



# Stratfield Mortimer Parish Council

## Code of Conduct

### Interpretation

- 1 This is the Code of Conduct of Stratfield Mortimer Parish Council and adopts the definitions in the Council's Policy Guidance and Glossary.

### Introduction

- 2 The Council has adopted this Code in accordance with the duty in the 2011 Act to promote and maintain high standards of behaviour by Subject Members.
- 3 It is a Subject Member's personal responsibility to comply with this Code.
- 4 This Code is consistent with and based upon the Principles of Public Life (also known as the Nolan Principles): selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
- 5 The Appendices hereto form part of this Code.

### Obligations

- 6 A Subject Member has the following obligations:
  - 6.1 to behave in accordance with the Principles of Public Life;
  - 6.2 to behave in such a way that a reasonable person would regard as respectful;
  - 6.3 not to act in a way which a reasonable person would regard as bullying (including but not limited to offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group);
  - 6.4 not to seek to improperly confer an advantage or disadvantage on any person;
  - 6.5 to use the resources of the Council in accordance with its requirements;
  - 6.6 not to disclose information which is confidential or where disclosure is prohibited by law.

### Registration of Interests

- 7 A Subject Member shall register with the Monitoring Officer (via the Clerk) their Registerable Interests, or any amendment or addition thereto, within 28 days of:
  - 7.1 their election, re-election, or co-option, as the case may be; or
  - 7.2 becoming aware of any change or addition to their Registerable Interests; but
  - 7.3 they need only declare the existence, and not the details, of any Interest that the Monitoring Officer agrees is a Sensitive Interest.

## Declaration of Interests

- 8 Where a Matter relates to:
  - 8.1 a Disclosable Pecuniary Interest of a Subject Member, that Subject Member shall not participate in any discussion or vote on the Matter;
  - 8.2 an Other Registerable Interest or a Related Interest of a Subject Member, that Subject Member may only speak upon the Matter to the same extent as a member of the public would be allowed to speak, and shall not otherwise participate in any discussion or vote on the Matter;
  - 8.3 a Personal Interest of a Subject Member, that Subject Member may speak and vote upon the Matter.
- 9 Where the matter arising relates to a Registerable Interest that has been registered in accordance with Paragraph 7, or to a Personal Interest, the Subject Member is not obliged, but is encouraged, to declare the Interest in relation to the Matter at the Meeting (unless it is a Sensitive Interest).
- 10 Where the matter arising relates to a Registerable Interest that has not been registered in accordance with Paragraph 7, the Subject Member must declare the Interest in relation to the Matter at the Meeting (with limited disclosure if it is a Sensitive Interest) and then register it in accordance with Paragraph 7.

## Dispensations

- 11 On a written request made to the Proper Officer, the Council may grant a Subject Member a Dispensation if the Council believes:
  - 11.1 that the number of Subject Members otherwise prohibited from taking part in such discussion and vote would impede the transaction of the business; or
  - 11.2 it is in the interests of the inhabitants in the Council's area to allow the Subject Member to take part; or
  - 11.3 it is otherwise appropriate to grant a Dispensation.
- 12 It should be noted that *Openness and Transparency on Personal Interests* (Ministry of Housing, Communities and Local Government) makes it clear that neither, (a) any payment of, or liability to pay, council tax, or (b) being a homeowner or tenant in the Parish, creates a Disclosable Pecuniary Interest requiring a Dispensation to take part in the business of setting a Precept.

## Gifts and Hospitality

- 13 Subject Members must disclose and record any gift or hospitality they are offered or receive in accordance with the Gifts and Hospitality Protocol set out at Appendix C of this Code.

## Breaches of this Code

- 14 Alleged breaches of this Code shall be dealt with in accordance with the WBC Procedure for Local Determination of Allegations.

## Appendix A - Disclosable Pecuniary Interest

This table sets out the definitions of Disclosable Pecuniary Interests further to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Prescribed description
Employment, office, trade, profession or vocation	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 Council) made or provided within the relevant period in respect of any expenses incurred by the Subject Member ("SM") in carrying out duties as a member, or towards the election expenses of the SM (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 SM's partner/spouse (or a body in which the SM's partner/spouse has a beneficial interest) and the Council: (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 Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to the SM's knowledge): (a) the Council is the landlord; and (b) the tenant is a body in which the SM's partner/spouse has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to the SM'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 SM's partner/ spouse has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## Appendix B – Other Registerable Interest

- 1 An interest which relates to or is likely to affect any body of which the Subject Member is a member or is in a position of general control or management and:
  - 1.1 to which they are appointed or nominated by the Council; or
  - 1.2 which exercises functions of a public nature; or
  - 1.3 which is directed to charitable purposes; or
  - 1.4 one of which's principal purposes includes the influence of public opinion or policy (including any political party or trade union).
- 2 Any gifts or hospitality worth more than an estimated value of £25 which the Subject Member has received by virtue of their office.

## Appendix C – Gifts and Hospitality Protocol

### 1 Introduction

- 1.1 This Protocol is to ensure that the Council can demonstrate that no undue influence has been applied, or could be said to have been applied, by any supplier or anyone else dealing with the Council and its stewardship of public funds.
- 1.2 This Protocol sets out a Subject Member's obligations to declare any relevant gifts and hospitality which might be offered to or received by them, or to their spouse or partner, as a result of their being a Subject Member (the corollary being that gifts and hospitality offered to a Councillor in their private capacity, of whatever value, do not need to be registered at all).
- 1.3 This Protocol does not apply to facilities or hospitality provided to a Councillor by the Council.
- 1.4 It is the Subject Member's responsibility to ensure any gifts and hospitality received or offered to them or their spouse/partner are declared to the Clerk in writing by email.
- 1.5 A breach of this Protocol amounts to a breach of the Code and a complaint can be reported to the Monitoring Officer and dealt with in accordance with the process for alleged breaches of the Code.

### 2 The Rules

- 2.1 A Subject Member or their spouse/partner must never:
  - accept a gift or hospitality as an inducement or reward for anything which they do as a Subject Member;
  - accept a gift or hospitality which might be open to misinterpretation;
  - accept a gift or hospitality which puts them under an improper obligation;
  - solicit a gift or hospitality.
- 2.2 Prior to the acceptance of any hospitality with a value of £25 or more, a Subject Member should, whenever possible, seek authorisation from the Clerk, and only if consent has been given should the Subject Member or their spouse/partner accept the hospitality.
- 2.3 Transparency is the issue: Subject Members should always consider whether any gifts or hospitality could be seen as being connected with their public role as a Subject Member. It is public perception that matters.
- 2.4 A Subject Member must register every individual gift or item of hospitality over £25 in value that is offered to them and indicate whether or not it was accepted.
- 2.5 A Subject Member's registration of the gift or hospitality must be made within 28 days of the date of offer or receipt as the case may be.
- 2.6 Registration is made by a declaration in writing to the Clerk by email, and giving details of:
  - the value (or estimated value) and details of the gift or hospitality offered or received;

- if the gift or hospitality has been accepted, the reason for that acceptance;
  - whether to the Subject Member's knowledge the donor of the gift has, or has had in the past, or is likely to have in the future, dealings with the Council.
- 2.7 A Subject Member should be aware of serial givers or repeat offers of hospitality as these may indicate a pattern of behaviour that might result in a breach of the Code of Conduct.
- 2.8 An offer of a gift or hospitality that appears over-generous must be declined; it could be seen as an inducement to affect a Council decision.
- 2.9 Even if all Subject Members, or a large number of them, are offered or receive the same gift or hospitality, they must each make individual notifications (the press and public have the right to inspect gift and hospitality declarations as submitted, and the Clerk may not edit the declarations).

### 3 Guidance

#### 3.1 Accept or not?

It is not sufficient just to register gifts or hospitality; a Subject Member must consider whether it is appropriate or sensible to accept them in the first place (whether it must be declared or not) - the general test of caution is one of common sense and perception: ie would a reasonable member of the public question the appropriateness of hospitality or gifts offered to or received by the Subject Member or their spouse/partner?

If a Subject Member is concerned the acceptance could be misinterpreted they must decline the gift/hospitality and declare it.

A Subject Member or their spouse/ partner must never solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts them under any obligation, and particular care must be taken in relation to gifts and hospitality offered by current or potential contractors for the Council - in certain cases, the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement, then the matter must be reported in accordance with established procedures.

(The Bribery Act 2010 has offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery). The offences consist of "promising, offering or giving" or "requesting, agreeing to receive or accepting an advantage (financial or otherwise)" in circumstances involving the improper performance of a relevant function or activity. In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years' imprisonment or an unlimited fine for these offences.)

#### 3.2 Registration

A Subject Member must register any gift or hospitality worth £25 or more that they or their spouse/partner are offered, and whether it was accepted. Where the value of any gift or hospitality is under £25 a Subject Member may wish to declare receiving it.

### 3.3 Non-acceptance

A Subject Member must register any offer of gifts and/or hospitality over £25 even if declined, since this protects both their position and that of the Council.

### 3.4 Value

A Subject Member may have to estimate how much a gift or some hospitality is worth in their written declaration. It is suggested that they take a common sense approach, and consider how much they reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result they estimate that the value is £25 or more, then the Subject Member must declare it.

Where hospitality is concerned, a Subject Member can disregard catering on-costs and other overheads, eg staff and room hire. If the refreshments, of whatever kind, would cost £25 or more in a comparable establishment providing food of comparable quality, the Subject Member must register it.

If a Subject Member is not certain whether the value is under £25, the safest course of action is to register it and give an approximate value.

There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if a Subject Member or their spouse/ partner receive a series of related gifts which are all under £25, but together total above £25, then they must register them if they are from the same person. If the small gifts offered by or received from different persons are connected in some way, it is good practice to register them.

### 3.5 Process

A Subject Member must give the Clerk written details about the gifts and hospitality they or their spouse/ partner are offered by email. The best advice is to get into the habit of registering things as soon as possible.

### 3.6 Outside bodies

A Subject Member must also consider that they might be offered gifts and hospitality in their capacity as the Council's representative on an outside body. It is a Subject Member's responsibility to ensure that they declare any gifts and hospitality in accordance with that organisation's rules and procedures (and to consider whether any offer or acceptance of gifts or hospitality need to be declared to both the Council and the outside body).

### 3.7 Failure to declare

Failure to notify the Clerk of the offer or receipt of a gift or hospitality with a value of £25 or more is a breach of this Protocol and consequently also a breach of the Code.

### 3.8 Public access

The register of declared gifts and hospitality is available to the public in the same way as the Register of Interests.