2) You 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 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.

Voluntary Registration of Membership of Private Clubs

15. You may provide written notification to the authority's monitoring officer of your membership of any private club and of any subsequent change or addition to your membership.