

## Members' Code of Conduct

### Quick Reference Guide.

#### **DISCLAIMER:**

This guidance should not be taken to be an authoritative statement of the law.

For more detailed information - reference should always be made to the Members' Code of Conduct and the Guidance issued by the Public Services Ombudsman.

The responsibility for complying with the Members' Code of Conduct, dispensation requirements and issues around pre-determination rests with the individual Councillor who, in all cases of doubt, should seek advice from the Clerk/Monitoring Officer.

#### **A. When Does the Code Apply?**

- At meetings of the Council;
- At meetings of Council Committees;
- At meetings of Sub-Committees of the Council;
- At Member and Officer Working Groups;
- At a Seminar or Workshop or other meeting where another Member or Officer is present (whether the occasion is public or private);
- At a gathering where another Member or Officer is present (whether the occasion is public or private);
- In a discussion where another Member or Officer is present (whether the occasion is public or private);
- When you act, or claim to act, or give the impression that you are acting as a councillor;
- When you act, or claim to act, or give the impression that you are acting as a representative of your Council;
- If you refer to yourself as Councillor e.g. in a conversation, in writing, email, fax or on another social networking service e.g. blog, Twitter or Facebook – the Code will apply to comments made there;
- In your private life (but only if such conduct would constitute a criminal offence).

#### **B. When Do I Have a Personal and also a Prejudicial Interest?**

There are THREE Questions which you need to ask yourself:

#### **QUESTION 1 – Do I Have a PERSONAL INTEREST?**

PERSONAL INTEREST is any business of the Council which Relates To or Is Likely to Affect:

#### **Employment / Business / Companies / Firms / Expenses / Shares.**

- Your Employment
- Your Business
- A Person who has appointed you
- A firm where you are a partner

- A company where you are a paid director
- A person who contributed to your election expenses
- A person who has contributed to your councillor expenses
- A company where you have shares of more than £25,000 or 1% of the Share capital AND the company has a place of business OR land in the Council's area.

### **Contracts.**

- Any contract for goods and services or works between your Council and:
  - You
  - A firm where you are a partner
  - A company where you are a paid director
  - A company where you have shares of more than £25,000 or 1% of the Share capital AND the company has a place of business OR land in the Council's area.

### **Land.**

- Any land in the area of the Council which:
  - You own (yourself or with others)
  - Is held in trust for you (i.e. for yourself or for you and others)
  - You hold on a lease / tenancy (yourself or with others)
  - You hold a licence to occupy for 28 days or more (yourself or with others)
- Any land leased by your Council to:
  - A firm where you are a partner
  - A company where you are a paid director
  - A company where you have shares of more than £25,000 or 1% of the Share capital AND the company has a place of business OR land in the Council's area.

### **Bodies to which Elected / Appointed.**

- Any body to which you have been elected, appointed or nominated by your Council.

### **Organisations where there is membership / Position of General Control or Management.**

- Any organisation where you are (i) A Member; (ii) Hold a Position of general control or management.
  - Public authority or body exercising functions of a public nature e.g. school governing bodies
  - Company / Industrial or provident Society / Charity / Body directed to charitable purposes.
  - Body whose principle purpose includes influencing public opinion or policy.
  - Trade union or professional association.
  - Private club / society or association operating within the Council's area (Including national organisations operating locally)

### **Ward v Whole Council.**

- Where a Member of the Public might believe there to be a conflict between your ward role and your wider role to represent all the electors within the Community Council / County Council area.

### **Well-Being / Financial Position.**

- Your well being or financial position i.e. quality of life
- The well being or financial position of a person you live with
- The well being or financial position of a member of your family

- The well being or financial position of a person with whom you have a close personal association i.e. relatives, close friends, business associates.
- Any employment carried on by you, a member of your family, a person you live with, relatives, close friends, business associates.
- Any business carried on by you, a member of your family, a person you live with, relatives, close friends, business associates.
- Any person who employs or has appointed you, a member of your family, a person you live with, relatives, close friends, business associates.
- Any firm where a partner is yourself, a member of your family, a person you live with, relatives, close friends, business associates.
- Any company where a director is yourself, a member of your family, a person you live with, relatives, close friends, business associates.
- Any company where shares of over £5000 are owned or held in trust by yourself, a member of your family, a person you live with, relatives, close friends, business associates.
- Any organisation where you, a member of your family, a person you live with, relatives, close friends, business associates hold a position of general control or management i.e.
  - Public authority or body exercising functions of a public nature e.g. school governing bodies
  - Company / Industrial or provident Society / Charity / Body directed to charitable purposes.
  - Body whose principle purpose includes influencing public opinion or policy.
  - Trade union or professional association.
  - Private club / society or association operating within the Council's area (Including national organisations operating locally)

**TO A GREATER EXTENT** than the majority of the inhabitants of the Ward / Area.

**DISCLOSURE** – Where you have a PERSONAL INTEREST you MUST disclose it at a meeting, in a discussion, in any correspondence etc.

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**QUESTION 2** – Is that Personal Interest ALSO a PREJUDICIAL INTEREST.

If you do not have a Personal Interest you will not have a Prejudicial Interest.

Single test for Prejudicial Interest:

Would a reasonable member of the public with knowledge of the relevant facts (including knowledge of your personal interest) believe that your interest is so significant that it is LIKELY to harm or impair your ability to take an objective decision.

**NOTES:**

- A councillor should always consider this from the viewpoint of the public not their own by asking the question - "What would a reasonable member of the public think about my taking part in this decision?"
- Councillors should act in the public interest – not in the interests of family, close friends or business associates.
- Local knowledge or connections with the local community are not sufficient to meet the test.

- There must be some factor which might positively harm the councillor's ability to judge the public interest objectively, even if the councillor decides to take a decision based on the merits of the case.
- Are a large number of people equally affected by the decision or just the councillor and a smaller group of people.

**N.B. - SEE QUESTION 3 – EXEMPTIONS.**

**DISCLOSURE** – Where you have a PREJUDICIAL INTEREST you MUST disclose it AND TAKE NO PART IN THE BUSINESS OF THE COUNCIL i.e. leave the room.

In addition you **MUST NOT**:

- Exercise Board Functions (County Councillors only);
- Seek to influence a decision about that business;
- Make written representations in relation to that business;
- Make oral representations in relation to that business.

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**QUESTION 3** – If I Have a Prejudicial Interest Are there Any **EXEMPTIONS** Which Apply.

Is there an Exemption which will allow you to take part in the business of the Council where there is a Prejudicial Interest?

Types of Exemption:

All.

- Another relevant body where you are also a member (i.e. another Council)
- Another public body exercising functions of a public nature where you hold a position of control or general management.
- A body to which you have been appointed by your Council.
- Your role as a school governor where not appointed by the Council, UNLESS it relates to the school where you are a governor.
- Role as a Member of the Health Board not appointed by you Council.

**EXCEPT** where the matter relates to a planning application, licensing matter, etc.

County Councillors Only.

- Overview and Scrutiny Committees
- Housing Functions where you hold a tenancy or lease with your Council.
- School Meals or Transport and travelling expenses – where you are a guardian, parent, grandparent or have parental responsibility.
- Statutory Sick Pay
- Allowances or Payments.

Town and Community Councillors Only.

- Grants or Financial Assistance by Town / Community Councils to Community or Voluntary Organisations of which you are a member of up to £500 only (**NOT** appointed by the Council)