



ORKNEY ISLANDS COUNCIL

CODE OF CONDUCT FOR COMMUNITY COUNCILLORS

INTRODUCTION

This Code should guide the conduct of Community Councillors and it applies to every member of a Community Council. As a Community Councillor it is your responsibility to make sure that you are familiar with, and that your actions comply with, its provisions.

The Code of Conduct for Community Councillors is based on guidance produced by the Standards Commission to interpret the Councillors' Code of Conduct, approved by the Scottish Parliament which came into effect on 21st December 2010. This Code was established by the Ethical Standards in Public Life etc. (Scotland) Act 2000 which introduced a new ethical framework to Scotland for local authority councillors and members of relevant public bodies and established a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the code.

Failure to comply with this code may result in your being suspended or banned from serving as a Community Councillor, by action of your Community Council or of Orkney Islands Council.

1 ROLE OF DEMOCRATIC SERVICES IN RESPECT OF THE CODE OF CONDUCT

Democratic Services staff are based in Chief Executive Services, Orkney Islands Council. In addition to the main liaison role the Democratic Services Manager will have prime responsibility for monitoring the working relationship between Community Councils and Orkney Islands Council, reviewing the Code of Practice and ensuring that consultation mechanisms are operational. In addition, he/she will have a monitoring role in relation to Community Council functions to ensure they are adhering to the Constitutions, financial regulations and the Orkney Community Council Scheme.

2 COMMUNITY COUNCIL REPRESENTATION

Any Community Council communications should be issued by the Clerk and must reflect the majority view of members of that particular Community Council and be minuted accordingly.

A Chair or member of a Community Council should not officially convey personal opinions to the public, press or another body where those opinions or views would be at odds with the recorded decision of the Community Council or be taken to represent the view of the Community Council.

3 KEY PRINCIPLES OF THE CODE

The general principles which the Code is based are:-

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Community Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

Selflessness

You have a duty to take decisions solely in terms of the public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

You must make decisions solely on merit when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others, and you must ensure that the Community Council uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the Community Council and its members in conducting public business.

Respect

You must respect all other Community Councillors and all Orkney Islands Council employees and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a Councillor.

4 CONDUCT AT MEETINGS

You must respect the chair, your colleagues, Orkney Islands Council employees and any members of the public present during meetings of the Community Council, Sub-committees or of any public bodies where you have been appointed to represent the Community Council. You must comply with the rulings from the chair in the conduct of the business of these meetings.

5 DECLARATION OF INTEREST

The rules of declaration of interest are intended to produce transparency in regard to interests which might influence, or be thought to influence your actions as a Community Councillor.

You **MUST** withdraw from the meeting until discussion of, and voting on, the relevant item where you have a declarable interest is concluded.

You may feel able to state truthfully that an interest would not influence your role as a Community Councillor in discussion or decision making. You must, however, always comply with the “**objective test**” which is **whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as Community Councillor.**

Financial Matters

You must declare, if it is known to you, **ANY FINANCIAL INTEREST** in any contract, proposed contract or other matter, at a meeting of the Community Council where this matter is the subject of consideration. **YOU MUST** retire from the meeting during discussion and determination of this item.

You must also declare, if it is known to you, **ANY FINANCIAL INTEREST** relating to:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body of which you are a remunerated member or director.

Non Financial Matters

If you have any a non financial interest in a matter being discussed by your Community Council, you should consider whether it would be appropriate for you to declare this interest and to withdraw from discussion and determination of that matter unless the interest is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

In considering this, you should have regard to the following criteria:-

- A That members of the public might reasonably think the private interest could influence you, stifle discussion, or influence other members through your presence; and/or
- B That members of the public might reasonably think the private interest creates a real danger of bias on your part because it affects you, or someone connected with you, or an organisation where you are an office-bearer, more than any other person present or more than the generality of other persons present who may be affected by the matter.

As a Community Councillor you will serve on other bodies as a result of express nomination or appointment by your Community Council. Your membership does not necessarily raise any issue of declaration of interest in regards to Community Council business.

In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter whether or not to declare a non financial interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance taking into consideration whether the objective test applies to the interest.

Decisions on Planning Matters

If you have an interest, whether financial or non financial, in the outcome of a decision on a planning application, or a planning agreement, or on taking enforcement action, you **MUST** declare that interest and withdraw from the meeting during discussion and determination of this matter.

6 GIFTS AND HOSPITALITY

You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour or disadvantage to any individual or organisation.

You must never ask for gifts or hospitality.

You are personally responsible for all decisions in this regard and for avoiding the risk of damage to public confidence in the Community Council. The offer or receipt should always be reported to the Clerk of the Community Council.

7 DEALINGS WITH THE ORKNEY ISLANDS COUNCIL

If you have dealings with Orkney Islands Council on a personal level, you should never seek or accept preferential treatment, by virtue of your position as a Community Councillor, for yourself or for anyone personally connected with you. You should also avoid placing yourself in a position that could lead the public to reasonably believe you are receiving such treatment.

8 USE OF EXPENSES, ALLOWANCES AND FACILITIES

You should always make sure that any expenses, allowances, or facilities, approved by the Community Council, provided for use in your duties as a Community Councillor are used strictly for those duties and for no other purpose.

9 APPOINTMENTS TO OTHER BODIES

You may be appointed or nominated by your Community Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must continue to observe this Code in carrying out your duties for that other body in the same way that you would with regard to your Community Council.

10 BREACH

Any breach of the Scheme of Community Councils 2007 may be reported to Orkney Islands Council to determine what action, if necessary, should be taken.

CONCLUSION

The practical application of these rules is a matter for your own judgement but, if in any doubt as to how they should be applied, you should seek advice from Democratic Services.

As well as avoiding actual misconduct, you should avoid any appearance of misconduct. Your conduct and what the public believes about your conduct will affect the reputation of your Community Council.

SOME EXAMPLES

- Q The local golf club has submitted an application for financial assistance. You are a member of the club and unsure whether you should declare an interest for this item.
- A This is a financial interest and you should declare an interest and leave the meeting during determination of this item.

- Q The local community association has submitted an application for financial assistance and everyone in the room is a member of the association and one member is the chair.
- A If everyone declared an interest then there would be no quorum and in such an instance with the exception of the chair no one member has more of an interest than any other person or more than the generality of other persons affected by the matter. Therefore any office bearers of the association should declare an interest, in order of seniority, until no office bearers remain present, provided that a quorum is retained.
- Q You are either the applicant or have submitted an objection to a planning application being considered.
- A You must declare an interest and leave the meeting during discussion of this item.
- Q The Community Council is considering tenders for kirkyard maintenance and your son has submitted a tender for this work.
- A You must declare an interest and leave the meeting.
- Q Your neighbour has submitted an application for planning permission for a wind turbine and you also have a wind turbine on your property.
- A You do not need to declare an interest for this matter.
- Q Your child is one of those taking part in a school trip and the school has submitted an application for financial assistance towards the travel costs.
- A You should declare an interest and leave the meeting unless the Community Council has a general policy for allocating donations for travel grants – see Exceptions below.

EXCEPTIONS

Where a Community Council has an established policy in relation to awarding travel grants and provided that the Community Council intends to adhere to its established policy for a request for financial assistance towards travel costs then there would be no need for a member to leave the meeting if they had declared an interest in this item.

However the member may prefer to do so.