



2/9/2018

Shiplake Parish Council Code of Conduct

Part One Code of Conduct
Part Two Checklist of Actions
Planning Applications
Part Three Bias and
Predetermination Guidance



Shiplake Parish Council

SHIPLAKE PARISH COUNCIL

CODE OF CONDUCT

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members¹ of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

SELFLESSNESS

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

OBJECTIVITY

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

ACCOUNTABILITY

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

OPENNESS

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

HONESTY AND INTEGRITY

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

LEADERSHIP

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

¹ A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who

a) is a member of any committee or sub-committee of the council, or

b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub committee".

GENERAL OBLIGATIONS

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) 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, or
 - (iv) the disclosure is:
 - a) reasonable and in the public interest;
 - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
 - (i) you must act in accordance with the council's reasonable requirements;
 - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

REGISTERING AND DECLARING INTERESTS

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

17. You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'².
18. Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

² A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

SHIPLAKE Parish Council

Adoption of code of conduct

I confirm that at the meeting held on 1 1TH JUNE _ 2012 the Shiplake Parish Council passed the following resolutions:

"That

1 . the code of conduct adopted by the South Oxfordshire District Council be adopted as the code for members and co-opted members of the Shiplake Parish Council with effect from 1 July 2012, or such other date as may be specified in regulations, to replace the current code of conduct; and

2. the clerk be requested to notify the monitoring officer of the South Oxfordshire District Council of the passing of the above resolution"



Signed:

Name: ROGER V HUDSON

* (Clerk to the Shiplake Parish Council)

date: 12th June 2012

Please return this form to Kathy Fiander, Democratic Services Officer, Benson Lane, Crowmarsh Gifford, Wallingford OX 10 8QS as soon as possible following the passing of the specified resolutions.

It may alternatively be sent as a scanned email attachment to kathy.fiander@southandvale.gov.uk.

If your notification is via email, please ensure that the email is clear, includes the name of your council and the date of the meeting which considered the matter, and confirms either the passing of the above resolutions by your council and/or any variances to the above.

Shiplake Parish Council

A CHECKLIST OF ACTIONS FOR PARISH AND TOWN COUNCILLORS WHEN SUBMITTING A PLANNING APPLICATION OR AS NEIGHBOUR OR CONSULTEE IN A PLANNING APPLICATIONS

a) Purpose of this checklist

As a councillor, you should complete this form and return it to your clerk when:

- submitting a planning application,
- acting as an agent for someone else submitting an application in the parish/town,
- South Oxfordshire District Council's Planning department consults you as an individual (or business) on a planning application,
- acting as the applicant in your council's own planning applications.

If your clerk becomes aware of your involvement in the application, he/she will send you a copy of the form to complete and return.

You should keep the information in part c) as a reminder of the actions you should and should not take.

When you return parts a) and b), the clerk will retain a copy on file.

b) Planning application details

Your name and address:
Planning application number and/or address:
I have a personal and prejudicial interest in the above application as the: <input type="radio"/> the applicant, <input type="radio"/> the agent, <input type="radio"/> a supporter <input type="radio"/> an objector

Some reminders about what to do/what not to do

As a councillor with a prejudicial interest in an application, this reminds you what you should/shouldn't do as part of the planning application process.

Do:

- contact your clerk if you need advice and ask them to contact the district council's Monitoring Officer or the Planning Officer if you have any questions about your interests in the application
- use this form to notify the clerk of your interest as soon as you are aware of it
- remind yourself of the rules in the Councillors' Code of Conduct¹
- remind yourself of your council's standing orders permitting the public to speak to the parish or town council about planning applications²
- consider asking someone else to address the parish or town council meeting on your behalf
- address the parish or town council but not as a councillor, provided your standing orders allow members of the public to speak on planning applications
- withdraw** from the room altogether when the meeting starts any debate on the application
- explain to anyone lobbying you that you cannot take part in any decision or consultation response on the application– you cannot act as a councillor in this case
- disclose the existence and nature of your interest at the start of any relevant meeting
- report to the clerk any relevant contact with other parties (e.g. the applicant, objectors, developers)
- recognise and respect that district council planning officers, your ward councillor, fellow councillors, and clerk must act in accordance with their codes of conduct

You do not have a prejudicial interest at a district council meeting unless you are also a district councillor.

Don't:

- get involved in, or give the appearance of involvement in, any decision or consultation response on the application in your capacity as a councillor
- respond to any email or paper consultations on the application circulated by the clerk or fellow councillors (except to say why you cannot respond)
- seek preferential treatment at either parish or district level
- act or speak in a way that others could interpret as you having received preferential treatment
- agree to any formal meetings with relevant parties in your capacity as councillor³
- pressurise the clerk to put forward a particular recommendation
- lobby fellow councillors or attempt to persuade them how to vote on the application
- discuss the planning application with councillors outside the council meeting
- attend any site visit that is intended for councillors
- approach members of the council at council meetings, if this could give the public an impression of bias
- act in your capacity as a councillor in any way on this application

¹ Available from your clerk or Standards for England.

² In your council's standing orders. If you have a prejudicial interest, you only have the same rights to speak as a member of the public.

³ You should seek guidance from the district council planning officer dealing with the application.

BIAS IN DECISION MAKING – HOW TO RECOGNISE AND AVOID IT

A SIMPLE GUIDE FOR COUNCILS IN OXFORDSHIRE

1. Local authorities must act within the law. The law provides that decisions which are tainted by bias may be quashed by the courts. Successful challenges to the legality of a decision are costly and time consuming. The purpose of this guide is to help councillors identify the issue and to provide advice as to how to respond to it.
2. If, as a councillor, you have a disclosable pecuniary interest (DPI) in a matter being discussed at a meeting, then this will be **presumed bias** and you should declare your interest and withdraw from the meeting room. You should **not** use your public office to seek information or to influence in any way a matter in which you have a DPI. As well as vitiating the decision, you may be committing a criminal offence which is punishable by a fine or imprisonment and which may also result in you being disqualified from office.
3. A more difficult area is that of **apparent bias**. This is where you do not have a DPI in a particular matter, but have other interest you have in the matter, or your actions in relation to it, make your participation in the decision untenable.

The question that a court would ask itself is: whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision maker was biased. In the local government context, the decision maker might be a single councillor but is more likely to be a number of councillors meeting as a committee, cabinet or as the entire council. It may only require one councillor to be biased for the decision to be vitiated, even if the majority on the decision making body are not. This rule applies to any decision of an council, regardless of its nature.

4. The test that the court applies is an objective one: what would the fair minded and informed observer think of it? Not: do you think you are biased (which would be a subjective test). The hypothetical fair minded observer is assumed to be a reasonable member of the public who is neither complacent, nor unduly sensitive or suspicious. There are a couple of scenarios which are particularly likely to raise issues of apparent bias.
5. The first scenario concerns predetermination. This is where things you do or say in advance of, or at, a meeting suggest that your mind is completely made up regardless of any information available to you when the decision is actually made. The law says that you must keep an open mind but the law also recognises that you may hold and express strong views, just so long as your

mind is not completely closed on an issue. Of course, one never knows the mind of another, so this scenario only ever arises when a councillor has chosen to be outspoken on an issue.

Generally speaking, it is advisable to avoid being outspoken on regulatory issues where individual rights or interests are being determined.

6. The second scenario concerns conflicts of interest. This is where other personal interests that you have (which do not qualify as DPIs) e.g. being a trustee of a charity or sitting on the management body of a local body or living in close proximity to a planning application site or being related to an applicant for a permission or licence, might be perceived as preventing you from giving objective consideration to an issue. Whilst such interests would not normally prevent you from participating in a decision, there may be situations where the matter being discussed is so significant for, and closely connected with, the interests of the other body that a fair minded and informed observer would think there to be a real possibility of bias. This is an area where seeking advice is particularly important.
7. In both of these scenarios, if you consider that there may be apparent bias then you should not participate in the decision and it is advisable to leave the meeting room for that item. Whilst there is no requirement to declare your 'interest' (as you must do for DPIs), you may wish to do so in order to signal clearly your non-participation and withdrawal.
8. If you are in any doubt about these scenarios or any others then you should always seek the advice of your monitoring Officer (for principal councils) or clerk (for parish councils). This guide has been produced by the monitoring officers of the Oxfordshire authorities in consultation with the Oxfordshire Association of Local Councils and we hope that councillors find it helpful.

February 2016