



## OVERVIEW OF PERSONAL AND PREJUDICIAL INTERESTS

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### 1 **INTRODUCTION**

- 1.1 The elements of the Code which cover personal and prejudicial interests are designed to safeguard the principles of **selflessness and objectivity**.
- 1.2 They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of **members of authorities or their close personal associates**.

### 2 **PERSONAL INTERESTS**

- 2.1 personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could conclude that the interest would influence your vote, or your decision.
- 2.2 This is the distinction between personal and prejudicial interests, and what action a member should take depending on the nature of their interest, that causes the most difficulty for members.
- 2.3 It is strongly recommended that if you are in any doubt about whether you have a personal or prejudicial interest, and, if so, what you need to do, you should ask your Clerk for advice. However, the decision on what course of action should be taken **remains with you**.
- 2.4 **Do I have a personal interest**
  - 2.4.1 You have a personal interest in any business of your Council, including when making a decision, where it relates to or is likely to affect:
    - your job or our business, your employer, or any firm in which you are a partner or paid director;

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- any person who has paid towards the cost of your election or your expenses as a member;
- any company in which you hold shares with a nominal value of more than £25,000 or where your holding is more than 1% of the total issued share capital, which has premises or land in your Council's area;
- any contract that your Council makes with a firm in which you are a partner, paid director or hold shares in and any land in which you have an interest, and which is in your Council's area;
- any land let by your Council to a firm in which you are a partner, paid director, or a body to which you have been elected, appointed or nominated by your Council;
- **any public authority or body exercising functions of a public nature**, company, industrial and provident society, charity, or body directed to charitable purposes whose main role is influencing public opinion or policy, trade union or professional association, private club, society or association operating in your Council's area in which you have membership or are in a position of general control or management;
- any land in your Council's area which you have a license to occupy for at least 28 days.

## 2.5 Matters affecting your wellbeing or financial position

2.5.1 If a decision might be seen as affecting your wellbeing or financial position or the wellbeing or financial position of any person **who lives with you** or with whom you have a close personal association to a greater extent than other people in your Council's area, **you have a personal interest**.

## 2.6 What does "affecting wellbeing or financial position" mean?

2.6.1 The term "wellbeing" can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your wellbeing.

2.6.2 A personal interest can affect you or your **close personal associates** positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

## 2.7 Who is a close personal associate?

2.7.1 Close personal associates include people such as **close friends**, colleagues with whom you have particularly strong connections, business associates and **close relatives**.

2.7.2 It does not include casual acquaintances, distant relatives, or people you simply come into contact with through your role as member or your work in the local community.

- 2.7.3 Close personal associates can also include someone with whom you have been in dispute, or whom you may be regarded as having an interest in disadvantaging.
- 2.7.4 For example, being a member of the same football club as another person would not of itself constitute a close personal association but having that person as a weekly visitor to your home might well do.

*Example: A member of a Community Council was found in breach of the Code for failing to declare a **personal and prejudicial interest** at a meeting which considered the Clerk's remuneration package; the member and the Clerk were in a relationship and engaged to be married at the time.*

- 2.7.5 The Adjudication Panel found that the member should have declared a personal interest on the item of business by virtue of his **close personal association** with the Clerk.
- 2.7.6 It considered also that the nature of the member's relationship with the Clerk, was one that gave rise to a prejudicial interest as it concerned a significant benefit for the future spouse.
- 2.7.7 The Adjudication Panel considered that the interests was one that would **affect public perception of the member's ability to make a decision in the public interest**. The Adjudication Panel reiterated that the test was not whether the member took the decision without prejudice, but whether he would have been seen as doing so. **The member was suspended for 3 months.**

## 2.8 What if I am not aware of my personal interest?

- 2.8.1 Your obligation to disclose a personal interest to a meeting only applies when you are aware of or **reasonably ought to be aware of** the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware.
- 2.8.2 It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests, from the point of view of a **reasonable and objective observer**, you should have been aware.

## 2.9 What to do when you have a personal interest?

- 2.9.1 Once disclosed, you can stay and participate if your interest is **not prejudicial**. If you decide that you have a personal interest, then you must take the following action before the matter is discussed or as soon as it becomes apparent to you.
- declare that you have a personal interest, and the nature of that interest;
  - consider whether you have a **prejudicial interest?**

- 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.**

### **3 PREJUDICIAL INTERESTS**

- 3.1 Do I have a prejudicial interest? Do not be swayed by what you think, consider what a member of the public would reasonably think.
- 3.2. Your **personal interest** will also be a **prejudicial interest** in a matter if a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.
- 3.3 What is so significant that it is likely to prejudice your judgement?
- 3.3.1 If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest.
- 3.3.2 This is an objective test. You must decide not whether you would take the decision without prejudice, **but whether you would be seen as doing so.**
- 3.3.3 You must ask yourself whether a member of the public, if he or she knew all the relevant facts, would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, **the interest must be perceived as likely to harm or impair your ability to judge the public interest.**
- 3.3.4 The mere existence of **local knowledge, or connections within the local community**, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively.
- 3.3.5 Some general principles must be remembered when applying this test. **You should clearly act in the public interest and not in the interests of any close personal associates.** You are a custodian of the public purpose and the public interest, and your behaviour and decisions should reflect this responsibility.

*Example: You **would** have a prejudicial interest in the consideration and decision on whether to support a planning application proposal if a **close personal associate** of yours (**for example a relative or a best friend**) lives next to the proposed site.*

This is because your **close personal associate** would be likely to be affected by the application to a greater extent than the majority of the inhabitants of your Council area and this gives you a **personal interest** in the issue.

The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. **It does not matter whether it actually would or not.**

3.3.7 In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not.

3.3.8 Community Councillors **do not** have a prejudicial interest in decisions made by their Council in respect of grants, loans or other financial assistance to community groups voluntary organisations where the value does not exceed **£500**.

*Example: If a Councillor were a member of a local football club and the club requested a donation of £500 from the Council, the Councillor would only need to declare a personal interest and would still be able to partake in discussions and take a vote.*

Furthermore, Community Councillors who have been appointed to a community group or voluntary organisation concerned by their Community Council, for example, to the board of a community hall, will **not have a prejudicial interest** in decisions made by their Council in respect of any grants, loans or other financial assistance.

If, on the other hand, you are on such a board in your **own capacity** and have not been appointed by your Council, then you **will have a prejudicial interest**.

## **4 WHAT TO DO WHEN YOU HAVE A PREJUDICIAL INTEREST?**

4.1 If you consider that you have a prejudicial interest in your Council's business, you must take certain action. Nevertheless, even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

4.2 If you have a **prejudicial interest** in a matter being discussed at a meeting, you must, having declared your **personal interest** in the matter, leave the room or any other venue in which the meeting is being held for example virtual meetings.

4.3 In addition, you must not seek to influence a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage.

4.4 This means that as well as leaving meetings where the item is discussed, you should also not write or make any oral representations about the matter.

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- 4.5 This is unless members of the public are allowed to make representations, give evidence, or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose or submit written representations to the public meeting.
- 4.6 However, where you attend you must immediately leave the room or chamber once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot remain to observe the vote on the matter.

## **5 WHAT DOES INFLUENCING A DECISION MEAN?**

- 5.1 You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak. Your presence itself could be perceived to be capable to influencing the decision making process.
- 5.2 It is always safer to declare an interest, however, if in doubt, consult with your Proper Officer.