



Seaton Town Council Constitution

Chapter 5 Members' Code of Conduct

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Introduction and Interpretation

This Members' Code of Conduct ('the Code') is based on the Model Code of Conduct produced by the Local Government Association ('LGA') and adopted by Seaton Town Council ('the Council').

As a councillor, and representative of the Council, it is your responsibility to comply with the Code when you undertake or claim to be undertaking Council business or give the impression that you are undertaking Council business.

As a representative of this Council your actions impact how the Council is viewed by the public. Therefore, it is important you do not do anything – when undertaking Council business – which you could not justify to the public. It is not enough to avoid actual impropriety; you should also avoid any cause for suspicion or appearance of improper conduct.

The Code is based upon the seven principles of public life ('the Nolan Principles'), as set out in Appendix A to the Code. You should have regard to those principles when fulfilling your role.

Definitions

For the purposes of the Code, a "councillor" means a member or co-opted member of the local authority. A "co-opted member" is defined in the Localism Act 2011 Section 27 (4) as "a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee."

For the purposes of the Code, "local authority" includes county councils, district councils, London borough councils, parish councils, city and town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and national park authorities.

Purpose of the Code of Conduct

The purpose of the Code is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, the Council's staff and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority staff ('officers') should uphold

the Nolan Principles.

Building on the Nolan Principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions, I will:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role, I will:

- impartially exercise my responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently, in accordance with the public interest.

Application of the Code of Conduct

The Code applies to you as soon as you sign your declaration of acceptance of office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code applies to you when you are acting in your capacity as a councillor or when you are claiming or giving the impression that you are acting as such in public or in your capacity as a member or representative of the Council, although you are expected to uphold high standards of conduct and show leadership at all times.

The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.

Councillors are encouraged to seek advice from the Town Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

Civility

As a councillor, I will:

- **treat other councillors and members of the public with respect.**
- **treat officers, employees and representatives of partner organisations and those volunteering for the Council with civility and will respect the roles they play.**

Civility means politeness and courtesy in behaviour, speech and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise, disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return, you have a right to expect courtesy from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to close down any conversation in person or online and report them to the Council, the relevant social media provider and, if appropriate, the police. This also applies to fellow councillors, where action could then be taken under the Code.

Bullying, harassment and discrimination

As a councillor, I will:

- **not bully any person**
- **not harass any person**
- **promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service ('ACAS') characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Equality Act 2010 ('the 2010 Act') defines 'harassment' as unwanted contact related to a protected characteristic. Protected characteristics are specific aspects of a person's identity defined in the 2010 Act as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The 2010 Act places specific duties on local authorities. Councillors have a central role in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Impartiality of officers of the Council

As a councillor, I will:

- **not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council**

Officers work for the Council as a whole and must be politically neutral. They should not be coerced or persuaded to act in a way that would undermine their neutrality. Although you can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information

As a councillor, I will:

- **not disclose information:**
 - **given to me in confidence; or**
 - **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature unless one of the following criteria applies:**
 - **I have received the consent of a person authorised to give it;**
 - **I am required by law to do so;**
 - **the disclosure is made to a third party for the purpose of obtaining professional legal advice, provided that the third party agrees not to disclose the information to any other person.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals, sensitive commercial interests or information relating to ongoing negotiations.

Disrepute

As a councillor, I will:

- **not bring the role of councillor or the Council into disrepute.**

As a councillor, you have been entrusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

Use of position

As a councillor, I will:

- **not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a councillor provides you with certain opportunities, responsibilities and privileges. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

Use of local authority resources and facilities

As a councillor, I will:

- **not misuse the Council's resources**
- **when using the resources of the Council or authorising their use by others, act in accordance with the Council's requirements and policies.**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- use of the Council's buildings and rooms.

These are provided at the discretion of the Town Clerk, depending on work capacity of staff and availability of buildings at any given time and may only be used to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

Consideration of advice

As a councillor, I will:

- **when reaching decisions on any matter, consider and pay due regard to any relevant advice provided to me by the Proper Officer & Responsible Finance Officer in accordance with their legal duties, or any other officer delegated to act on behalf of the Proper Officer.**
- **give reasons for departing from the advice of the Proper Officer & Responsible Finance Officer**

It is extremely important for you as a councillor to have regard to advice from the Proper Officer, where advice is given in accordance with their statutory duties.

Compliance with the Code of Conduct

As a councillor, will:

- **undertake Code of Conduct training, as arranged by the Proper Officer.**
- **not make trivial or malicious complaints against other councillors.**
- **cooperate with any Code of Conduct investigation and/or determination.**
- **not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings including the complainant or any witnesses.**
- **comply with any sanction imposed on me, following a finding that I have breached the Code.**

Protecting your reputation and the reputation of the Council

It is extremely important for you, as a councillor, to demonstrate high standards, for your actions to be open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with the Proper Officer.

Gifts and Hospitality

As a councillor, I will:

- **not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.**
- **register with the Proper Officer, for onward transmission to the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

In order to protect your position and the reputation of the Council you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, you should contact the Town Clerk for guidance.

Interests

As a councillor, I will:

- **register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a

register of interests for members of the Council.

You need to register your interests so that the public, officers and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not, you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Proper Officer or the Monitoring Officer.

Appendix A - The Seven Principles of Public Life
'The Nolan Principles'

The seven principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner.

Information should not be withheld from the public, unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B - Registering Interests

Within 28 days of becoming a councillor or of your re-election or re-appointment to office or within 28 days of your interests changing you must register with the Proper Officer, for forward transmission to the Monitoring Officer, the interests which fall within the categories set out in **Table 1 of the Code (Disclosable Pecuniary Interests)** which are as described in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012'.

You should also register details of your other personal interests which fall within the categories set out in **Table 2 of the Code (Other Registerable Interests)**.

'Disclosable Pecuniary Interest' means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Proper Officer, for onward transmission to the Monitoring Officer
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your 'Disclosable Pecuniary Interests' as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room, unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in very limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Disclosure of Other Registerable Interests

5. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your 'Other Registerable Interests' (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to your financial interest or

well-being (and is not a Disclosable Pecuniary Interest as set out in Table 1) **or** it directly relates to a financial interest or well-being of a relative or close associate, you must disclose their interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest.

7. Where a matter arises at a meeting which **affects**:

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under 'Other Registrable Interests' as set out in **Table 2**, you must disclose the interest.

In order to determine whether you can remain in the meeting after disclosing your interest and are permitted to speak or not, the following tests should be applied:

Where a matter (referred to in paragraph 7) **affects** the financial interest or well-being of those individuals/bodies listed at 7a, b & c above:

- to a greater extent than it affects the financial interests of the majority of inhabitants of the parish affected by the decision; and
- a reasonable member of the public, knowing all the facts, would believe that it would affect your view of the wider public interest

then you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room, unless you have been granted a dispensation.

If it is a 'sensitive interest, you do not have to disclose the nature of the interest. If your non-registerable interest relates to –

- (1) an unpaid directorship of a company owned by your authority or
- (2) another local authority of which you are a member,

subject to your declaring that interest, you can take part in any discussion and vote on the matter.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	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 to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This 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 made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and which has not been fully discharged. (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any license (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 councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the

	councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; 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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Definitions:

- * 'director' includes a member of the committee of management of an industrial and provident society.
- * securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an 'Other Registerable Interest':

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by the Council
- c) any body:
 - i. exercising functions of a public nature
 - ii. directed to 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

Appendix C

Guidance on Bias and Predetermination

This does not form part of the Code of Conduct

- Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you may participate in a decision on the issue in your role as a councillor. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave a decision susceptible to challenge by Judicial Review. Whereas, being predisposed on a matter is acceptable provided you remain open to listening to all the arguments and changing your mind in light of all the information presented at the meeting.
- Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly, or indirectly, indicated what view they might take in relation to any particular matter.
- In the circumstances, when making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.
- As a councillor, you will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that you were biased. If you have predetermined your position, you should withdraw from being a member of the decision-making body for that particular matter.

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