



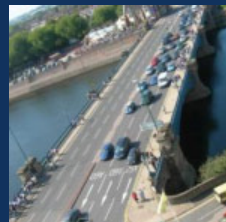
Rushcliffe
Borough Council



Rushcliffe Borough Council

Code of Conduct

Phillip Horsfield



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Why a new Code?

Localism Act 2011 abolished Standards Board for England and the model code of conduct. It also aimed to streamline the process for dealing with complaints

The Act requires that **‘relevant authorities’**:

- Must promote and maintain high standards of conduct – Section 27 (1)
- Adopt a code dealing with the conduct expected of Councillors (when acting as Councillors) - Section 27 (2)
- ‘Parish Councils’ are considered to be relevant authorities - Section 27(6)(d)



Code Principles

- Codes adopted must be consistent with the 7 Nolan principles of standards in public life:
 - ***Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership***
- Parish Council's given some freedom to determine their Code
- The Code must also include provisions 'the authority considers appropriate' for registering pecuniary and non pecuniary interests
- Details of pecuniary interests are set out in Regulations



Key points

- All Parishes have been operating their own Code for a while
- Borough Council has a Code
- Parish Councils can use the same Code or agree their own
- It is for the Parish Council to set the standards it expects and set them out clearly in their Code
- Parish Councillors must register their interests
- Both the Borough Council and the Parish Councils have to publish the register on website if they have one
- The RBC Code covers requirements in the DPI Regulations (i.e. the potential criminal offences for not disclosing)



Key elements

- The Disclosable Pecuniary Interests require registration of pecuniary interests if it:
 - *Is in the Members interest, or*
 - *Is in the interest of their spouse or civil partner, a person they are living with as husband or wife, or a person they are living with as spouse or civil partner*
 - *and the Member is aware that that other person has the interest*
- DCLG state that this gives an assurance that members are not putting their own interests ahead of those of the public



Key elements

- If a member has a disclosable pecuniary interest in a matter to be, or being considered at the meeting they may **not**:
 - *Participate in any discussion of the matter at the meeting, or*
 - *Participate in any vote taken on the matter at the meeting*



Complaints

- Complaints about Councillor Conduct must still be made to the Borough Council's Monitoring Officer in writing
- Borough Council has a Complaints procedure setting out how complaints will be handled
- The Borough Council has in place an 'Independent person' (Mr John Baggaley) whose views are sought and taken into account when an allegation is made



Investigations

- Matter for the Borough – Judgement matter for Parish and will have advice from Standards Committee
- Monitoring Officer make initial determination whether or not to investigate.



Sanctions

- Limited in range and is intended to allow self regulation
 - Report to Full Council
 - Remove from outside appointments
 - Recommend to Group Leader removal from Committee(s)
 - Withdraw facilities
 - Bar from offices and put on simple point of contact



Dispensations

- Parish/Town Council grant their own dispensations
- Can be granted for up to 4 years
- Only if:
 - So many members have DPI's that it would impede the transaction of the business
 - Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter.
 - The grant of the dispensation would be in the interests of the inhabitants of the Council's areas; or
 - It is otherwise appropriate to grant the dispensation



Predetermination

- Predisposition vs Predetermination!
- R v Bridgend CBC
 - “”they must approach their decision making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views



Predermination Continued...

- Localism Act 2011
 - A decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because
 - The decision maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter; and
 - The matter was relevant to the decision



Bias

- Common law concept:
 - “An attitude of mind that prevents the judge from making an objective determination”
(re:Medicaments (No2)(2001))
- Perception of bias:
 - Whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased (Porter v Maghill)