

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS

1.	Meeting:	Standards Committee
2.	Date:	8 March 2012
3.	Title:	ACSeS Draft Code of Conduct
4.	Directorate:	Resources' Directorate

5. Summary

The second draft version of the ACSeS model code of conduct is appended for members' consideration.

6. Recommendations

IT IS RECOMMENDED that consideration be given as to whether the draft ACSeS model code of conduct should form the basis of the Council's code of conduct.

7. Proposals and details

The statutory model code of conduct adopted by the Council will be repealed following the bringing into force of section 27 (duty to promote and maintain high standards of conduct) of the Localism Act 2012. Section 27 (2) requires the Council to adopt a code of conduct for this purpose. The section is expected to come into force on 1 July 2012.

The latest draft ACSeS (see Appendix 1) broadly follows the statutory model, although some provisions have not been included and the order has been rearranged. The monitoring officer considers that there is merit in adopting paragraphs 1 – 7 of the statutory code, with any necessary modifications, as members and co-opted members are familiar with this format.

The ACSeS model requires a member or co-opted member to declare any personal interest (save for sensitive personal interests) during the meeting. In contradistinction the 2012 Act only requires a member with a disclosable personal interest (DPI) to disclose it during the meeting if the DPI has not been registered or the member has not sent off a request to the monitoring officer to register it (a “pending notification”). The ACSeS model therefore goes beyond what the legislation will require.

A member with a DPI may be required to withdraw from a meeting where the Council’s Standing Orders provide for his or her exclusion from the meeting while the item is discussed or voted upon.

It is worth noting that although a member is not required to disclose a DPI in the above circumstances, a member commits a criminal offence if without reasonable excuse the member takes part in the discussion of an item of business in which he or she has a DPI or votes on the item.

There is no legal impediment to the Council requiring members and co-opted members to declare personal interests (including DPIs) during a meeting, say through a provision in standing orders, but this raises the question of the appropriate sanction (if any) for breach given that the sanction for breach of a DPI is prescribed by law.

8. Finance

There will be some costs associated with the transition from the current arrangements to the new arrangements.

9 Risks and Uncertainties

It is expected that the new arrangements will take effect from 1 July 2012. Consequently, in order to comply with the Council’s obligations under the 2011 Act, it will be necessary to have a code of conduct and the democratic machinery in place to avoid breach of the Act.

10 Policy and Performance Agenda Implications

Having a standards committee and code of conduct for members and co-opted members supports the objective of being an effective council and is a component of good governance.

11 Background Papers and Consultation

Localism Act 2011

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APPENDIX 1

A 1st Draft Code of Conduct for Members of Newcastle upon Tyne City Council

The Council of the City of Newcastle upon Tyne (“the Council”) has adopted the following code which has effect from 1 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council but is not one of its elected members

The code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

General Conduct

1. You must treat others with respect.
2. You must not bully any person and you must not intimidate or attempt to intimidate any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in the annex to this Code.
7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council’s reasonable

requirements and must ensure they are not used improperly for political purposes (including party political purposes).

8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) 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
 - (d) The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

Registration of Interests

11. Subject to paragraph 13, you must register in the Council's Register of Members Interests information about your personal interests. In this code of conduct 'your personal interests' means:
 - (a) any 'Disclosable Pecuniary Interest' (as defined by any statutory provision in force from time to time) which you know about and which is held by
 - you, or
 - your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners; and
 - (b) Any other interests held by you as set out in paragraph 12,

You must register information about your personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
 - any change taking place in your personal interests.
12. The following are personal interests for the purposes of paragraph 11(b):

- (a) Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
 - (b) Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
 - (c) Any business which you are involved in carrying on;
 - (d) Any partnership of which you are a partner;
 - (e) Any employer for whom you work;
 - (f) Any contract for goods, services or works between the Council and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
 - (g) Any person (other than the Council) who has made a payment to you in connection with you carrying out your duties as a Council Member;
 - (h) Any land in the Council's area in which you have a beneficial interest or a licence to occupy;
 - (i) Any land owned by the Council of which you are the tenant or licensee;
 - (j) Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.
13. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

Declaration of Interests

14. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 13, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
15. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature

of that interest at the start of that item of business, or when the interest becomes apparent, if later.

16. The persons referred to in paragraph 15 are:
 - (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
17. You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

Annex to Code of Conduct

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

[Insert here names of any relevant Protocols]