



**Chester-le-Street**  
District Council

**Report to:**

Council

**Date of Meeting:**

29 November 2007

**Report from:**

Head of Planning and Environmental  
Health

**Title of Report:**

Development Control – Code of Good  
Practice

**Agenda Item Number:**

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**1. Purpose and Summary**

1.1 The purpose of this report is to seek Members agreement to the attached Code of Good Practice for Development Control.

1.2 The Code of Good Practice sets out principles to guide members in dealing with planning. It applies to all Members of the Council who may become involved in planning and development and also contains special advice for Members of Planning Committee. It is recognised good practice for such a code to be adopted to complement the Members Code of Conduct

**2. Consultation**

2.1 Officers from the Council's Legal Services have been consulted in the preparation of the Code. No objections have been received. The code has been reported to Planning Committee and Standards Committee where it was recommended it be forwarded to Full Council for approval. As the Code is an internal document no external consultations have been carried out.

**3. Corporate plan and Priorities**

- 3.1 The adoption of the Code has strong links to the Council's priorities and vision and links with the one team approach helping to ensure open and transparent decision making

#### **4. Implications**

4.1 Financial Implications and Value for Money Statement

There are no financial implications arising from the adoption of the Code

4.2 Legal

Officers from the Legal Services Team have been consulted in the development of the document. Any investigation by the Local Government ombudsman into a complaint of maladministration against the Council as Local Planning Authority, or any internal investigation of a complaint through the Council's corporate complaints procedure would be likely to consider whether this Code was in place and considered by Members.

4.3 Personnel

There are no personnel implications arising from the adoption of the Code.

4.4 Other Services

The adoption of the Code is not considered to have material implications on the delivery of any other services

4.5 Diversity

The adoption of the Code is not considered to have any material implications in relation to diversity issues

4.6 Risk

It is considered that the adoption of the Code is consistent with the aims of reducing risks to the Authority, as the adoption of a Code will help reduce the risk of a successful challenge to decisions made. In addition any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as Local Planning Authority, or any internal investigation of a complaint through the Council's corporate complaints procedure would be likely to consider whether this Code was in place.

4.7 Crime and Disorder

There are no implications

4.8 Data Quality

Every care has been taken in the development of this report to ensure that the information and data used in its preparation and the appendices attached are accurate, timely, consistent and comprehensive. The

council's Data Quality Policy has been complied with in producing this report.

4.9 Other Implications

**5. Background ,Position Statement and Option Appraisal**

5.1 The adoption of a Code of Good Practice for Development Control is recognised good practice. It is designed to support the Members Code of Conduct providing guidance for members in dealing with planning matters which can often raise difficult issues.

5.2 Observing the Code will go a long way towards achieving the Council's goal of an open and inclusive planning system. It will increase public confidence, reduce the likelihood of Council decisions being challenged and help Councillors in dealing with what may be difficult situations

**6. Recommendations**

6.1 It is recommended that Members approve and adopt the Code as appended to this report

**7. Background Papers/ Documents referred to**

7.1 None

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# **Chester-le-Street**

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## **District Council**

# **DEVELOPMENT CONTROL**

# **CODE OF GOOD PRACTICE**

## **DEVELOPMENT CONTROL ~ CODE OF GOOD PRACTICE**

### **1. INTRODUCTION**

- 1.1 This Code of Good Practice sets out principles to guide Members in dealing with planning. It applies to all Members of the Council who may become involved in planning and development and also contains special advice for members of the Planning Committee.
- 1.2 The Code of Good Practice supports (but does not form part of) the Code of Conduct for Members of Chester-le-Street District Council which Members must observe at all times. The Code of Conduct for Members avoids reference to specific functions of the Council such as planning but has direct relevance to Members' conduct in relation to their involvement in the planning process. Members are, therefore, recommended to consider carefully the provisions of both the Code of Conduct for Members and this Code, in relation to their involvement in Development Control matters.
- 1.3 The Council must act fairly and reasonably in all its dealings. Planning matters in particular can sometimes raise difficult issues. Because planning permission can increase ~ often very substantially ~ the value of land, people seeking permission may try to put pressure on decision makers. At worst, they may behave corruptly. Also planning issues can be emotive because they affect individuals' quality of life. A disappointed applicant or objector can all too easily form the belief that he or she lost because a Member had been subjected to undue influence. It is important, therefore, that the Council is open and transparent in its decision making on planning matters.
- 1.4 As the Nolan Committee on Standards in public life pointed out, Councillors exercise, quite properly, two basic roles in the planning system. They determine applications, arriving at a decision to grant or refuse permission by using planning criteria and by excluding non-planning considerations. They also act as representatives of public opinion.
- 1.5 This dual role creates tensions and Councillors may find it difficult to strike the balance between listening to the community and making decisions on planning grounds. However, as Nolan acknowledged, this does not mean that Members who are involved in the planning process must isolate themselves from the people they were elected to represent.
- 1.6 It does mean that Councils should ensure that their planning procedures accord with best practice; that those procedures are set out in a code which is accessible to Councillors, staff and members of the public; and that Councillors receive training in the planning system.
- 1.7 Any investigation by the Local Government Ombudsman into a complaint of maladministration against the Council as Local Planning Authority, or any internal investigation of a complaint under the Corporate Complaints Procedure would be likely to include consideration of whether this Code was observed by Members.

## 2. KEY PRINCIPLES

- 2.1 There are two key principles to follow. The first principle is that, in deciding whether or not to grant planning permission, the Planning Committee **must act reasonably**. This includes:-
- Members not putting the interests of their constituents above their judgement of what is best for the community as a whole.
  - Hearing all the facts and arguments and giving full consideration to all sides.
  - Not taking irrelevant or improper considerations into account (*eg refusing planning permission because of disapproval of, or support for, the person or organisation applying for it*); and
  - Having sound reasons for the decision taken.
- 2.2 This does not mean that the Planning Committee must always “rubber stamp” Officers’ recommendations but, if the Committee goes against officer advice, the grounds on which the decision is reached must be made clear. The reasoning process which led to the conclusion must be recorded in order for the basis of the result to withstand critical scrutiny and so to be clear and transparent, leading to proper accountability. The reasons must also be valid planning reasons; local opposition to, or support for, a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded on valid planning reasons which can be substantiated by the facts.
- 2.3 The Development and Building Control Manager, or the Council’s Solicitor are available to give advice, prior to or at Committee Meetings, on what might constitute valid planning grounds for refusing planning applications. (*The Council is legally required to give reasons for a decision to refuse a planning application. Indeed, the Article 13 of the Council’s Constitution sets out, amongst other things, the principles of decision-making* )
- 2.4 Appendix 1 to this Code lists some factors which are sometimes raised in discussion but which are **not** valid planning reasons and should not be taken into account in making decisions.
- 2.5 The second principle is that the Council **must avoid maladministration**. The Local Government Ombudsman investigates complaints of injustice arising from bad administration by the Council (‘maladministration’) . Such investigation looks at the **process** by which the decision is taken (and *how that process appears to the outside world*) rather than the decision itself. It covers such things as failure to be impartial and failure to consider all the facts. For the individual Member this means being cautious in dealings with applicants and people making representations so that both sides are dealt with fairly. Members must not appear to have been unduly influenced or to have a “closed mind”. It is also vital to observe the Members’ Code of Conduct as a breach of the Code by a Member can amount to maladministration by the Council.

- 2.6 If the Local Government Ombudsman finds that maladministration has occurred, the Council will be required to publish the findings and may also be asked to compensate the complainant. A finding of maladministration can be made against the Council even where the actions giving rise to that finding are those of a single Member.
- 2.7 If the Council, through the Planning Committee fails to act reasonably, then a person who is aggrieved by the decision can apply to the Court for 'judicial review'. This could mean that the Court overturns the decision and possibly awards substantial damages against the Council.

### **3.0 WHAT THIS MEANS FOR MEMBERS**

#### Generally

- 3.1 The following guidelines are intended to translate these principles into practical advice and to help Members deal with a range of situations that may arise:-

- (i) Approaches generally - You should always think carefully about how you deal with anyone who approaches you about a planning application. This may be an applicant or his/her agent, an objector, a supporter or someone simply requiring information about an application or proposal. It is always open to you to refer the person to the Development and Building Control Manager, or the appropriate member of his/her staff and you would be well advised to do this if you feel that anyone is trying to put you under undue pressure or influence you unfairly. In particular, you should not allow yourself to be pressured into giving an "instant opinion" on the application. You may listen to what is being said but it is usually useful to make it clear from the outset that you cannot discuss such matters if you are a member of planning committee
- (ii) Approaches from Developers and Agents - You should be particularly careful in dealing with any approaches you may personally receive from Developers or their Agents. They may attempt to put pressure on you in order to secure some expression of commitment. Again, Members should always refer the person concerned to the Development and Building Control Manager

Members should not respond to approaches from Building/Developers or their Agents unless accompanied by the Development and Building Control Manager or his/her representative, as this could be misconstrued.

- (iii) Gifts and/or hospitality - You should not accept gifts or hospitality from Developers/Agents in connection with your membership of the Planning Committee as this might reasonably be interpreted as likely to influence your judgement. In addition all Members are reminded of their obligation under Paragraph 8 (1) (viii) of the Code of Conduct for Members regarding registration of gifts and hospitality with an estimated value of at least £25.

- (iv) Community representative role - Nevertheless, as a Councillor you are the representative, indeed the champion of your community and there will be times when you feel you must represent the community's views on a particular application. Furthermore, the Planning Committee procedures allow applicants and objectors to enlist the help of their Local Councillor to speak on their behalf. They also allow Councillors who are not members of the Planning Committee to address it on any application so long as Councillors can demonstrate that it affects their Ward.
- (v) Addressing the Committee from the public gallery If you wish to address the Committee either on your own account or on behalf of an applicant or objector, you can do so provided you observe the Committee's procedures (For example, you must give prior notice to Officers in accordance with procedures ) **and** you do not have a prejudicial interest in the matter. If you do have a prejudicial interest in the issue then you may only attend the committee for the purpose of making representations, answering questions or giving evidence relating to the business (provided the public are also allowed to attend the meeting for the same purpose). If you have a prejudicial interest as soon as you have finished addressing the Committee you must leave the room.
- (vi) Avoiding pre determination. If you **are** a member of the Planning Committee you should not close your mind to the outcome of an application before it is considered by the Committee or give the impression that you have done so, even though you may hold strong views about it. You should bear in mind that some of your Ward colleagues may not be on the Committee and will be better placed to undertake this role. Similarly, if the question arises of writing letters of objection (*or support*) to the Development and Building Control Manager, it would be more appropriate if these came from Ward colleagues who are not on the Committee.
- (vi) Saving it for the proper forum. Whether or not you are a member of the Planning Committee, anything you have to say on an application should be said only at the Committee meeting. It is not in the interests of openness for Members to lobby the Chair or other members of the Committee behind closed doors. This does not mean, however, that Ward Members cannot discuss an application amongst themselves.
- (vii) Avoid acting as organiser. If you are to remain as a decision maker on the particular planning committee, you should not organise support or opposition for a planning matter to be determined by the district council and not lobby other councillors. Such actions are easily misconstrued by parties to the application and the general public.
- (viii) Cannot instruct officers. You should remember that you as an individual member are not in a position to give instructions to Officers about any planning application. Only the Committee or the Council can do that. For



the same reason, until a formal decision is taken, any views you may express in discussion with other parties are personal and not the Council's and you should make this clear. In addition, Members are reminded of their obligation under Paragraph 3(d) of the Members Code of Conduct, which states that you must not 'do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority'.

- (ix) Avoid informal visits. It is best to avoid entering any premises or site in connection with a planning matter unless on a formal site visit. However, Councillors may sometimes be asked by constituents to visit them in their homes and on these occasions the question of a planning application (*or objection or support*) may be raised. You should be cautious about giving any commitment in these circumstances. Apart from anything else, you may only have heard one side of the story.

### 3.2 Members of the Planning Committee

There are some specific rules which you must observe when planning applications are being considered by the Planning Committee:-

- (i) Open declaration of not taking part - Even if you strongly support, or oppose, a particular application you must listen to all the arguments for and against it and weigh them up carefully before casting your vote. Councillors who have openly declared their voting intention (on a planning or any other application, enforcement case or local planning policy proposal) in advance of the relevant Committee meeting should always make an open declaration and not vote because they could be considered to have fettered their discretion. In those circumstances a Member should not speak and vote as a member of the Planning Committee.
- (ii) Party Line - It follows from this that you must not base your decision on any discussion that may have taken place in a Political Group meeting. To do so would imply that you have not come to the Committee Meeting with an open mind and that you were influenced by Group discipline rather than the merits of the case. The Ombudsman has found maladministration in cases where Members have been influenced by Political Group decisions in deciding planning applications.
- (iii) Irrelevant considerations - Make sure that you are not swayed by arguments which are not directly related to the merits of the planning application. For example, you should not vote against or for an application just because you are opposed to or support the aims of the organisation that is applying. Also, it may sometimes happen that views expressed at the Committee Meeting by applicants, objectors, or people who are in favour are not matters which the Committee can take properly into account. The Officers will advise on this.

- (iv) Formulating proper reasons to depart from officer recommendation - . If you intend to reject the Officer's recommendation, you should make sure that your reasons for doing so are clearly expressed and understood by your colleagues. Furthermore, your reasons must be valid planning reasons, and you should seek advice on this if you are not sure.
- (v) Compliance Obligations - . You must comply with the requirements of the law (e.g. as to avoidance of appearance of bias) and the Members' Code of Conduct on disclosure of interests, the relevant parts of which are attached at Appendix 2 and 4 with some examples.

### 3.3 Site Visits

It is unusual for there to be a requirement to undertake a site visit because the presentation provided to Members at Planning Committee includes the production of comprehensive reports, detailed plans, and photographs. Site visits will only be arranged following a specific decision of the Planning Committee to defer the item for a site visit. They will be for the whole Committee. Their purpose is to allow Committee Members to see the actual circumstances of an application 'on the ground'. Applicants, objectors and Ward Members will also be invited. Objectors and people who are in favour may also attend. However, any discussion on the merits of the application, as distinct from the facts, will not be allowed and no decisions will be made during the visit. Only Members of the Committee present at the site visit may be subsequently involved in the decision at the following Committee meeting. Site visit procedure is attached at Appendix 3 to this document.

### 3.4 Public Meetings

There will be occasions when public meetings are called to discuss sensitive planning applications. This can place Members in a difficult position, particularly where it may be necessary to champion the views of constituents. This would be best undertaken by those Ward Members who are not on the Planning Committee, leaving Members who are on the Committee to listen carefully to what is said at the public meeting but to refrain from expressing a firm opinion on the proposals.

### 3.5 Press Comments

It is advisable for Planning Committee Members to avoid making comments to the press in relation to planning issues. Any comments should accord with the principles of this code and in particular must not create the impression that Members have prejudged the planning application. The Council's Public Relations Manager is available to assist Members in their dealings with the media

### 3.6 Planning Appeals

Where a Public Inquiry is held to consider an appeal, all Members should contact the Council's solicitor, and/or the Development and Building Control Manager before making representations and certainly before attending any Public Inquiry.

If Members present evidence on immaterial considerations there is a risk that the Council's case will be undermined.

### 3.7 Development Proposals from Councillors and Officers

As there is a risk of allegations of impropriety in relation to these applications, it is vital they are dealt with openly, fairly and in a way that gives no grounds for accusations of favouritism.

Therefore, Councillors submitting their own proposals, or who act as agents for others, should play no part in the decision making process for those proposals, which should be reported to the Planning Committee as main items and not dealt with by Officers under delegated powers. Similarly, applications by Officers in Planning and Environmental Health should be reported as main items.

A Councillor on the Planning Committee who submits an application will have a prejudicial interest under the Code of Conduct when it is considered. The Councillor must, therefore, declare the interest and withdraw from any consideration of the matter. They may address the planning committee from the public gallery but only for the purpose of making representations, answering questions or giving evidence relating to the application, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. (Paragraph 12(2) of the Members' Code of Conduct).

The Code of Conduct also provides at Paragraph 6(a) that a Member must not use their position improperly to confer on or secure for themselves an advantage. However, this does not mean that a Councillor should have any fewer rights than a member of the public in seeking to justify their application to an Officer in advance of consideration of it by the Committee.

When contacting an officer about their own proposals, or those of a person closely connected to them, so that the matter is a prejudicial one, a Councillor should make clear that they are contacting the officer purely in a private capacity and not in their role as a Councillor (e.g. Mr Brown rather than Cllr Brown).

## **4. CONCLUSION**

- 4.1 Observing this Code of Conduct will go a long way towards achieving the Council's goal of an open and inclusive planning system. It will increase public confidence; reduce the likelihood of Council decisions being challenged; and help Councillors in dealing with what may be difficult situations.
- 4.2 The purpose of the Code is to ensure that justice is not only done but is seen to be done.
- 4.3 If you require any further advice, please contact the Council's Solicitor who will be happy to help.

## APPENDIX 1

### PLANNING CONSIDERATIONS

In determining planning applications, the Planning Committee can only take account of valid planning reasons.

The following list gives some examples of factors which are sometimes raised in discussion but are **not** valid planning reasons and should **not** be taken into account in making decisions.

- The fact that development has already begun or been completed.
- “Trade objections” from potential competitors
- “Moral objections” to uses such as public houses, amusement arcades and betting offices.
- The loss of an attractive view from private property.
- The fear that property may be devalued because of an adjoining development.
- Matters controlled under Building Regulations such as structural stability of the property, capacity of private drains.
- Matters controlled under other legislation such as alcohol, gaming and waste licensing or pollution regulations.
- Allegations that the proposal may affect private rights such as rights of way, access for maintenance and boundary disputes (*these are usually private matters on which legal advice may be needed*).

## **DISCLOSURE OF INTERESTS**

## **APPENDIX 2 (examples)**

**(Note: These apply to Committee Members and non Committee Members)**

**1. You are a remunerated Director of a company which has submitted a planning application to develop some surplus land which it owns.**

Company Directorships must be registered in the Register of Members' Interests. You, therefore, automatically have a personal interest in the matter and must disclose it at the commencement of consideration of the matter (*preferably in advance of the meeting as well*). Because you receive some remuneration as a Director, it is also likely to be a prejudicial interest and you must, therefore, withdraw from the meeting for the duration of any consideration of the matter. You may attend the planning committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. (Paragraph 12(2) of the Members' Code of Conduct)...

**2. Your spouse or partner holds shares to the nominal value of £2,000 in a telecommunications company which has applied for planning permission to erect a telecommunications mast.**

The nominal value of the shares is under the £25,000 threshold specified in Paragraph 8(1)(a)(vi) and Paragraph 8(2)(c). Therefore, you do not need to declare a personal interest (*and there is, therefore, no possibility of you having a prejudicial interest*).

**3. An application is to be considered for a new supermarket development. Your brother owns a small business which could be seriously adversely affected if permission is granted.**

You have a personal interest in the matter because a relative's financial position can reasonably be regarded as being affected to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the District. In view of the fact that the potential impact on your brother's business is serious, it is also likely to be a prejudicial interest, and you must, therefore, declare the nature of your interest in the matter before it is considered, and withdraw from the meeting. You may attend the planning committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. (Paragraph 12(2) of the Members' Code of Conduct)..

**4. You are a member of a Golf Club which applied for planning permission for an extension.**

A decision on the application could reasonably be regarded as affecting your well-being to a greater extent than the majority of other Council Tax payers, etc and is, therefore, a personal interest, which must be disclosed. On the basis a member of the public with knowledge of the relevant facts would reasonably regard your membership as sufficiently significant so as to prejudice your judgement of the public interest, the interest is also prejudicial, and you should, therefore, withdraw from the meeting before the item is discussed. You may make representations, answering questions or giving evidence relating to the business at planning committee speaking from the public gallery, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. ( Paragraph 12(2) of the Members' Code of Conduct).

**5. You are appointed as a Governor of a School. The School is the subject of a planning application to erect a fence around the school boundary.**

You must register your role as School Governor as an interest in the Register of Members' Interest, under Paragraph 8 (1)) (a)(ii) of the Members' Code of Conduct. You, therefore, automatically have a personal interest in the matter, and this must be disclosed. However, Paragraph 9(2) provides that you do not have to disclose to the meeting the existence and/or nature of that interest unless you actually address the meeting on that business. If you do address the meeting then you have a prejudicial interest and paragraph 12(2) of the code of conduct advises that you must leave the room as soon as you have finished your representations.

**6. You are a member of the parish council that has considered a planning application at their committee meeting. You sit on planning committee and will consider the application subsequently.**

You must register your role as a parish councillor in the Register of Members' Interests. Paragraph 8(1)(a)(ii)) (aa) of the Members' Code of Conduct refers. You therefore automatically have a personal interest in the matter and this must be disclosed. If you withdrew from the parish council meeting and took no part in any discussion it would be reasonable to say you do not have a prejudicial interest and therefore you may still take part in the discussion at Planning Committee. However if the planning application was submitted by the Parish Council itself then there would be a prejudicial interest and you should leave the room (except to the extent you can rely on of Paragraph 12 (2) of the Members' Code of Conduct).

## APPENDIX 3

### PLANNING COMMITTEE : CONDUCT OF SITE VISITS

1. Site visits, when considered appropriate, are a valuable part of the planning process improving transparency and giving the parties involved confidence that all aspects of a proposal have been carefully considered by the Local Planning Authority. Site visits can be of value on limited occasions when detailed design, amenity or topographical issues are central to the discussion.
2. Site visits will only be arranged following a specific decision of the Planning Committee. They will be for the whole Committee. Their purpose is to allow Committee Members to see the actual circumstances of an application 'on the ground'. Applicants, objectors and Ward Members will also be invited. Objectors and people who are in favour may also attend. However, any discussion on the merits of the application, as distinct from the facts, will not be allowed, and no decisions will be made during the visit.
3. As many members of the Committee as possible should attend any site visit. **The Chairman of the site meeting will control the proceedings** and exercise complete discretion based on these guidelines to ensure that the event is properly conducted. The Chairman will then make introductions and outline to those present the procedures which will be followed highlighting:-
  - (a) The role of the site visit.
  - (b) That applicants/objectors cannot make representations at the visit but may point out particular features of interest which they consider the Committee should know.
  - (c) The need to address any questions through the Chairman.

### ORDER OF PROCEEDINGS

- (i) The Council Officer in attendance (*usually a Planning Officer, but occasionally a Highways or Environmental Health Officer*) will present the application summarising the proposal and alerting Members to the relevant planning issues involved.
- (ii) Site visits which are anticipated to be particularly contentious, or will attract significant numbers should be attended by a second Officer who is conversant with the case(s).
- (iii) Members of the Committee will then be asked if they have questions or issues on matters of fact to put forward for the presenting Officer to clarify or answer.

- (iv) Where appropriate the Chairman of the site meeting, in conjunction with the Officers, will lead Members around the site with comments on relevant issues being pointed out by the Officers en-route.
- (v) As far as possible **Members should remain together as a group** on the site visit so that they all receive the same information and are not approached separately by interested parties. Interested parties may point out particular features to Members on the site visit, but if they try to make representations on the merits of the application rather than on the facts, they should be informed by the Chairman of the site meeting (*on advice from the Officer in attendance*) that such representations are not allowed and Members will be asked to disregard them.
- (vi) **Members should not express any views** at the site visit about how they intend to vote.
- (vii) Members should seek clarification from Officers on any issues considered to be relevant to the conduct of the site visit.
- (viii) The arrangement outlined above will be appropriate for most site visits but there may be occasions when circumstances dictate an amendment to the procedure. Such amendments will be at the discretion of the Chairman of the site meeting who will be mindful of the need for all parties to feel they have been treated in an even-handed manner.



## **APPENDIX 4**

Relevant extracts from the Members' Code of Conduct on personal and prejudicial interests.

### **Part 2**

#### **Interests**

##### **Personal interests**

**8.** —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share

capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

**9.** —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000 (a).

### **Prejudicial interest generally**

**10.** —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

- (a) See The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (SI 2000/3272)

### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

**12.** —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3**

#### **Registration of Members' Interests**

##### **Registration of members' interests**

**13.** —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

##### **Sensitive information**

**14.** —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

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