



A GUIDE TO THE NEW CODE OF CONDUCT AND REGISTER OF INTERESTS

EFFECTIVE FROM 1 JULY 2012

IMPORTANT:

This document highlights some immediate points and key issues relating to the changes to standards and the code of conduct which will be effective on 1 July 2012. It is essential that all councillors, co-opted members and relevant staff are aware of its content.

1. PURPOSE OF THIS DOCUMENT

- 1.1. This document has been prepared because of the changes to the rules and processes relating to standards and the conduct of members and co-opted members of councils which come into effect on 1 July 2012.
- 1.2. The intention is that this will form a brief guide to some of the immediate points of which councillors, co-opted members, and staff will need to be aware. It is not intended to be regarded as exhaustive information or final guidance, and it is likely that it will be supplemented or replaced in due course.

2. THE CODE OF CONDUCT – GENERAL INFORMATION

- 2.1. The Act places a general obligation on councils to “promote and maintain high standards of conduct by members and co-opted members of the authority” and “in particular” to “adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity”.
- 2.2. It is no longer the case that the code of conduct adopted by councils has to be based on a model code prescribed by the Secretary of State, nor that what were called “mandatory provisions” have to be included in the code. Rather, the code must “*when viewed as a whole*” be “*consistent with the following principles*”:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 2.3. The Act also provides that councils must ensure that their “code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of— (a) pecuniary interests, and (b) interests other than pecuniary interests”.
- 2.4. In Oxfordshire the county, city and district councils have adopted the code attached to this document to be effective from 1 July 2012.

3. APPLYING THE CODE

- 3.1. The first part of the code sets out the behaviours and characteristics required of councillors. It is important to appreciate that the code applies when a councillor or co-opted member is acting in their role, and that it is their responsibility to comply with its provisions.
- 3.2. The second part of the code relates to registering and disclosing interests. More information and comment about the registration and disclosure of interests is included in Sections [4](#) and [5](#) respectively.
- 3.3. The code is brief, and is designed to be readily understandable. It is essential that all members, co-opted members and relevant officers take the time to read and understand its provisions.

- 3.4. The Act provides for dealing with a failure to comply with the code, but makes it clear that a decision is not invalidated because “*something that occurred in the process of making the decision involved a failure to comply with the code*”.
- 3.5. This document, including the code, will be supplied to all members and co-opted members of Oxfordshire County Council.

4. REGISTRATION OF INTERESTS

- 4.1. The Act requires the Monitoring Officer to “*establish and maintain a register of interests of members and co-opted members of the authority*”.
- 4.2. The Act requires a member or co-opted member to notify the Monitoring Officer of any “*disclosable pecuniary interests*” (as to which see [Section 5 below](#)) within 28 days of becoming a member or co-opted member; and that upon re-election or re-appointment the requirement relates only to any such interests not already included in the register.
- 4.3. However, all members and co-opted members of councils in Oxfordshire will be asked to notify their disclosable pecuniary interests by the end of July 2012. This is because what must be registered differs from the previous provisions, and in particular includes interests of a spouse or partner; and because the cycle of elections means that otherwise it could be nearly four years before all councillors have registered their interests.
- 4.4. Unlike the situation prior to 1 July 2012, there is no obligation to notify the Monitoring Officer of any changes to registerable interests within 28 days of the change, ***other than where an interest has been disclosed at a meeting and is neither included in the register nor the subject of a “pending notification”***. A pending notification is one where the Monitoring Officer has been notified of the interest but it has not yet been entered in the register.
- 4.5. It should be emphasised that the strong encouragement for all members to notify their disclosable pecuniary interests as soon as possible and by the end of July is influenced by the risk of criminal sanction if a matter was not registered and subsequently not disclosed at a meeting. Section 7 below gives more information about the criminal offences introduced pursuant to the Act.
- 4.6. It is worth noting that the absence of a requirement to notify changes to disclosable pecuniary interests does not prevent a councillor from doing so, which would be regarded as good practice, consistent with the general obligations which all councils have.
- 4.7. All members of the County Council are being supplied with a Word version of the form for completion. The form and accompanying notes are also attached to this document, in order that members and relevant staff may familiarise themselves with the matters which members are obligated to notify/disclose at meetings.

5. DISCLOSURE OF INTERESTS AND PARTICIPATION AT MEETINGS

- 5.1. The Code requires that, at a meeting, where a member or co-opted member has a disclosable interest (of which they are aware) in any matter being considered, they disclose that interest to the meeting. It is essential that members and co-opted members do this clearly, in order that the disclosure

may be recorded, which will protect the member in the event of a subsequent allegation.

- 5.2 It is also imperative to realise that the requirement to disclose such interests is applicable from 1 July 2012, whether or not the interests have been notified to the Monitoring Officer
- 5.3 The Council will continue to include an appropriate item on agendas for all meetings, to facilitate this.
- 5.4 Although not explicitly required by the legislation or by the code, it is recommended that in the interests of transparency and for the benefit of all in attendance at the meeting (including members of the public) the nature as well as the existence of the interest is disclosed.
- 5.5 A member or co-opted member who has disclosed a pecuniary interest at a meeting must not participate (or participate further) in any discussion of the matter; and must not participate in any vote or further vote taken; and must withdraw from the room.
- 5.6 However, the requirement in paragraph 5.5 above not to participate does not apply in the event of a dispensation having been granted. See [Section 8](#) below for more information about dispensations.

6 ADDITIONAL IMPORTANT POINTS RELATING TO THE DISCLOSURE OF INTERESTS

- 6.1 The great majority of members and co-opted members of the council have become familiar with the disclosure of interests requirements contained in the code of conduct which became effective in June 2007. But there are some very significant differences:

- The concept of personal or personal and prejudicial interests will no longer apply
- There is no provision for a councillor with a disclosable pecuniary interest (i.e. essentially the equivalent of a prejudicial interest in the previous code) to address a meeting. (However, there has been some debate as to whether the way the statute is worded enables a member to address a meeting before leaving. Further guidance on this is awaited and the intention is to clarify the point as soon as possible. In the meantime members are advised that the safest course of action is to leave the meeting at the start of the item).
- There is no replication of the tests in the current code to determine whether an interest bars participation – the Act simply provides that if a member or co-opted member has a disclosable interest in any matter of which they are aware, and no dispensation has been granted, they must not participate
- Because disclosable pecuniary interests are solely as defined in regulations (and as reproduced/summarised in the notes to the register of members' interests form and because there is currently no provision in the code of conduct relating to non-pecuniary interests, there is no requirement to register or disclose interests relating (as examples) to membership of other councils, or organisations to which you have been appointed or nominated by your council)

- As explained in the notes attached to the register of members' interests form disclosable pecuniary interests are those of the member or co-opted member and their spouse/partner or equivalent. They do not extend, for example, to other councillors or friends

- 6.2 However, it is not automatically safe for members and co-opted members to take part/be involved in matters which do not appear to be covered by the disclosure provisions. As an example, if a member of a planning committee took part and voted in favour of a planning application submitted by a relative or close friend, that could constitute maladministration if it became the subject of an ombudsman complaint, and could in any event be argued to be contrary to the provisions in the code that *“You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself”* or *“You must not place yourself in situations where your honesty and integrity may be questioned.....”*. A decision could also be susceptible to challenge in the event of bias or apparent bias.
- 6.3 There could also be occasions where there was a conflict of interest, for example because of membership of another council or of an organisation.
- 6.4 It is therefore essential that the code is viewed as a whole, that regard continues to be paid to the perception of the public, and that advice is sought in advance of a meeting if a member is uncertain of their approach.

7 CRIMINAL OFFENCES

- 7.1 **A failure to register a disclosable pecuniary interest within 28 days of election or co-option (or re-election or re-appointment), or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which the member or co-opted member has a disclosable pecuniary interest is a criminal offences.**
- 7.2 **Such offences will carry a potential Scale 5 fine of £5000 and/or disqualification for up to five years. Prosecution is at the instigation of the Director of Public Prosecutions.**

8 DISPENSATIONS

- 8.1 The Act allows for dispensations to be granted in respect of either or both of the prohibitions mentioned in paragraph 5.5 above, i.e. the dispensation could allow participation only, or could enable both participation and voting.
- 8.2 Section 31 of the Localism Act 2011 sets out the specific circumstances in which a dispensation may be granted which are that a dispensation is possible only if, *“after having had regard to all relevant circumstances, the authority—*
- (a) *considers that without the dispensation the number of persons prohibited by section 31(4) 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,

(d) is operating executive arrangements and considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

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

- 8.3 An application for a dispensation has to be made in writing to the monitoring officer of the council; and if granted the dispensation must specify the period for which it has effect, which may not exceed four years.

9 COMPLAINTS

- 9.1 The Council is obliged to have in place arrangements for the handling of complaints which allege that a member or co-opted member of the council has failed to comply with their authority's code of conduct.
- 9.2 These arrangements have been put on the Council's website. In the event of a complaint, the member or co-opted member who is the subject of the complaint will be advised of the procedure.
- 9.3 The Council has established a small Member Advisory Group to support and advise the Monitoring Officer in handling complaints against a member.
- 9.4 Members of the Council will be advised of any complaint and how the Monitoring Officer intends to deal with the matter.

Peter G. Clark

County Solicitor & Monitoring Officer

21 June 2012

Code of conduct

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members¹ of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

SELFLESSNESS

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

OBJECTIVITY

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

ACCOUNTABILITY

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

OPENNESS

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

HONESTY AND INTEGRITY

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

LEADERSHIP

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

¹ A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who
a) is a member of any committee or sub-committee of the council, or
b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council;
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub committee".

GENERAL OBLIGATIONS

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, 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 legal advice provided that the third party agrees not to disclose the information to any other person, or
 - (iv) the disclosure is:
 - a) reasonable and in the public interest;
 - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
 - (i) you must act in accordance with the council's reasonable requirements;
 - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

REGISTERING AND DECLARING INTERESTS

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

17. You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'².
18. Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

² A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

REGISTER OF MEMBERS' INTERESTS

I, **first name last name**, a member of Oxfordshire County Council, give notice that I have set out below the Disclosable Pecuniary Interests which are required to be notified to the Monitoring Officer further to the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

(IMPORTANT: Please read the [accompanying notes](#) before completing each section of the form)

1. Employment, office, trade, profession or vocation

Member or co-opted Member	Spouse, civil partner or equivalent

2. Sponsorship

Member or co-opted Member	Spouse, civil partner or equivalent
	NOT APPLICABLE

3. Contracts

Member or co-opted Member	Spouse, civil partner or equivalent

4. Land

Member or co-opted Member	Spouse, civil partner or equivalent

5. Licences

Member or co-opted Member	Spouse, civil partner or equivalent

6. Corporate Tenancies

Member or co-opted Member	Spouse, civil partner or equivalent

7. Securities

Member or co-opted Member	Spouse, civil partner or equivalent

Signed:
Councillor **first name last name**

Date:

RECEIVED:

Signed:
Monitoring Officer of the County Council

Date:

NOTES FOR GUIDANCE

General

Please:

- Write Clearly and in CAPITALS
- Do NOT include any abbreviations or acronyms
- Ensure that you enter “None” in any of the boxes under headings where there is nothing to be registered
- Ensure that if you do not have a spouse or civil partner or equivalent, you enter “N/A” in the right hand column of the notification boxes
- Ensure that you sign and date the notification
- Be aware that it is an offence to fail to register interests in accordance with the Act

Whose interests must be included?

The Act provides that the interests which must be notified are those of a member or co-opted member of the authority, **or**

- those of a spouse or civil partner of the member or co-opted member
- those of a person with whom the member or co-opted member is living as husband/wife
- those of a person with whom the member or co-opted member is living as if they were civil partners

(in each case where the member or co-opted member is aware that the other person has the interest)

The form provides for you to indicate whether the interest is yours or that of your spouse or civil partner or equivalent.

When should the monitoring officer be notified of disclosable pecuniary interests?

As a member or co-opted member you must, before the end of 28 days beginning with the day on which you became a member or co-opted member of the authority, notify the authority’s monitoring officer of any disclosable pecuniary interests which you or your spouse or civil partner or equivalent have at the time when the notification is given.

On re-election or re-appointment as a member or co-opted member you should notify the monitoring officer of any disclosable pecuniary interests which you or your spouse or civil partner or equivalent have, and which you have not previously notified. You should do this before the end of 28 days beginning with the day on which you were re-elected or re-appointed.

Following any disclosure of an interest not on the council’s register or the subject of a pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure. (A pending notification is one where the Monitoring Officer has been notified of the interest but it has not yet been entered in the register).

Sensitive Information

If you have an interest the nature of which is that you and the Monitoring Officer of the Oxfordshire County Council consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, then details of that interest will be excluded from copies of the interests register which are

available for inspection, as well as any published version of the register. Those versions may, however, state that you or your spouse or civil partner or equivalent have an interest, the details of which are withheld because of this provision.

Please contact the Monitoring Officer if you wish to discuss this aspect.

Section 1: Employment etc

You must include “*any employment, office, trade, profession or vocation carried on for profit or gain*”.

Please ensure that

- you include a short description of the activity concerned: for example, "Computer Operator" or "Accountant"
- you give the name of the employer, e.g. the company which pays your salary or wages
- where an office is held, the name of the person or body who made the appointment is given

Section 2: Sponsorship

You must include any payment or provision of any other financial benefit (other than from the Council of which you are a member or co-opted member) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses. (The “relevant period” being the period of twelve months ending with the day when you make a notification). This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992

Section 3: Contracts

You must include details of any contract between you, or your spouse, civil partner or equivalent, or a body in which either of you have a beneficial interest, and the council of which you are a member or co-opted member:

- under which goods or services are to be provided or works are to be executed; **and**
- which has not been fully discharged

(A body in which you or your spouse, civil partner or equivalent have a beneficial interest means a firm in which you/they are a partner, or a body corporate of which you/they are a director¹, or in the securities of which you/they have a beneficial interest).

Section 4: Land

You must include details of any land which is within the area of your council in which you or your spouse, civil partner or equivalent have a beneficial interest.

“Land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your spouse, civil partner or equivalent (alone or jointly with another) to occupy the land or to receive income

Please ensure that:

- you give the address or a brief description to identify the land
- if you live in the area of the council of which you are a member or co-opted member, you include your home under this heading as owner, lessee or tenant

¹ “Director” includes a member of the committee of management of an industrial and provident society.

Section 5: Licences

You must include details of any land which is within the area of your council for which you or your spouse, civil partner or equivalent hold a licence (alone or jointly with others) to occupy for a month or longer.

Please ensure that you give the address or a brief description to identify the land.

Section 6: Corporate Tenancies

You must include details of any tenancy where (to your knowledge) (a) the landlord is the council of which you are a member or co-opted member; and (b) the tenant is a body in which you or your spouse, civil partner or equivalent have a beneficial interest.

(A body in which you or your spouse, civil partner or equivalent have a beneficial interest means a firm in which you/they are a partner, or a body corporate of which you/they are a director¹, or in the securities of which you/they have a beneficial interest).

Section 7: Securities

You must include details of any beneficial interest of you or your spouse, civil partner or equivalent in securities of a body where:

(a) that body (to your knowledge) has a place of business or land in the area of the council of which you are a member or co-opted member; **and**

(b) **either**—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; **or**

(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 you or your spouse, civil partner or equivalent have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Please note that:

- “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
- You do not have to show the extent of your interest

Other Points

- If you are in doubt about the completion of this notification form, you may seek further guidance from the Council’s Monitoring Officer or Deputy Monitoring Officer
- A copy of the form will be available for public inspection, and the details of your notifications will be available on the website of the Oxfordshire County Council
- If you have completed this notification as a member of a Town or Parish Council, please be aware that the information will also be available via that Council’s website, if it has one

¹ “Director” includes a member of the committee of management of an industrial and provident society.