

GUIDANCE ON THE DECLARATION OF INTERESTS AT MEETINGS

When do I need to declare my interests?

You need to declare your interests at all meetings where matters being discussed or to be discussed affect your interests.

What is a personal interest?

You have a personal interest in matter if that matter affects the well-being or financial position of you, your relatives or your friends more than it would affect other people in the authority's area. You must look at how any decision reached in a meeting would affect:

- You and their jobs and businesses;
- You and their employee's firms, you or they are a partner of, and companies you or they are a director of;
- Corporate bodies in which you or they have a beneficial interest in a type of share with a face value (as shown on the share certificate) worth more than £5,000; and
- The following organisations in which you or they hold a position of general control or management:
 - organisations where you or they represent your authority
 - other public authorities or organisations which deliver public services
 - companies, industrial and provident societies, charities or charitable organisations
 - organisations with a main purpose which includes influencing public opinion or policy
 - trade unions or professional associations

Under the Code of Conduct:

- "A relative" is a partner (someone you are married to or live with as if you were married), a parent, a parent-in-law, a son or daughter, a step-son or step-daughter, the child of a partner, a brother or sister, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, or the partner of any of these people;
- "Other people in the authority's area" are people who live in the authority's area or who pay council tax or business rates to your authority.

You need only declare the interests you know about, and you do not need to investigate the business or other interests of your relatives and friends.

A personal interest can affect you, your relatives or your friends positively or negatively. So, if you or they would stand to lose by the decision you should also declare it.

What do I need to do if I have a personal interest in a matter?

You must declare and give details of the interest before the matter is discussed or as soon as it becomes apparent to you. Agendas at Medway ask for the declaration of interests at the start of the meeting. However, if you are not aware of a potential personal interest until you reach an item then as long as you declare it as soon as it becomes known to you, you will not be in breach of the Code.

Do I need to declare a personal interest at a meeting if it is on the Register of Interests?

Yes – even if your interest is shown in the Register of Interests, you must also declare it in meetings where matters affecting that interest are discussed.

Can I stay in the meeting if I have a personal interest?

You can still take part in the meeting and vote on the matter unless your personal interest is also a prejudicial interest.

What is a prejudicial interest?

A prejudicial interest is one which a member of the public who knows the relevant facts would reasonably think is so significant that it is likely to affect your judgement of the public interest.

You must ask yourself whether a member of the public – if he or she knows all the facts – would think that your personal interest was so significant that it would probably affect your decision on the matter. If he or she would think your judgement would be affected, then you have a prejudicial interest.

You would also have a prejudicial interest if you are involved in an Overview and Scrutiny Committee meeting which is checking a decision taken by another committee which you are a member of. However, you can be called to attend the Overview and Scrutiny Committee meeting to give evidence or answer questions on the matter.

What is not a prejudicial interest?

The Model Code of Conduct sets out some general exceptions from prejudicial interests. It says that you may not have a prejudicial interest if the matter relates to:

- Another relevant authority which you are a member of, for example, a parish council or a joint authority

- Another public authority in which you hold a position of general control or management
- An organisation where you represent your authority
- Your authority's functions relating to housing if you hold a tenancy or lease with the authority and are not more than two months behind with your rent (as long as the matter does not relate to your particular tenancy or lease)
- Your authority's functions relating to school meals, transport and travelling expenses if you are a parent or guardian of a child in full-time education (unless it relates particularly to a school your child attends)
- Your authority's functions relating to sick pay if you are receiving this, or are entitled to this, from your authority; or
- Your authority's functions relating to Members' allowances or payments made under section 173 to 176 of the Local Government Act 1972, or section 18 of the Local Government and Housing Act 1989.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest in a matter being discussed at a meeting, you must leave the room. You cannot take part in discussions on that matter or try to improperly influence anyone else's decision on the matter. It is important that you leave the room so you and your authority are seen to be acting in an appropriate and unbiased way, and to remove pressure from the remaining members.

What about Overview and Scrutiny Committee meetings?

If you have a prejudicial interest you can still take part in an Overview and Scrutiny meeting unless that interest is financial, the Committee is checking a decision taken by another Committee which you are a member of, or the Committee is carrying out the functions of the Council or its Executive. This exemption is aimed to allow the highest number of people to take part in Overview and Scrutiny Committees and to allow the Committee to benefit from the views of experts in the matters being discussed.

If the Overview and Scrutiny Committee is checking a decision taken by another committee which you are a member of, you can still be called to attend the meeting to give evidence or answer questions on the matter.

Can I get a dispensation to allow me to take part in meetings where I have a prejudicial interest?

You can apply to your Standards Committee for a dispensation if:

- Over 50% of the authority of committee members would be prevented from taking part in a meeting because of prejudicial interests; or

- The political balance at the meeting would be upset.

If the Standards Committee approves your application it must grant a dispensation in writing before the meeting is held. If you need a dispensation you should apply for one as soon as reasonably possible.

What happens if I am a Medway Councillor and a Parish Councillor and I am deciding on a planning application?

In general terms the introduction of the Model Code of Conduct has not altered the situation in relation to planning issues for councillors who sit on both a parish council and Medway Council. The Model Code of Conduct says that you do not have to declare an interest if it relates to membership of another authority. Therefore membership of a parish council by itself does not constitute a prejudicial interest for a Member of Medway Council. So, you as a Member of a Parish Council could also discuss a planning matter in the Parish Council and also participate at Medway Council.

However, if you had either at the Parish meeting, or indeed elsewhere, given the impression you had made your mind up on the application before hearing all the arguments (particularly those presented later at Medway) then you could be considered as having fettered your discretion. In those circumstances you should not participate at the Medway Council meeting.

In such a case you have been excluded not because of the Code but because your previous actions had fettered your discretion and possibly laid the Council open to the objection that the planning process had been tainted. So, you have to choose whether to form a view at an early stage of the process and campaign for or against but be excluded from the final decision making; or reserve judgement until all views have been considered and only then form a view.

What if I am part of a lobby group, for or against the planning application?

Here, detailed advice may have to depend upon the specific situation. However there are two obvious scenarios that could cause a problem. The first decision is whether or not you have a personal interest in the land under discussion.

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or friends more than it would affect other people in the area. The criteria you need to consider here is set out in response to the question "What is a personal interest?" above.

Also, if a matter affecting your entries on the Register of Interests is discussed, you must declare a personal interest in the matter. As indicated above, if you have a personal interest you must declare it but you can stay in the meeting and vote unless your interest is also prejudicial.

Therefore, if you have a personal interest you will need to decide whether it is also prejudicial and whether you can be present at a planning committee when this matter comes up for consideration. Guidance is given on what constitutes a prejudicial

interest above. However, it is worth repeating that if you have a prejudicial interest you must declare what that interest is and withdraw from the meeting by leaving the room. You cannot take part in discussions on the matter or try to improperly influence a decision on the matter.

The second decision (which arises under general public law principles rather than under the provisions of the Code of Conduct) is whether you have already reached a concluded view with relation to the planning application, i.e. fettered your discretion. This may arise where you have already expressed a concluded view at a Parish Council meeting, if for example, you were a Parish Councillor or have taken part in a local campaign for or against the application. In those circumstances you should not take part in the meeting. Where you happen to live in a part of the district which will be particularly affected by the planning application, that will usually constitute a personal interest which should be declared. In many situations this type of interest will not constitute a prejudicial interest which should require you to withdraw from the meeting. However, the closer you live to the site or greater the impact of any prospective development on you or your property, the greater the chance is that you would have a prejudicial interest which would require you to withdraw from the meeting. Members must consider each particular situation on its merits, and, when in doubt seek advice from the Monitoring Officer or the Lawyer who will be advising at the relevant meeting.