

KIRKBY MALZEARD, LAVERTON
AND DALLOWGILL PARISH
COUNCIL

CODE OF CONDUCT

ADOPTED JUNE 2020

This Code sets out the standards of behaviour required of Councillors and non-Councillors with voting rights. Where this document refers to Councillors or Members, it also applies to non-Councillors with voting rights.

This version of the Code supersedes all previous versions. Its intention is to promote and maintain high standards of conduct.

This document should be read in conjunction with the Standing Orders and Financial Regulations of this Council.

SECTION 1

THE GENERAL PRINCIPLES OF PUBLIC LIFE

At all times, regard shall be had to the principles governing the conduct of Members of the Council, as set out under Section 28 of the Localism Act 2011, namely: -

1.1

Selflessness - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person in order to gain any personal, financial or other material benefits.

1.2

Integrity - Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members may take into account the views of others but must reach their own conclusion on the issues and act in accordance with those conclusions.

1.3

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

1.4

Accountability - Members should be accountable to the public for their actions, and the manner in which they carry out their responsibilities and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

1.5

Openness - Members should be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions. They should restrict information only when the wider public interest demands.

1.6

Honesty - Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

1.7

Leadership - Members should promote and support these principles by leadership, and by example.

SECTION 2

SCOPE OF RULES

2.1

These Rules apply to all decision-making processes of the Council in which Members are involved, and whenever they are acting as a Councillor, or where they claim or give the impression that they are acting as a Councillor.

2.2

These Rules apply to all Members of Committees in their position as such, and a copy of this Members' Code of Conduct will be given to all such Members when they become Committee Members. Any reference to a Member of the Council within this document includes Committee members and non-Councillors with voting rights.

2.3

A record shall be kept by the Clerk to the Parish Council of all declarations of interest, wherever in the decision-making processes of the Council the declaration is made, together with the record of the decision in relation to which the declaration is made, usually in the Minutes of the relevant meeting.

SECTION 3

DISCLOSABLE PECUNIARY INTERESTS

3.1

A Member must notify Harrogate Borough Council's Monitoring Officer of any Disclosable Pecuniary Interests before the end of 28 days beginning with the day on which the person becomes a Member. It will then be included within the Member's Register of Interests and be available for public inspection on their website. The Clerk of the Parish Council also holds a copy of this Register of Interests, and a link to Harrogate Borough Councils website will be available on the Parish Council website.

3.2

A pecuniary interest is a Disclosable Pecuniary Interest if it is of a type specified in regulations by the Secretary of State, and it is either

- (a) An interest of the Members; or
- (b) It is an interest of –
 - (i) the Members spouse or civil partner;
 - (ii) a person with whom the Member is living as husband or wife; or
 - (iii) a person with whom the Member is living as if they were civil partners.

3.3

Disclosable Pecuniary Interests have been defined by the Secretary of State in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 1464) as follows:

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision or any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a Member, or towards the election expenses of the Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).

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 Parish. The term 'Land' where used within this document includes any form of property, including the Member's private residence.

Licenses

Any license (alone or jointly with others) to occupy land in the Parish for a month or longer.

Corporate tenancies

Any tenancy where (to the Member's knowledge) –

(a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where –

(a) that body (to the Member's knowledge) has a place of business or land in the Parish; 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

3.4

Sanctions - It is a criminal offence to fail to register a Disclosable Pecuniary Interest when required, to participate or vote when such an interest exists, or to provide false or misleading information. A fine of up to Level 5 (£5000) is payable and the Member would be disqualified from being a Parish Councillor for up to 5 years.

SECTION 4

OTHER INTERESTS

In addition to the Disclosable Pecuniary Interests referred to in Section 3, there are 'Other Interests' which must also be included on the Members Register of Interests, as set out in sections 4.1 and 4.2 below.

The rules set out in Sections 3.1 and 3.2 apply to these 'Other Interests'.

4.1.

The membership of, or position of general control or management in, any: -

- (a) body to which they have been appointed or nominated by the Parish Council as its representative.
- (b) public authority or body exercising functions of a public nature;
- (c) body directed to charitable purposes;
- (d) body whose principal purposes include the influence of public opinion or policy; (membership of a political party should be declared under this heading).
- (e) trade union or professional association.

For clarification this includes any position of general control or management of any organisations within the Parish, e.g. committee member, officer or trustee, but not simply where they are a public member of any such organisations, or it is somewhere which they use or attend. For example, if Members are a committee member of the Mechanics Institute or Highside Playing Fields Association, Parochial Church Council member (or similar for other faith organisations), School Governor or hold any similar position within any other Parish organisations, this should be included within the Register of Interests.

4.2.

The name and address of any person or body from whom Members have received a gift or hospitality with an estimated value of at least £50 in the course of your

work as a Councillor (private gifts or hospitality do not need to be recorded) should also be included in the Register.

SECTION 5

CLOSE ASSOCIATION

5.1

Items of 'Close Association' are not included within the Member's Register of Interests, unlike Disclosable Pecuniary Interests and Other Interests.

5.2

They do however have to be declared verbally where a matter arises at a meeting which relates to someone to whom the Member, or their Partner (as defined in Section 3.2), has, or might by a reasonable person be perceived as having, a Close Association in such a way that this may influence their decision making.

5.3

For the purposes of this Code of Conduct the most common relationships which are likely to create a Close Association are defined as follows, although others may apply:

- a) any Relative.
- b) a close Friend – someone with whom one regularly socialises at home, rather than simply meets at social events.
- c) a Neighbour whose property is situated close to that of the Members.
Note: If the property is sufficiently close to that of the Members, that, for example, if proposed development or similar were to be carried out to it, this might affect the value of the Member's property, this should be treated as a Disclosable Pecuniary Interest.

If any Member wishes to extend these definitions in order to ensure that they comply with the General Principles of Public Life they should do so.

SECTION 6

LEGAL ADVICE ON INTERESTS

6.1

Where there is any uncertainty as to whether an Interest exists, or what type of Interest it is, advice should be sought from the Monitoring Officer at Harrogate Borough Council.

6.2

Where a Member has sought advice from the Monitoring Officer relating to whether to declare an interest, and the Officer has advised that an interest does exist under these rules, the Member will be expected to act on that advice.

6.3

If a Member fails to act on such advice, the Monitoring Officer will consider whether a prima facie case exists for further investigation. If the Clerk to the Parish Council becomes aware of the Member failing to follow advice, they should bring it to the attention of the Monitoring Officer.

6.4

Where a Member does not take advice from any Legal officer of the Council but seeks other legal advice relating to whether to declare an interest, the member shall have the right to challenge the Monitoring Officer's decision, so that that decision shall not prevail, but allow a Court of Law, if necessary to adjudicate on the matter.

SECTION 7

EFFECT OF INTERESTS ON PARTICIPATION

7.1

DISCLOSABLE PECUNIARY INTERESTS.

When Members have a Disclosable Pecuniary Interest in any business of the Parish Council and they attend a meeting of the Council at which the business is considered, they must disclose to that meeting the existence and nature of that interest at the commencement of that meeting or when the interest becomes apparent, subject to the rules concerning Sensitive Interests (Section 8). Where they have not obtained a Dispensation (Section 9) they must withdraw from the chamber during discussion of the relevant business.

7.2

OTHER INTERESTS AND WHERE 'CLOSE ASSOCIATION' APPLIES.

When Members have an 'Other Interest', or where 'Close Association' applies, and they attend a meeting of the Council at which relevant business is considered, they must disclose to that meeting the existence and nature of that Interest or Close Association at the commencement of that meeting or when an Interest or Close Association becomes apparent, subject to the rules concerning Sensitive Interests (section 8). They can remain seated at the Council table, but unless they have been granted a Dispensation (Section 9) they can only provide points of information in the same way as a member of the public, but cannot give an opinion, nor take part in the discussion or vote.

SECTION 8

SENSITIVE INTERESTS

8.1

Where a Member has a Disclosable Pecuniary Interest or Other Interest and the nature of that interest is such that the Member and the Borough Council's Monitoring Officer, consider that disclosure of the details of the interest could lead to the Member, or a person connected with the Member, being subject to violence or intimidation, any published version of the Register will not include the details of the interest. The Register may state that the Member has an interest, but the details are withheld under Section 32 (2) of the Localism Act.

8.2

In the event that a matter relating to a sensitive interest as set out in section 8.1 above is being considered at a meeting, the Member is required to disclose the fact that they have an interest at the meeting, but not the nature of it, and then follow the procedure on non-participation as set out in Section 7.

8.3

Members must, within 28 days of becoming aware of any change of circumstances which means that information excluded under section 8.1 is no longer sensitive information, notify the Monitoring Officer asking that the information be included in Council's Register of Members' Interests.

SECTION 9

DISPENSATIONS

9.1

On a written request made to the Clerk, the Council may grant a Member a Dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has an interest, if the Council believes that, having regard to all the relevant circumstances, any of the following apply:

- a) without the dispensation the number of persons prohibited from participating in the particular business would be so great a proportion of the meeting transacting the business as to impede the transaction of the business;
- b) or granting the dispensation is in the interests of persons living in the Council's area; or
- c) it is otherwise appropriate to grant a dispensation.

9.2

Dispensation requests shall be in writing (preferably using the form available from the Clerk) and submitted to the Clerk as soon as possible before the meeting, or failing that, at the start of the meeting for which the dispensation is required.

9.3

A decision as to whether to grant a dispensation shall be made by the Council, or committee or sub-committee for which the dispensation is required and that decision is final. All Members, including a Member requesting the Dispensation, may vote.

9.4

A dispensation request shall confirm:

- i. the description and the nature of the Disclosable Pecuniary Interest or other interest to which the request for the dispensation relates;
- ii. whether the dispensation is required to participate at a meeting in a discussion only or a discussion and a vote;
- iii. the date of the meeting or the period (not exceeding four years) for which the dispensation is sought; and
- iv. an explanation as to why the dispensation is sought.

9.5

Any dispensation request shall be considered at the point set out in the Agenda for the meeting of the Council, or committee or sub-committee for such matters, which should be towards the beginning of the meeting, immediately after the Declarations of Interests have been made.

SECTION 10

COMPLAINTS CONCERNING THE CONDUCT OF MEMBERS

10.1

Where a complaint has been made against a Member then it shall automatically and without delay, be forwarded to the Monitoring Officer at Harrogate Borough Council for investigation.

10.2

The Member will co-operate fully and follow the procedures implemented by Harrogate Borough Council to resolve complaints, full details of which are available from the Monitoring Officer.

Please see Section 7 of the Standing Orders document for additional information on this matter.

APPENDIX 1

FURTHER GUIDANCE

The following items are included within this Code of Conduct to provide some clarification on specific circumstances where the conduct of Members could be called into question. It is not intended to be a comprehensive list of such matters.

1. Members must not do anything which may cause the Parish Council to breach any equality enactment.
2. Members must not do anything which compromises the impartiality of anyone who works for, or on behalf of the Parish Council, or do anything that is likely to compromise their impartiality.
3. Members must not disclose information which is given in confidence or which they believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless the Member has the permission of a person authorised to give it or is required by law to disclose the information. The Member may disclose it 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. Disclosure can be made if it is in the public interest and is made in good faith, but only after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality. Before disclosing any information, the Member must consult the Parish Clerk for advice. A Member

must not prevent another person gaining access to information which that person is entitled to by law.

4. A Member must not accept any gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon themselves as a Councillor. If they do accept any gift or hospitality which might be attributable to their membership of the Council (other than the refreshments which might usually be expected at Council meeting or civic function) they must disclose this, or any offer of such gift or hospitality, to the Monitoring Officer at Harrogate Borough Council.

5. Unless specifically authorised to do so by the Council, a Member shall not issue any order in respect of any works which are being carried out by, or on behalf of the Council.

6. Unless specifically authorised to do so by the Council, a Member may not claim by virtue of their being a Councillor any right to inspect or enter any land or premises which the Council has the power or duty to inspect or enter.

7. Unless duly authorised no Councillor shall inspect any land and/or other premises which the Council has a right or duty to inspect or issue orders, instructions or directions.

END OF DOCUMENT.