

*Old St. Mellons Community Council*



# **CODE OF CONDUCT**

**FOR MEMBERS OF**

**OLD ST MELLONS COMMUNITY COUNCIL**

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## INTRODUCTION

Part III of the Local Government Act 2000 established a new ethical framework for local government in Wales.

Section 49(2) of the Act provides that the National Assembly for Wales may specify the principles which are to govern the conduct of elected and co-opted members of County Councils and community Councils in Wales. The principles are contained in the Conduct of Members (Principles) (Wales) Order 2001 and are reproduced on pages 4 and 5. These principles articulate the fundamental values of public service that underpin the conduct of local government members.

Section 50 of the Act provides that the National Assembly may issue a model code as regards conduct which is expected of elected and co-opted members of County Councils and Community Councils in Wales. Section 50 also enables the Assembly to revise any such model code which has been issued. The model code must be consistent with the principles referred to above.

The Conduct of Members ( Model Code of Conduct ) (Wales) Order 2001, which came into force on 28 July 2001, prescribed a model code as regards the conduct expected of elected and co-opted members of County Councils and Community Councils. Following a review of the operation of the model code, the Local Authorities (Model Code of Conduct) (Wales) Order 2008 was made on 20 March 2008 and introduced a revised model code of conduct.

The Local Government

Act 2000 provides that County Councils and Community Councils must adopt a Code of Conduct, which includes each of the provisions contained in the model code of conduct, within 6 months from the date on which the Order was made.

All elected and co-opted members of County Councils and Community Councils must give an undertaking to abide by the code that their authority has adopted.

# THE PRINCIPLES GOVERNING THE CONDUCT OF ELECTED AND CO- OPTED MEMBERS OF LOCAL AUTHORITIES IN WALES

*(These do not form part of the code but are included for completeness).*

## **1 Selflessness**

Members must act solely in the public interest. They must never use their position as members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

## **2 Honesty**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

## **3 Integrity and Propriety**

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

## **4 Duty to Uphold the Law**

Members must act to uphold the law and act on all occasions in accordance with the trust the public has placed in them

## **5 Stewardship**

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently

## **6 Objectivity in Decision –making**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make their decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

## **7 Equality and Respect**

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people , regardless of their gender, race, disability, sexual orientation, age or religion, and to show respect and consideration for others.

## **8 Openness**

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

## **9 Accountability**

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

# CODE OF CONDUCT FOR MEMBERS OF OLD ST MELLONS COMMUNITY COUNCIL

## PART 1

### INTERPRETATION

1. In this code-

**“meeting”** means any meeting

(a) of the relevant authority,

(b) of any committee, sub –committee, joint committee or working party or any such committee of the authority, or

(c) Where members or officers of the relevant authority are present

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of the authority;

**“member” includes**, unless the context requires otherwise, a co-opted member;

**“relevant authority”** means-

(a) a county council,

(b) a community council

**“your authority”** means the relevant authority of which you are a member or co-opted member.

2. In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county council which has functions in relation to Old St Mellons Community council for which it is responsible under section 56(2) of the Local government Act 2000

## PART 2

### GENERAL PROVISIONS

1. Save where paragraph 3( s) applies, you must observe this code of conduct-
  - (a) whenever you conduct the business , or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) Whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1) (a) and 7
2. You should read this code together with the general principles prescribed under section 49(2) of the Local government Act 2000 in relation to Wales.
3. Where you are elected, appointed or nominated by your authority to serve-
  - (a) on another relevant authority, or any other body, you must comply with the code of conduct of that body.
  - (b) on any other body which does not have a code of conduct, comply with this code of conduct.
4. You must-
  - (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (e) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
5. You must not-
  - (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of the person authorised to give such consent, or unless required by law to do so;
  - (b) prevent any person from gaining access to information to which that person is entitled by law.

**6. You must-**

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, on behalf of your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) Not make vexatious, malicious or frivolous complaints against other members or anyone who works for or on behalf of your authority
- (e) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

**7. You must not-**

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority-
  - (i) imprudently
  - (ii) in breach of your authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
  - (v) improperly for political purposes); or
  - (vi) improperly for private purposes.

**8. You must-**

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the merits of the circumstances involved and in the



public interest having regard to any relevant advice provided by your authority's officers, in particular by-

(i) the clerk to the community council

(ii) the responsible finance officer

(ii) the authority's monitoring officer

(iv) the authority's chief legal officer

(b) Give reasons for all decisions in accordance with any statutory requirements.

**9.** You must-

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as civic reception, material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

## PART 3

### INTERESTS

#### Personal Interests

1. You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
  
2. You must regard yourself as having a personal interest in any business of your authority if-
  - (a) it relates to, or is likely to affect-
    - (i) any employment or business carried on by you;
    - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
    - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
    - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of one hundredth of the total issued share capital of that body;
    - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
    - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (viii) anybody to which you have been elected, appointed or nominated by your authority;
    - (ix) any-
      - (aa) public authority or body exercising functions of a public nature;

- (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
- (cc) body whose principal purposes include the influence of public opinion or policy;
- (dd) trade union or professional association; or
- (ee) private club, society or association operating in your authority's area, in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) member of the public might reasonably perceive a conflict between your role in taking a decision upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or

(c) a decision upon which it might be reasonably be regarded as affecting-

- (i) Your wellbeing or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
- (ii) Any employment or business carried on by persons as described in 2. (c) (i)
- (iii) Any person who employs or has appointed such persons described in 2. (c) (i), any firm in which they are a partner, or any company of which they are directors;
- (iv) Any corporate body in which persons as described in 2. (c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) Anybody listed in 2. (a) (ix) (aa) to (ee) in which persons described in 2. (c) (i) hold a position of general control or management, to a greater extent than the majority of-

other pre-cept payers or inhabitants of the authority's area affected by the decision.

## Disclosure of Personal Interests

1. Where you have a personal interest in any business of your authority and you attend a meeting or which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
2. Where you have a personal interest in any business of your authority and you make-
  - (a) written representations (whether by letter, email) to a member or an officer of your authority regarding that business, you should include details of that interest in the written communication; or
  - (b) oral representations (whether in person or some form of electronic communication) to a member or an officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest within 14 days of the representation.
3. Where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
4. You must, in respect of a personal interest not previously disclosed, before or immediately after the close of the meeting where the disclosure is made give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but , as a minimum containing-
  - (a) details of the personal interest;
  - (b) details of the business to which the personal interest relates; and
  - (c) your signature.
5. Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, your obligations under this section to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
6. For the purposes of sub –paragraph 4., a personal interest will only be deemed to have been previously disclosed if written notification has been provided in

accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

7. For the purposes of sub –paragraph 3. where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### Prejudicial Interests

1. Subject to sub –paragraph 2. below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
2. Subject to sub-paragraph 3., you will not be regarded as having a prejudicial interest in any business where that business-

(a) relates to-

- (i) another relevant authority of which you are a member;
- (ii) another relevant public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (vi) Your role as a member of a Local Health Board where you have not been appointed or nominated by your authority.

(b) relates to-

Your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

2. the exemptions in sub-paragraph 2 (a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

## Participation in Relation to Disclosed Interests

1. Subject to sub –paragraphs 2. 3. and 4., where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority’s standards committee-
  - (a) withdraw from the room, chamber or place where a meeting considering the business is being held-
    - (i) where sub –paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
    - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
  - (b) not exercise executive or board functions about that business;
  - (c) not seek to influence a decision about that business;
  - (d) Not make any written representations (whether in person or some form of electronic communications) in respect of that business; and
  - (e) Not make any oral representations (whether in person or some form of electronic communication) in respect of that business becomes apparent.
2. Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
3. Sub –paragraph (1) does not prevent you attending if-
  - (a) you are required to attend to attend a meeting of an overview or security committee, by such committee exercising its statutory powers; or
  - (b) you have a benefit of a dispensation provided that you-
    - (i) state at the meeting that you are relying on the dispensation; and
    - (ii) before or immediately after the close of the meeting give written notification to your authority containing-
      - (aa) details of the prejudicial interest;

- (bb) details of the business to which the prejudicial interest relates;
  - (cc) details of, and the date on which the prejudicial interest relates;
  - (dd) details of, and the date on which, the dispensation was granted; and your signature.
4. Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

## **REGISTRATION OF GIFTS AND HOSPITALITY**

You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage.

## **AMENDMENTS – Register of Interests, Consequential amendments, Reporting a breach**

### Amendment to Model Code of Conduct - Adopted by OSMCC 14<sup>th</sup> July 2016

*Recent amendments to the statutory Model Code of Conduct (made by the Amendment Order SI 2016/84 issued on 27<sup>th</sup> January 2016) that all local authorities, including Community Councils, are under a statutory duty to have adopted a revised Code of Conduct by passing a Council resolution to this effect by no later than 26<sup>th</sup> July 2016; and must give public notice of their revised Code in accordance with the requirements of section 51 of the Local Government Act 2000.*

*Key changes to the Model Code which are of particular relevance to Members of Community Councils:*

#### **i. Register of Interests**

You will recall that the ‘Proper Officer’ of each Community Council (usually the Clerk) is responsible for maintaining a Register of Interests (this responsibility was transferred from the Monitoring Officer to the Proper Officer of each Community Council by the Local Government (Democracy) (Wales) Act 2013 with effect from 1st May 2015). The requirements for what is to be included in a Community Council’s Register of Interests have now been confirmed: *Any personal interest disclosed for the first time must be notified in writing and entered in the Members’ register of interests held by the Proper Officer of your Council.* This means that, whilst Community Councillors do not have to register their interests in advance (as County Councillors are obliged to do under paragraph 10(2)(a) of the Code), any interest in the business of your Council which a Community Councillor discloses (under paragraph 11 of the Code) must be registered in the Register of Interests by providing written notification to the Proper Officer.

#### **ii. Consequential amendments**

have been made to the Code to reflect the transfer of responsibility for the maintenance of Community Councils’ Registers of Interests from the Monitoring Officer to the ‘Proper Officer’ of each Community Council.

#### **iii. Reporting a breach**

The obligation on all Members (County Councillors and Community Councillors) to report a potential breach of the Code to the Ombudsman is removed, in recognition and support of the operation of local complaints protocols. However, this does not prevent a member from quite properly reporting a potentially serious breach of the Code to the Ombudsman. The requirement to report a breach to the Monitoring Officer is retained.