

## PART 8.1 CODE OF CONDUCT FOR MEMBERS

### INTRODUCTION

This code has been prepared and adopted by Brighton & Hove City Council (“the authority”) in accordance with Section 27 Localism Act 2011.

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

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.

You should make sure that you are familiar with the requirements of the code, including any guidance issued by the Authority’s Audit and Standards committee. It is your responsibility to make sure that you comply with the code. You should regularly review and update your register of Members’ Interests.

If in any doubt, you should seek advice from the authority’s monitoring officer or from your own legal adviser. In the end, however, the decision and the responsibility are yours in each case.

### The Council’s Corporate Values

The Code of conduct should be read alongside six corporate values adopted by the Council. These are:

- **Respect:** Embrace diversity with kindness and consideration and recognise the value of everyone
- **Collaboration:** Work together to contribute to the creation of effective and successful decision making forums, working groups and partnerships across the council and beyond
- **Efficiency:** Work in a way that makes the best and most sustainable use of the council’s resources’
- **Openness:** Share and communicate with honesty about the council and its decisions and activities
- **Creativity:** Have ideas that challenge the ‘tried and tested’, use evidence of what works and listen pro-actively to feedback from constituents and others
- **Customer Focus:** Do your part to help the council deliver on its ‘Customer Promise’ to colleagues, partners and customers; the council aims to listen,

to be easy to reach, clear, treat everyone with respect and act to get things done

**Other relevant policies and documents**

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

- Part 3.2 – Council Procedure Rules
- Part 8.3 - Arrangements regarding the register of Members' Interests
- Part 8.2 - Practice Note – Use of Council Facilities
- Part 8.5 - Protocol for Members regarding Planning Applications
- Part 8.7 - Code of Conduct for Member/Officer relations
- Guidance on the use of social media
- Guidance on confidentiality
- Anti-Fraud and Corruption Strategy,
- Whistleblowing Policy

*You should familiarise yourselves with the above documents.*

## BRIGHTON & HOVE CITY COUNCIL CODE OF CONDUCT FOR MEMBERS (Adopted 19 July 2012)

On their election or co-option to Brighton & Hove City Council, members are required to sign an undertaking to comply with the authority's Code of Conduct.

### Part 1 – General provisions

#### Introduction and interpretation

1. (1) This Code applies to **you** as a member of the authority, when acting in that capacity.

(2) This Code is based upon seven principles fundamental to public service - set out below. You should have regard to these principles as they will help you to comply with the Code.

<b>Principles fundamental to Public Service</b>
<p><b>Selflessness</b> 1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.</p>
<p><b>Integrity</b> 2. Members should not place themselves in situations where integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.</p>
<p><b>Objectivity</b> 3. Members should make decisions in accordance with the law and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.</p>
<p><b>Accountability</b> 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.</p>
<p><b>Openness</b> 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.</p>
<p><b>Honesty</b> 6. Members should declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.</p>
<p><b>Leadership</b> 7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.</p>

(3) If you need guidance on any matter under this Code you should seek it from the authority's monitoring officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.

(4) It is a criminal offence to fail to notify the authority's monitoring officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.

(5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding:-

- (a) whether to take action in relation to you; and
- (b) what action to take.

(6) In this Code—

'authority' means Brighton & Hove City Council

'Code' means this Code of Conduct

'co-opted member' means a person who is not a member of the authority but who:-

- (a) is a member of any committee or sub-committee of the authority; **or**
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; **and**
- (c) who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

'meeting' means any meeting of -

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

'member' includes a co-opted member.

'register of members' interests' means the authority's register of members' pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011.

## Scope

2. (1) Subject to sub-paragraph (2), you must comply with this Code whenever you act in your capacity as a member or co-opted member of the authority.

(2) 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.

(2) You must not—

- (a) do anything which may cause your authority to breach any of its the equality duties (in particular as set out in the Equality Act 2010);
- (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;
- (b) prevent another person from gaining access to information to which that person is entitled by law.
- (c) refuse or fail -
  - (i) to cooperate with official council investigations into alleged unauthorised disclosures of confidential information, (whether or not such alleged unauthorised disclosures have been made by yourself or by another member); or

(ii) to provide full access to all material that in the view of the investigating officer may be relevant to such an investigation.

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;

(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;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(iii) champion the needs of all residents.

(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; or

(c) your authority's chief executive and head of paid service

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 your authority.

## Part 2 – Interests

### **Disclosable pecuniary interests (“DPI”s)**

**NB It is a criminal offence to fail to notify the authority’s monitoring officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority’s monitoring officer).**

## 8. Notification of disclosable pecuniary interests

(1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

(2) 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) within the following descriptions:

<i>Interest</i>	<i>description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
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 M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
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.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's

	<p>knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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.</p>

These descriptions on interests are subject to the following definitions;

'the Act' means the Localism Act 2011;

'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

'director' includes a member of the committee of management of an industrial and provident society;

'land' includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

'M' means the person M referred to in section 30 of the Act;

'member' includes a co-opted member;

'relevant authority' means the authority of which M is a member;

'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

'relevant person' means M or any other person referred to in section 30(3)(b) of the Act;



'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

### 9. Register of interests

(1) Any interests notified to the Monitoring Officer will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the authority's website.

### 10. Non participation in case of disclosable pecuniary interest

(1) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:-

(a) you may not participate in any discussion of the matter at the meeting;

(b) you may not participate in any vote taken on the matter at the meeting;

~~(c) if the interest is not registered, you must disclose the interest to the meeting;~~

~~(d) if the interest is registered, you may choose to disclose the interest to the meeting~~

(de) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Council Procedure Rule 27 requires you to leave the room where the meeting is held while any discussion or voting takes place.

### 11. Offences

(1) It is a criminal offence to:-

(a) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;

(b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;

(c) Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;

(d) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;

(e) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

(2) 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.

## **12. Personal Other disclosable interests (“ODI”s)**

(1) In addition to the disclosable pecuniary interests defined above, 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)

notify the Monitoring Officer in writing of the details of any interests, which are:-

(i) any body, organisation or association

(a) exercising functions of a public nature; or

(b) directed to charitable purposes;

~~(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);~~

~~and of which you are a member or in in a position of general control or management (such as trustee, secretary or chair;)~~

(ii) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

~~(iii) any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.~~

(2) Where:

(a) you have ~~another a disclosable other~~ interest of a type described at subparagraph 12(i) or (ii) above in any business of your authority; or

(b) a decision in relation to a business of your authority might reasonably be regarded as affecting your well-being or the well-being or financial position of a “relevant” person ~~(see definition of a relevant person at “(3)” below)~~ 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; and

(c) you attend a meeting of your authority at which the business is considered;

(i) 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; and

~~(ii) If the interest is a prejudicial interest, while you may technically stay, participate and vote when that business is considered, you should consider how this might be viewed by others and you may choose to leave the room where the meeting is taking place~~

(iii) For the purposes of this code “prejudicial interest” means a personal interest which consists of a financial or property interest or an interest which is so significant that a reasonable person might consider as likely to prejudice your judgement of the public interest.

~~held while any discussion or voting takes place on that business.~~

(3) In sub-paragraph (2)(b), a relevant person is—

(a) your spouse or civil partner;

(b) a person with whom you are living as husband and wife; or

(c) a person with whom you are living as if you are civil partners.

(4) Sub-paragraph (2) only applies where you are aware or ought reasonably to be aware of the existence of the ~~personal~~ interest.

(5) Where you have a disclosable interest but, by virtue of paragraph 14 below, sensitive information relating to it is not registered in the public version of your authority’s register of Members’ interests, you must indicate to the meeting that you have a disclosable interest, but need not disclose the sensitive information to the meeting.

(6) For the avoidance of doubt nothing in this paragraph of this code requires a Member to register or declare a personal interest that is shared with ordinary Members of the public living or working in the area (such as having bins collected) or arises simply from being a Member of the Council (such as Members’ allowances) or is otherwise de minimis.

### **13. Interests arising in relation to overview and scrutiny**

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 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 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,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

### **14. Sensitive information**

(1) Where you consider that the information relating to any of your disclosable interests, whether these are disclosable pecuniary interests or personal interests, is sensitive information, and your authority’s monitoring officer agrees, the monitoring officer shall not include details of the interest on any

copies of the register of members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

(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 the register of members' interests.

(3) In this Code, "sensitive information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

### **15. Dispensations**

(1) The Audit and Standards committee, or any sub-committee of the Audit and Standards committee, or the Monitoring Officer, after consulting the Chair of the Audit and Standards Committee and the Independent Person may, on a written request made to the monitoring officer of the authority by a member, grant a dispensation relieving the member from either or both of the restrictions on participating in discussions and in voting, in cases described in the dispensation. Before requesting a dispensation, members should first seek a suitable substitute member to attend the meeting in his/her place.

(2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the standards committee, its sub-committee, or the Monitoring Officer—

(a) considers that without the dispensation the number of persons prohibited by paragraphs 10 and/or 12 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

(c) considers that granting the dispensation is in the interests of persons living in the authority's area; or

(d) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

### **16. Voluntary Registration of Membership of Private Clubs**

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.