

Appendix 1 DRAFT UPDATED MEMBERS' CODE OF CONDUCT

SECTION 8 – CHESHIRE FIRE AUTHORITY: MEMBERS' CODE OF CONDUCT

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1. Introduction

- 1.1 Cheshire Fire Authority (the Authority) has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the Authority and its Members and co-opted Members.
- 1.2 The Code has been adopted as required by Section 27 of the Localism Act 2011 and is based around the following core principles contained in Section 28 of the Localism Act 2011 - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of Members Co-opted Members and Independent Members of the Authority, together with provisions about registering and declaring interests.
- 1.3 The Authority benefits from the input of Independent Members (non-political, non-councillors) who act in an advisory capacity. Whilst the criminal sanctions in the Act do not apply to Independent Members, Members decided that it was important that Independent Members were caught by certain parts of this Code.
- 1.4 Accordingly, Independent Members must, when acting in an advisory capacity take heed of Section 2 and disclose, at any meeting that they attend, any interests of the type outlined in Appendices 1, 2 and 3 of this Code and comply with the requirements relating to participation as if they were Members of the Authority.

2. General obligations

2.1 Whenever you are acting as a Member or co-opted Member of this Authority you must act in accordance with the following obligations:

1. *Selflessness*
 - (a) You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.
2. *Integrity*
 - (a) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
 - (b) You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.
3. *Objectivity*
 - (a) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
 - (b) You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the Authority's officers, into consideration.
4. *Accountability*
 - (a) You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.
 - (b) You must not bring your office or the Authority into disrepute whilst acting in your official capacity.
5. *Openness*
 - (a) You must be as open and transparent as possible about your decisions and actions and the decisions and actions of your Authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.
 - (b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted.

6. *Honesty*
 - (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in the Appendices to this Code.
 - (b) You must only use or authorise the use of the Authority's resources in accordance with the Authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. *Respect for others*
 - (a) You must treat others with respect. You should engage with colleagues and staff in a manner that underpins mutual respect, essential to good local government.
 - (b) You must not do anything which may cause your Authority to breach any equality laws.
 - (c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the Authority.
 - (d) You must not bully any person, including other councillors, officers of the Authority or members of the public.
8. *Leadership*
 - (a) You must promote and support high standards of conduct when serving as Member or co-opted Member of the Authority, by leadership and example, championing the interests of the community.
 - (b) You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

2.2 Information and Confidentiality

- (a) You must not disclose information given to you in the course of your role as a Member of the Fire Authority or information acquired by you when in that role which you believe, or ought reasonably to be aware, is confidential in nature, except where:

- 1.1 you have the consent of a person authorised to give it;

- 1.2 you are required by law to do so;
- 1.3 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
- 1.4 the disclosure is:
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Authority.

(b) You must not prevent another person from gaining access to information to which that person is entitled by law.

3. Registration of Disclosable of Interests

3.1 You must within 28 days of:

- (a) this Code being adopted by the Authority or
- (b) your appointment to the Authority or
- (c) a change to the descriptions of Disclosable Interest incorporated into this Code or
- (d) a declaration of a Disclosable Interest at a Meeting which has not previously been disclosed

3.2 Tell the Monitoring Officer in writing about the Disclosable Interests described in Appendices 1 and 3 of this Code that you have.

3.3 You must within 28 days of becoming aware of:

- (a) any new Disclosable Interests or
- (b) any change to a Disclosable Interest

of the kind described in Appendices 1 and 3 of this Code tell the Monitoring Officer in writing about the Disclosable Interests.

~~4. Declaration of Disclosable Interests/Participation in Decision Making~~

~~4.1 If you are present at a meeting and have a Disclosable Interest you must declare it in such a way as to make it clear what kind of Disclosable Interest it is and what you intend to do as a result of the declaration. You must not seek improperly to influence a decision and must comply with the following requirements:~~

~~4.2 You must make an oral declaration if an item of business affects or relates to a Disclosable Interest before the item of business is considered or as soon as it becomes apparent the item of business affects or relates to the Disclosable Interest.~~

~~4.3 When you declare a Statutory Disclosable Pecuniary Interest (as set out in Appendix 1) or a Non-Statutory Disclosable Pecuniary Interest (as set out in Appendix 2) you must leave the meeting when the matter related to the Statutory Disclosable Pecuniary Interest or Non-Statutory Disclosable~~

~~Pecuniary Interest is being considered and cannot take part in any discussion, nor vote.~~

~~4.4 When you declare a Disclosable Non-Pecuniary Interest (as set out in Appendix 3) and the matter being considered by the Authority could significantly affect the financial interests of the body in which you have an interest or relates to any kind of regulatory matter concerning that body you must not take part in any discussion, nor vote, though you can remain in the meeting and at the Chair's discretion may be allowed to make a short statement at the beginning of the agenda item (the length of which will be determined by the Chair).~~

4. Declaring of Interests and Participation in Meetings

Disclosable Pecuniary Interests

4.1 If you are present at a meeting and you have a Disclosable Pecuniary Interest (Statutory or Non-Statutory):

- (a) you must make a verbal declaration of that interest if an item of business affects or relates to that interest, at or before the item is considered or as soon as the interest becomes apparent;
- (b) you must not participate in the item at the meeting;
- (c) you must not vote on the item;
- (d) you must leave the room where the meeting is held during the item.

Note: if the interest is statutory and is not already registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Disclosable Non-Pecuniary Interests

4.2 If you are present at a meeting and you have a Disclosable Non-Pecuniary Interest:

- (a) you must make a verbal declaration of that interest if an item of business affects or relates to that interest at or before the item is considered or as soon as the interest becomes apparent
- (b) you may participate in and vote on the item of business unless the circumstances in (c) below apply
- (c) if the item involves something that significantly affects the financial interests of the body in which you have an interest or relates to a licensing or regulatory matter concerning that body
 - (i) you must declare your interest;
 - (ii) you must not participate in the item at the meeting;

(iii) you must not vote on the item.

Note: You are able to remain in the meeting and at the Chair's discretion may be allowed to make a short statement at the beginning of the item (the length of which will be determined by the Chair).

Note: If your interest is not already registered and is not the subject of a pending notification, you must notify the Monitoring Officer within 28 days.

5. Dispensations

- 5.1 The Governance and Constitution Committee may provide a dispensation to allow Members to take part in a debate if the effect of compliance with this Code would be to cause a disproportionate number of members of a political group and/or a constituent Authority to be required to withdraw from a debate and be unable to vote after they had disclosed and/or declared a Disclosable Interest.

6. Sensitive Interests

- 6.1 Where you consider that disclosure of the details of a Disclosable Interest could lead to you or a person connected with you being subject to violence or intimidation and the Monitoring Officer agrees that it is a "sensitive interest", you need only declare the fact that you have a Disclosable Interest but not the details of that Disclosable Interest. Copies of the public register of interests may state that you have an interest the details of which are withheld.

7. Publication of the Register of Members' Interests

- 7.1 The Disclosable Interests that you disclose will be published by the Authority in a Register of Members' Interests. The Register will be made up of copies of the notice of disclosable interests that you have provided but will not include personal information related to anyone but you and will not include your signature.

8. Gifts and Hospitality

- 8.1 You must within 28 days of receipt notify the Monitoring Officer of any gift benefit or hospitality with an estimated value of £50 or more which you have accepted as a Member from any person or body other than the Authority. The notification will be entered on a public register of gifts and hospitality.

9. Member/Officer Protocol

- 9.1 You must observe the requirements of any Member/officer protocol that is in existence from time to time.

10. Constitution

- 10.1 Because this Code forms part of the Authority's Constitution it not only enhances the statutory position set out in the Localism Act 2011 (and secondary legislation associated with that Act) but means that Members are specifically required to comply with it.

Definitions

Member	A Councillor appointed to Cheshire Fire Authority by a Constituent Authority. And a Co-opted Member.
Co-opted Member	A person who is not a member of the Authority but either is a member of any of its committees or sub committees or a member of and represents the Authority on a joint committee or joint sub committees of the Authority and who is entitled to vote at such meetings.
Independent Member	A person who acts in an advisory role (who is not a Member or Co-opted Member).
Meeting	Any meeting of the Authority or any of its committees, sub committees, joint committees or joint sub committees.
Disclosable Interests	Means those interests described in Appendices 1, 2, and 3 of this Code.
Constituent Authority	Cheshire East Borough Council, Cheshire West and Chester Borough Council, Halton Borough Council and Warrington Borough Council.
Member of your Family	This will include a parent in-law, a son or daughter, a stepson or step daughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.
Close Associate of Yours	Is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone that a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects the close associate of yours. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.
Partner	Your spouse or civil partner, a person you live with as husband and wife or a person you live with as if you are civil partners.
Sensitive Interests	This is described in the Localism Act 2011 as an interest whose disclosure 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.

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Appendices

Disclosable Interests

Appendix 1 – Statutory Disclosable Pecuniary Interests

Statutory Disclosable Pecuniary Interests relate to you and your partner

YOU			
YOUR PARTNER where you are aware of your partner's interest	Partner means: Your spouse or civil partner	Partner means: A person who you live with as husband and wife	Partner means: A person who you live with as if you are civil partners

Subject	Description
EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION	Any employment, office, trade, profession or vocation carried on for profit or gain by YOU or YOUR PARTNER.
SPONSORSHIP	Any payment or provision of any other financial benefit (other than from the Fire Authority) in respect of expenses incurred by YOU in carrying out your duties as a Member, or towards the election expenses incurred by YOU. (this includes any payment or financial benefit from a trade union)
CONTRACTS	Any contract between YOU or YOUR PARTNER (or a body in which YOU or YOUR PARTNER have a beneficial interest) and the Fire Authority. (for which goods or services are to be provided or works are to be carried out and which has not been completed)
LAND	Any beneficial interest in land which is within the area of the Fire Authority that YOU or YOUR PARTNER has.
LICENCES	Any licence to occupy land which is within the area of the Fire Authority that YOU or YOUR PARTNER has.
CORPORATE TENANCIES	Any tenancy of land which is within the area of the Fire Authority where (YOU know) that the Fire Authority is the landlord and the tenant is a body in which YOU or YOUR PARTNER have a beneficial interest.
SECURITIES	Any beneficial interest in the securities of a body that YOU or YOUR PARTNER has where (YOU know) that the body has a place of business or land within the area of the Fire Authority and either: The total value of the securities exceeds £25,000, or a hundredth of the total issued share capital.

(These matters are prescribed in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

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Appendix 2

Non-Statutory Disclosable Pecuniary Interests

Non-Statutory Disclosable Pecuniary Interests relate to a Member of your Family (other than your Partner – who is covered by the Statutory Disclosable Pecuniary Interests) or a Close Associate of Yours and are listed in the table below:

Subject	Description
EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION	Any employment, office, trade, profession or vocation carried on for profit or gain by a Member of Your Family or a Close Associate of Yours.
CONTRACTS	Any contract between a Member of Your Family or a Close Associate of Yours (or a body in which a Member of Your Family or a Close Associate of Yours has a beneficial interest) and the Fire Authority (for which goods or services are to be provided or works are to be carried out and which has not been completed)
LAND	Any beneficial interest in land which is within the area of the Fire Authority that a Member of Your Family or a Close Associate of Yours (or a body in which a Member of Your Family or a Close Associate of Yours) has.
LICENCES	Any licence to occupy land which is within the area of the Fire Authority that a Member of Your Family or a Close Associate of Yours (or a body in which a Member of Your Family or a Close Associate of Yours) has a beneficial interest.
CORPORATE TENANCIES	Any tenancy where (YOU know) that the Fire Authority is the landlord and the tenant is a Member of Your Family or a Close Associate of Yours (or a body in which a Member of Your Family or a Close Associate of Yours) has a beneficial interest within the area of the Fire Authority..
SECURITIES	Any beneficial interest in the securities of a body in which a Member of Your Family or a Close Associate of Yours have a beneficial interest where (YOU know) that the body has a place of business or land within the area of the Fire Authority and either: The total value of the securities exceeds £25,000, or a hundredth of the total issued share capital.

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Appendix 3

Disclosable Non-Pecuniary Interests

Disclosable Non Pecuniary Interests relate to or are likely to affect:

Any body of which you are a member or in a position of general control or management which:

- exercises functions of a public nature, and/or
- is directed to a charitable purpose, and/or
- has a principal purpose of influencing of public opinion or policy (including any political party or trade union), and/or
- you are appointed to or nominated for by the Authority

Note: A Member that donates to a charity will not be deemed to have a Disclosable Interest in that charity solely because of the donation or donations (i.e. whether it is a one-off or continuing arrangement).

Appendix 4

Law Relating to Statutory Disclosable Pecuniary Interests

Section 34 of the Localism Act sets out certain offences relating to Statutory Disclosable Pecuniary Interests. It appears below with annotations which reference extracts of other sections of the Act.

34 Offences

- (1) A person commits an offence if, without reasonable excuse, the person:-
 - (a) fails to comply with an obligation imposed on the person by section 30(1) (*See below – Extract Number 1*) or 31(2) (*See below – Extract Number 2*), (3) (*See below – Extract Number 3*) or (7) (*See below – Extract Number 4*),
 - (b) participates in any discussion or vote in contravention of section 31(4), (*See below – Extract Number 5*).or
 - (c) takes any steps in contravention of section 31 (8) (*See below – Extract Number 6*).
- (2) A person commits an offence if under section 30(1) (*See below – Extract Number 1*) or 31(2) (*See below – Extract Number 2*), (3) (*See below – Extract Number 3*) or (7) (*See below – Extract Number 4*) the person provides information that is false or misleading and the person:-
 - (a) knows that the information is false or misleading, or
 - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years –
 - (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed.

Notes

Level 5 on the standard scale is currently £5,000.

Sections 30(1), 31(2), 31(3), 31(4), 31(7) and 31(8) are reproduced below:

Extract Number 1 – Disclosure of pecuniary interests on taking office

30(1) *A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.*

Extract Number 2 – Pecuniary interests in matters considered at meetings or by a single member

31(2) *If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).*

Extract Number 3 – Pecuniary interests in matters considered at meetings or by a single member

31(3) *If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.*

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Extract Number 4 – Pecuniary interests in matters considered at meetings or by a single member

31(7) *If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.*

Extract Number 5 – Pecuniary interests in matters considered at meetings or by a single member

31(4) *The member or co-opted member may not –*

- (a) participate, or participate further, in any discussion of the matter at the meeting, or*
- (b) participate in any vote, taken on the matter at the meeting*

but this is subject to section 33.

Extract Number 6 – Pecuniary interests in matters considered at meetings or by a single member

31(8) *The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by members).*