

The Model Code of Conduct – An Explanatory Leaflet Relating to Personal and Prejudicial Interests

INTRODUCTION

Whenever the Members' Code of Conduct ('the Code') is under discussion inevitably questions will arise in relation to the twin issues of personal and prejudicial interests. These matters, more than any other aspect of the Code, give rise to repeated confusion and misunderstanding often leading to unsubstantiated complaints, distress for Councillors, and occasionally waste of resources.

THIS SHORT LEAFLET IS NOT INTENDED TO REPLACE THE CODE BUT SHOULD BE READ IN CONJUNCTION WITH THE CODE AND IS PRIMARILY AIMED TO GUIDE MEMBERS IN THE RIGHT DIRECTION AND TO ESTABLISH BASIC PRINCIPLES.

In Parts 2 and 3 of the Code at paragraphs 8-13 inclusive will be found the detailed provisions which set out the various long list of inclusions and exclusions relating to personal and prejudicial interests and the register of interests and these will need to be consulted in any given set of circumstances.

The first working principle to establish is the basic concept that no prejudicial interest can arise unless it is first established that a personal interest exists ie it is a two part test. The Councillor must consider first 'Do I have a personal interest (in the business on the agenda)? If the answer to that question is 'No' – then that is the end of the matter. If on the other hand the answer is 'Yes' or Very Likely' then the member must go on to consider if that personal interest can be construed as being also a prejudicial interest.

PERSONAL INTERESTS

In all Council and Council Committee meetings Councillors (Unitary/Town/Parish) must, where appropriate, declare a personal interest to be recorded in the minutes of the meeting. You must declare this at the start of the meeting or as soon as it becomes clear to you that a personal interest exists.

IF YOU DECLARE A PERSONAL INTEREST YOU CAN REMAIN IN THE MEETING, SPEAK AND VOTE ON THE MATTER, UNLESS YOUR PERSONAL INTEREST IS ALSO A PREJUDICIAL INTEREST.

You have a personal interest where it involves;

- a. An interest you have registered. All Councillors must within 28 days of taking up their office sign a Declaration of Interests. (Any changes in your

interest must similarly be recorded within 28 days of the change). The Clerk or Monitoring Officer can give you guidance if you are not sure. However you need to declare on the Register your membership of other Local Authority bodies and any bodies exercising functions of a public nature, as well as your job, any gifts over £25, any contracts between yourself and the local authority. (Please see Appendix 1).

- b. Where the well-being, or financial position of you, members of your family, or people with whom you have a close association is likely to be affected by the business of the meeting more than it would affect most people in the area. If your interest arises solely because you are a member of another body in the authority eg school governor or any public body in another authority, you do not need to declare an interest unless you wish to speak on the matter. If you do not speak you may still vote without making a declaration. (See appendix 2)

PREJUDICIAL INTERESTS

In some circumstances your Personal Interests may also be considered to be Prejudicial. In this situation you need to declare the fact that you have a Prejudicial Interest and its nature before the issue is debated. **YOU SHOULD THEN LEAVE THE ROOM**, unless members of the public are allowed to make representations, give evidence, or answer questions on the matter. Once you have finished speaking or when the meeting decides you have finished, you cannot remain in the meeting and must leave. You cannot remain and observe the vote.

Your personal interest will also be a prejudicial interest if all of the following conditions are met –

- (1) The matter being discussed affects your financial position or that of any person with whom you have a personal interest.
- (2) Where a member of the public who knows the relevant facts would reasonably think your personal interest is so significant that it may prejudice your judgement.
- (3) It does not fall into one of the exempt categories (please refer to appendix 3).

CONCLUSION

The decision to declare an interest will always turn on the particular facts and it is clearly necessary for all Councillors to grasp the rationale and thinking behind the Code and if in doubt seek advice from your clerk or the monitoring officer.

APPENDIX 1

Register of Interests

All councillors are required to provide a record of their interests in a public register of interests. This must be completed within 28 days of taking office, and any changes must be recorded within 28 days of that change. You need to register your interests so that the general public, authority staff and fellow councillors, know which of your interests might give rise to a conflict of interest. This is a public document and aims to ensure that decision-making is seen to be open and honest. This helps to preserve public confidence in the integrity of local government. You need to register a range of connections which includes –

- membership of local authority bodies
- membership of any body exercising functions of a public nature, eg political party or trade union
- your job or business
- any contracts between the Authority and yourself
- any land or property in the Authority's area

If the form is not clear to you, please consult the Monitoring Officer or appropriate Town/Parish Clerk.

APPENDIX 2

Interests Not on Your Register

You have a personal interest in a matter if that matter affects the well-being or financial position of you, members of your family, or people with whom you have a close association, more than it would affect most people in the area affect. (“Well-being” can be described as a condition that could affect the quality of life of you or those in your family or with whom you have a close association.)

A member of your family has a wide meaning and a person with “close association” is someone you have contact with who is more than an acquaintance.

APPENDIX 3

Prejudicial Interests

Your personal interest will also be a prejudicial interest if ALL of the following conditions are met:

It is not in one of the exempt categories, namely -

- if you hold a tenancy or lease with the Authority as long as it is not relevant to your particular lease or tenancy
- setting Council Tax or a precept
- any ceremonial honour
- statutory sick pay, if you are in receipt of such
- school meals or transport unless specific to your child's school or where you are a parent-governor