

PART 5 (SECTION A)

BOSTON MEMBER CODE OF CONDUCT

*Adopted by the Council on 25th July 2012
(Revised Code adopted by Council on 10th June 2013)*

Boston Borough Council (the authority) has adopted this Code of Conduct pursuant to Section 27 of the Localism Act 2011 to promote and maintain high standards of behaviour by its members and co-opted members whenever they are acting in their capacity as a member of the authority, or when they claim to act, or give the impression of acting as a representative of the authority.

In accordance with the Localism Act provisions, when acting in this capacity all Councillors must be committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS

Members must serve only the public interest and must never improperly confer an advantage or disadvantage on any person. ~~Holders of public office should act solely in terms of the public interest.~~

HONESTY AND INTEGRITY

Members must not place themselves in situations where their honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

~~Members~~ ~~Holders of public office~~ must avoid placing themselves under any obligation to outside individuals or organisations that might try inappropriately to influence them in their work. They **must** not act or take decisions in order to gain financial or material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY

~~Members must make~~ ~~Holders of public office must act and take~~ decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias, **including when making appointments, awarding contracts, recommending individuals for rewards or benefits and pursuing matters on behalf of their constituents.**

ACCOUNTABILITY

~~Members must be~~ ~~Holders of public office are~~ accountable **to the public** for their **actions and decisions and actions to the public and the manner in which they carry out their responsibilities.** They **must co-operate fully and honestly with any scrutiny appropriate to their particular office.** ~~submit themselves to the scrutiny necessary to ensure this.~~

OPENNESS

Members Holders of public office must act and take decisions in an open and transparent manner. They should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

LEADERSHIP

Members Holders of public office must exhibit these principles in their own behaviour. They must actively promote and robustly support the principles of leadership, be willing to challenge poor behaviour wherever it occurs and act in a way that secures or preserves public confidence.

PERSONAL JUDGEMENT

Members may take account of the views of others, including their political groups, but must reach their own conclusions on the issues before them and act in accordance with those conclusions.

COURTESY FOR OTHERS

Members must promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, sex, sexual orientation, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity.

Members must observe the requirements of the Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010 and not do anything which may cause the Council to breach UK equalities legislation.

Members should respect the impartiality and integrity of the Council's Officers and understand that as an employer, the Council owes a duty of care to its employees. This includes ensuring all employees of the Council are treated with respect whilst they undertake their duties.

Whilst it is acknowledged that political debate may at times be robust and forthright, and that the right of freedom of expression is essential to vibrant political discourse, members should ensure that their comments and behaviour do not overstep the line of acceptability.

Members must not behave towards others in a way which is violent, threatening, malicious or bullying.

Members should not intimidate or attempt to intimidate any person (including employees) who is, or is likely to be:-

- (i) a complainant
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings

in relation to an allegation that a Member has failed to comply with the Council's Code of Conduct, do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

Bullying and Harassment

Everyone has the right to be treated with dignity and respect and to work in an environment which is free from harassment, bullying, discrimination and victimisation.

Harassment, bullying, discrimination and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the wider impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Members should be aware of the role that officers play and ensure they are not compromising this by behaving in a manner that could result in employees of the Council feeling threatened or intimidated, which could prevent them from undertaking their duties properly and appropriately. Members must not bring any undue influence to bear on an officer to take a certain course of action, particularly if it is contrary to the law or the Council's policies and procedures.

Where Members are witness to incidents of bullying or harassment they have a responsibility to speak out. Members should challenge inappropriate behaviour as it happens and consider making a complaint.

Harassment

Harassment is any unwelcome behaviour or conduct which has no legitimate workplace purpose and which makes someone feel offended, humiliated, intimidated, frightened and/or uncomfortable. Harassment can be experienced directly or indirectly (such as being in a room while unacceptable conduct is being displayed and being affected by it), and can occur as an isolated incident or as a course of persistent behaviour.

Harassment can occur through verbal or written communications (including ones made on-line). The following list provides some examples, but it is by no means exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome e-mails, messages or notes; circulating or displaying explicit or inappropriate images.

Bullying

Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted.

Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a singular serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidatory behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

Disrepute

A Member must not act in a manner which could reasonably be regarded as bringing their office or the Council into disrepute. This may include;

- Seeking to put private interests above the public interest
- Defying important and well established rules of the Council for personal gain
- Engaging in conduct which directly and significantly undermines the Council's reputation as a good employer or responsible service provider
- Reducing the public's confidence in that Member being able to fulfil the role of elected representative
- Adversely affecting the reputations of Members generally in being able to fulfil their roles

This is not an exhaustive list of what constitute disrepute.

DUTY TO UPHOLD THE LAW

Members must uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

STEWARDSHIP

Members must do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law. When using or authorising the use by others of Council resources, Members must ensure that they are used only for legitimate council purposes and not for any other purpose (including political party purposes or personal advantage).

Members must have regard to any applicable Local Authority Code on Publicity under the Local Government Act 1986.

Additional Requirements

In addition to compliance with the Member Code of Conduct, Members must comply with policies supporting this Code such as:-

- Member and Employee Protocol
- Planning Code of Good Practice
- Member Data Protection Protocol
- Whistleblowing Policy
- Grievance Policy

Any action or behaviour which constituted a breach of any of the supporting policies would consequently be a breach of the Member Code of Conduct.

Members are required to comply with any formal standards investigation arising from allegations of breaches of the Member Code of Conduct or associated Codes and Protocols.

Confidential Information

Members will on occasions be privy to confidential and/or sensitive information. This may include;

- personal information about someone which if disclosed could cause damage or distress to the individual
- commercially sensitive information which, if disclosed, may harm the commercial interests of the Council or another person or organisation leading to loss or damages.

This information must not be revealed without proper authority.

Data Protection

Members must observe the requirements of the Data Protection Act 1998 and the Data Protection Act 2018 and any other relevant legislation.

Members must comply with the Member Data Protection Protocol as referred above.

Application of the Code

This Code of Conduct applies to you whenever you are acting, claim to act or give the impression you are acting in your capacity as a Member of the authority, including:-

- At formal meetings of the authority
- When acting as a representative of the authority
- In taking any decision as a Cabinet Member or Ward Councillor
- In discharging your functions as a Ward Councillor
- When corresponding with the authority other than in a private capacity.

This is not an exhaustive list of when Members may be acting, claiming to act or giving the impression of acting in a capacity as a Member of this Council.

When you act as a representative of the Council:-

- (a) on another relevant authority, you must, when acting for that authority, comply with the other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with this Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

Meeting

In this Code 'Meeting' means any meeting organised by or on behalf of the authority, including:-

- Any meeting of the Council, or a Committee or Sub-Committee of Council
- Any meeting of the Cabinet and any Committee of the Cabinet
- At any briefing by Officers; and
- At any site visit to do with the business of the authority.

Accessing Services in a Personal Capacity

It is not unusual for Members to access services of the Council in their personal capacity. Examples include, but are not limited to;

- Applying for a licence for any function regulated by the Council
- Lodging a planning application
- Requesting a bulky goods collection
- Requesting an extension of time to pay a debt due to the Council
- Making a complaint in relation to a personal matter

Noting the requirement for Members not to use their position for personal gain, it is important that when accessing such services, there is not a blurring of boundaries which the public and employees of the Council may consider to be a Member receiving more advantageous treatment by virtue of they being a Member of the Council as opposed to an ordinary member of the public.

There are many reasons why Members have access to Council Officers that are not available to ordinary members of the Public, including but not limited to;

- Members often have a legitimate reason to be in areas of the Council that are not open to the public and have direct access to Council Officers that would not be available to the public without a prior appointment.
- Members have direct access to Council Officers by telephone and email, such as when they are discharging ward constituent duties and/or functions arising from their responsibilities as members of Committees.

Members must have regard to the following;

- Be clear when they are making contact in a personal capacity or Member capacity by identifying their position – Mr/Mrs/Ms or Cllr.
- Do not use council email addresses for personal business.
- Do not conclude formal Council business and move into personal business.
- Do not use Council meetings to raise personal matters unless the appropriate declarations have been made and the appropriate process is followed in removing from the decision making process and leaving the meeting at the appropriate time (see below under Declarations).
- Do not access private parts of the Council to raise your personal concerns unless by way of appointment when the purpose and your role will have been clearly determined.

Members and Social Media

It is recognised that social media can provide many opportunities for Members to engage with the public. However, if not properly managed, such opportunities can result in complaints from the public, partner organisations and other Members.

Members should consider whether they need to set appropriate privacy settings for any blog or networking site – especially if it is a private, non-political blog or have separate accounts for personal and professional capacities, although it should be remembered that in reality nothing is private on social media as other connections may re-post any comments or images.

Members must also be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue.

When using social media, Members must;

- Ensure they use council facilities appropriately and comply with the Council's ICT policies
- Be aware that by publishing information that they could not have accessed without their position as a councillor, they will be seen as acting in their official capacity
- Be careful about being too specific or personal if referring to individuals that may identify individuals or cause offence
- Be aware that the libel laws cover blogs, social media and other forms of digital content publication.
- Not place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission
- Monitor accounts for defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views
- Refer in a blog or other social media platform to any information identified by the Council as confidential or exempt;
- Disclose information given to them in confidence by anyone or information acquired by them which they believe or are aware is of a confidential nature;
- Publish personal data of individuals except with express written permission to do so
- Give the impression that they are expressing the views of the Council where it is not appropriate or there is no authority to do so
- If involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on their blog that might suggest they do not have an open mind about a matter they are involved in determining

Close Personal Relationships Between Members

It is possible that there may be close relationships between Members from time to time, which may include;

- Spouses or partners
- Familial connections (brother/sister/father/daughter)
- Long standing friendships outside of council business
- Employment connection (one employs the other)

Members must consider the possibility of how such connections may be viewed by the public when Members are discharging their council functions or involved in decision making and how they may reduce any perception of undue influence arising from this close relationship, such as avoiding being on the same Committee.

Information provided to one Member to legitimately discharge their council functions must not be shared with a Member with a close personal connection for the reasons set out in this Code under Confidential Information and in the Members' Protocol on Data Protection.

Registration and Disclosure of Interests

The Act further provides for registration and disclosure of interests and in Boston Borough Council this will be done as follows:

Disclosable Pecuniary Interests

On taking up office a Member or co-opted member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

On re-election or re-appointment, a Member or co-opted member must, within 28 days, notify the Monitoring Officer of any 'disclosable pecuniary interests' not already included in his or her register of interests.

If a Member or co-opted member is aware that they have a 'disclosable pecuniary interest' in a matter they must formally declare that interest in meetings, withdraw from the meeting while any discussion or vote on any matter relating to it takes place, taking no part in the debate or vote, except that they may take part in any public speaking scheme at the meeting, but must leave the room immediately after having so participated.

If a Member or co-opted member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting, but such interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or co-opted member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it is first disclosed.

Local Choice Interests

Members must register with the Democratic Services Manager details of any body of which they are a member or in a position of general control or management either:-

- (1) exercising functions of a public nature; or
- (2) directed to charitable purposes; or
- (3) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

(Registration is to be made via a form provided by Democratic Services which will be published on the Council's website and be open for public inspection)

Conflict of Interests

At a meeting, Members must declare any interest which they have in any matter to be considered at that meeting.

A conflict of interest arises where a Member, a close associate, immediate family, firm, organisation or employer has an interest in a matter which is the same as, connected to or may be affected by the matter under discussion.

Members who have a conflict of interest may be present to make representations, answer queries and provide supporting evidence, but should leave the room at the point the meeting moves to reach its decision. Their leaving the room should be recorded in the minutes.

Where a Member, a close associate, immediate family, firm, organisation or employer has an interest in the matter being discussed which a member of the public who knew of the facts would reasonably regard as so significant that it is likely to prejudice the Members judgement of the Council's interest in the matter, then they must declare the interest at the start of the agenda item, must not vote on the matter and must leave the room until the agenda item has been concluded. However, nothing shall preclude a Member from acting as a member of the public and addressing the meeting as part of the Council's public speaking scheme, but they must then leave the room after having so participated.

If any Member fails to declare a conflict of interest they may be subject to allegations of improper conduct.

Registration of Gifts and Hospitality

Members must register in the Register of Members Gifts and Hospitality, held by the Democratic Services Manager, any gift or hospitality worth £5 or over received (or offered), in connection with their official duties as a member and the source of that gift or hospitality (or offer) within 28 days of receiving it. This will create greater transparency to the public in how Members discharge their decision making functions.

In line with the Officer Code of Conduct, gifts over this value must be donated to the Mayor's Charity.

Acceptance by Members of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal and where the Member is satisfied that any purchasing decisions will not be compromised.

Members Obligations to Understand the Requirements of this Code of Conduct

The Council will provide opportunities for training and Member development through the Councillor Development Group.

If a Member does not understand the meaning of the requirements of this Code of Conduct, it is their personal responsibility to raise directly with the Monitoring Officer, their Group Leader or Chairman of the Councillor Development Group to ensure the appropriate training is identified and offered.