

# Appendix 1 - Mildenhall Parish Council Code of Conduct – Guidance for Councillors

Mildenhall Parish Council has adopted Wiltshire County Council’s model code of conduct. This has been adapted to be relevant to the work of the Parish Council.

## 1. Code of Conduct Guidance

1.1 This section sets out further guidance relating to 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.

1.2 Guidance is included to help explain the reasons for the obligations set out in the Code of Conduct and how they should be followed.

### 1.3 **Respect**

1.3.1 Respect 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 and 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.

1.3.2 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 the Council.

1.3.3 In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Chair and Clerk of the Council, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, (Wiltshire Council) where concerns should be raised in line with the local authority’s Councillor-Officer protocol.

### 1.4 **Bullying, harassment, and discrimination**

1.4.1 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. 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.

1.4.2 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

- 1.4.3 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 1.4.4 The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play 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.
- 1.4.5 An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words, the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.
- 1.5 **Impartiality of officers of the Local Authority Council (Wiltshire)**
- 1.5.1 Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. 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. However, 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.
- 1.6 **Confidentiality and access to information**
- 1.6.1 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined 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 local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.
- 1.7 **Disrepute**
- 1.7.1 As a Councillor, you are trusted 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 your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.
- 1.7.2 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.
- 1.8 **Use of position**
- 1.8.1 Your position as a Councillor of the local authority provides you with

certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 1.9 **Complying with the Code of Conduct**

1.9.1 It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority 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 your Clerk.

## 1.9.2 **Complaints Procedure**

The Council's arrangements for dealing with complaints is published on the Council's website [www.mildenhallwiltshire.org.uk](http://www.mildenhallwiltshire.org.uk) and available from the Clerk.

## 1.10 **Interests**

1.10.1 Section 29 of the Localism Act 2011 requires the Clerk to establish and maintain a register of interests of Councillors of the authority.

1.10.2 You need to register your interests so that the public, and fellow Councillors know which of your interests might give rise to a conflict of interest.

1.10.3 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.

1.10.4 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.

1.10.5 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.

1.10.6 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.

1.10.7 The Register of Interests section below sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 1.11 **Gifts and hospitality**

1.11.1 In order to protect your position and the reputation of the local authority, 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.

1.11.2 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.

1.11.3 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.

1.11.4 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, do contact your Clerk for guidance.

## 1.12 **Taking decisions**

1.12.1 The decisions you take whilst undertaking your public duties should be made on an objective basis, using the best information available whilst avoiding discrimination, or bias.

1.12.2 To ensure public confidence in the decision-making process, you should be willing to make the reasons for your decisions, as well as those of Mildenhall Parish Council, publicly available.

1.12.3 Information about why decisions have been taken should only be withheld in cases where there are clear and lawful reasons for doing so. As a holder of public office, you must be accountable for your decisions and actions and must submit yourself to the level of scrutiny commensurate with your position. It is important that the public are able to constructively challenge and express concern about the process by which decisions are made.

## 1.13 **Bias and Predetermination**

1.13.1 Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias.

1.13.2 The test is whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Councillor was biased.

1.13.3 In particular, under the Council's Code of Conduct for Councillors, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect Councillors against allegations of bias and predetermination.

1.13.4 The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

1.13.5 The Act makes it clear that a Councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A Councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

1.13.6 The general position, however, remains that, whatever their views,

Councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

- 1.13.7 Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a Councillor advice should be sought at an early stage and in any event before the decision concerned is made.

## **2. Social Media Guidance**

You are personally responsible for the content you publish on any form of social media, in the same way that you are responsible for letters or emails you send. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action.

- 2.1 Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.
- 2.2
- 2.3 Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.
- 2.4 Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the council's Data Protection Policy Statement.
- 2.5 Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.
- 2.6 Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.
- 2.7 In any biography, the account should state the views are those of the councillor in question and may not represent the views of the council.
- 2.8 Do not use the council's logo, or any other council related material on a personal account or website.
- 2.9 Social media must not be used for actions that would put councillors in breach of the Wiltshire Council Members Code of Conduct. For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.
- 2.10 Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

2.11 Anyone receiving threats, abuse or harassment via their use of social media should report it to their Chair, Clerk and/or the police..It is recommended that in the case of Facebook, councillors wishing to keep their personal life and role as a councillor separate create a Facebook page which members of the public can like rather than using their personal profiles.

#### 2.12 **Principles for using social media**

- You should follow these five guiding principles for any social media activities:
- Be respectful – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times.
- Make sure that you respect people’s confidentiality – do not disclose non-public information or the personal information of others.
- Be credible and consistent – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
- Be honest about who you are – it’s important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.
- Be responsive – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can’t.
- Respond to questions and comments in a timely manner.
- Be confident – don’t be scared of participating. Follow this advice and seek further guidance if you need it. If you’re about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

#### 2.12 **Guidance on capturing social media posts**

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the council - posts can be deleted by site administrators without knowledge or consent of the council. In exceptional circumstances, copies of posts may be made and retained by the council, (e.g. as evidence of inappropriate posts) in line with relevant council procedures, (depending on the nature of the allegation). These copies will be held for a period dependent on the type of investigation they are subject to, (e.g. disciplinary, audit, criminal, etc).

Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts (before they might be deleted). Copies should be made (press, 'alt+Prt Scrn,' and copy into MS Word) and reported to both This document is not a part of the constitution, but is guidance provided for the assistance of members.