

MEMBERS' CODE OF CONDUCT

On 18 July 2007 the Council agreed a new Code of Conduct for Members and Co-opted Members which came into force on 5 September 2007.

All Members of the City Council are bound by the provisions of the Code and must agree in writing that they will observe it. If any member fails to sign up to the Code within 2 months of being elected, then they will cease to be a member of the Council.

Members who require any advice regarding provisions of the Code should contact the Head of Legal and Democratic Services on extension 2710.

Copies of the Code are available from Mick Steward on extension 3134. A copy of the Code is included in the Constitution. Members of the public have the right to inspect the Code. It can also be accessed at:

<http://www.westminster.gov.uk/services/councilgovernmentanddemocracy/governance/constitution/>

Local Standards Committees now have a duty to consider complaints made about Member Conduct. More details and a complaint form on which to make a complaint can be found at: <http://www.westminster.gov.uk/services/councilgovernmentanddemocracy/governance/membercomplaints/>

The Code

The provisions of the Code primarily apply whenever members are conducting the business of their Council or office. This is in their 'official' role as a representative of the public, for example, at meetings of the Council, with other members and officers and public meetings and forums where they are there as a member.

Where they are also a member of another relevant authority they will be subject to the code which applies to the authority whose business they are carrying out at the time. For example, if a councillor is also a member of a police authority they will be bound by the police authority's local code when carrying out police business.

As a representative

The code will also apply when members represent their council on other bodies. However, where the other body is bound by legal obligations which conflict with the Council's code, then the rules of that authority apply.

In your private life, in certain circumstances, the code can also apply in your private life, but only where the conduct in question constitutes a criminal offence for which you have been convicted.

What Members have to do

General Duties

The code **places positive general duties** on members to:-

- Treat others with respect.
- When using the resources of the Authority at in accordance with the Authority's recommended requirements (and not use such resources improperly for political purposes).
- Give reasons for decisions.
- Have regard to the Local Authority Code on Publicity.
- Have regard to the advice of the Council's Monitoring Officer and Chief Financial Officer when reaching decisions and where they are acting pursuant to their statutory duties.

There are also a number of things members should *not* do. These are:-

- Do anything to cause the Authority to breach any equality enactment.
- Bully any person.
- Bring their council or office into disrepute;
- Misuse their official position to their own advantage or to the advantage or disadvantage of others.
- Compromise the impartiality of any person who works for the council.
- Stop somebody seeing or getting copies of documents they are allowed to have or improperly disclose confidential information.
- Intimidate any person involved in a complaint of Member misconduct (such as a complainant or witness).

Register of Interests

Each Member has to provide a record of their interests in a public register within 28 days of their election, or the Code of Conduct being adopted by the Council. Members must tell

their Monitoring Officer, in writing, of any interests that they have which fall within the categories set out in the Code. These categories include:-

- (i) Any body of which the Councillor is a Member or in a position of general control or management and to which any are appointed or nominated by the Council
- (ii) Any body:
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes, or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which a Councillor is a Member or in a position of general control or management.
- (iii) Any employment or business carried on by the Councillor
- (iv) Any person or body who employs or has appointed the Councillor
- (v) Any person or body, other than a relevant authority, who has made a payment in respect of the Councillor's election or any expenses incurred by the Councillor in carrying out their duties.
- (vi) Any person or body who has a place of business or land in the authority's area, and in whom the Councillor has 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 lowest)
- (vii) Any contract for goods, services or works made between the Council and the Councillor or a firm in which the Councillor, a partner, a company of which the Councillor is a remunerated Director, or a person or body of the description specified in (vi) above.
- (viii) The name of any person or body from whom the Councillor has received a gift or hospitality with an estimated value of £25 or over, including the nature of the gift or hospitality.
- (ix) Any land in the authority's area in which the Councillor has a beneficial interest.
- (x) Any land where the landlord in the Council and the Councillor is, or a firm in which they are a partner, a company of which they are a remunerated Director, or a person or body of the description specified in (vi) above is the tenant.
- (xi) Any land in the Council's area for which the Councillor has a licence (alone or jointly with others) to occupy for 28 days or longer.

The Standards for England have issued advice clarifying two issues regarding the Register of Interests for Members. These relate to membership of the Freemasons and Political Party Councillor Associations:

1. Registering and Declaring Membership of the Freemasons

“Following recent discussions with the United Grand Lodge of England, the Standards Board wish to clarify the issue of freemasonry and the register of interests.

It is necessary for Freemasons to declare membership of the Freemason Grand Charity under paragraph [new 8 (1) (a) (ii) (bb) of the Code of Conduct, which states that members need to register with their authority membership of bodies that are “directed to charitable purposes”.

All Freemasons pay an annual subscription fee to their own individual Masonic Lodge, part of which automatically goes to the Grand Charity. Therefore Freemasons are obliged under the Code of Conduct to register their membership of the Grand Charity and to declare this interest where appropriate.”

2. Registering and Declaring Membership of Political Party Councillor Associations

Following an enquiry from the Conservative Party about membership of the Conservative Councillors’ Association, the Standards Board clarified that membership of councillor associations should be registered with the authority under paragraph [now 8 (11) (a) (ii) (cc)] of the Code of Conduct.

The Code of Conduct requires the registering of membership of bodies “whose principal purposes include the influence of public opinion or policy”. Political Party Councillor Associations fall under this requirement and membership of such Associations therefore needs to be registered.”

Members should notify any changes to their declaration on the register within 28 days to Mick Steward, Council, Cabinet and Committee Secretariat on extension 3134. Failure to do so will be a breach of the Code of Conduct.

Declarations of interest

Alongside the register of interests, the Code also requires the declaration of interests at meetings of the Council (including Cabinet and Committee meetings). Members have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A **personal** interest is (a) any interest you are obliged to register, and (b) which affects you (or a relevant person) more than most other people in the ward concerned. People in the area include those who live, work or have property in the “relevant person” includes a member of your family, a close associate, partner, employer etc (see code for full definition).

If you do have a personal interest, you must declare it and say what the interest is at the beginning of any meeting where the issue is to be discussed or as soon as it comes to light. However, you can still take part in the meeting and vote unless the personal interest is also a prejudicial interest.

Whether the interest is **prejudicial** is a matter of judgement for each member. What members have to do is ask themselves whether a member of the public – if he or she knew

the facts – would reasonably think that the member’s interest was so significant that his/her judgement of the public interest is likely to be prejudiced by it.

Having said that, the new Code of Conduct provides that various types of interest are not prejudicial interests (see paragraph 10 (2) of the Code, or seek advice if in doubt).

If a Cabinet Member has a prejudicial interest in a matter he/she cannot take part in decisions about that matter.

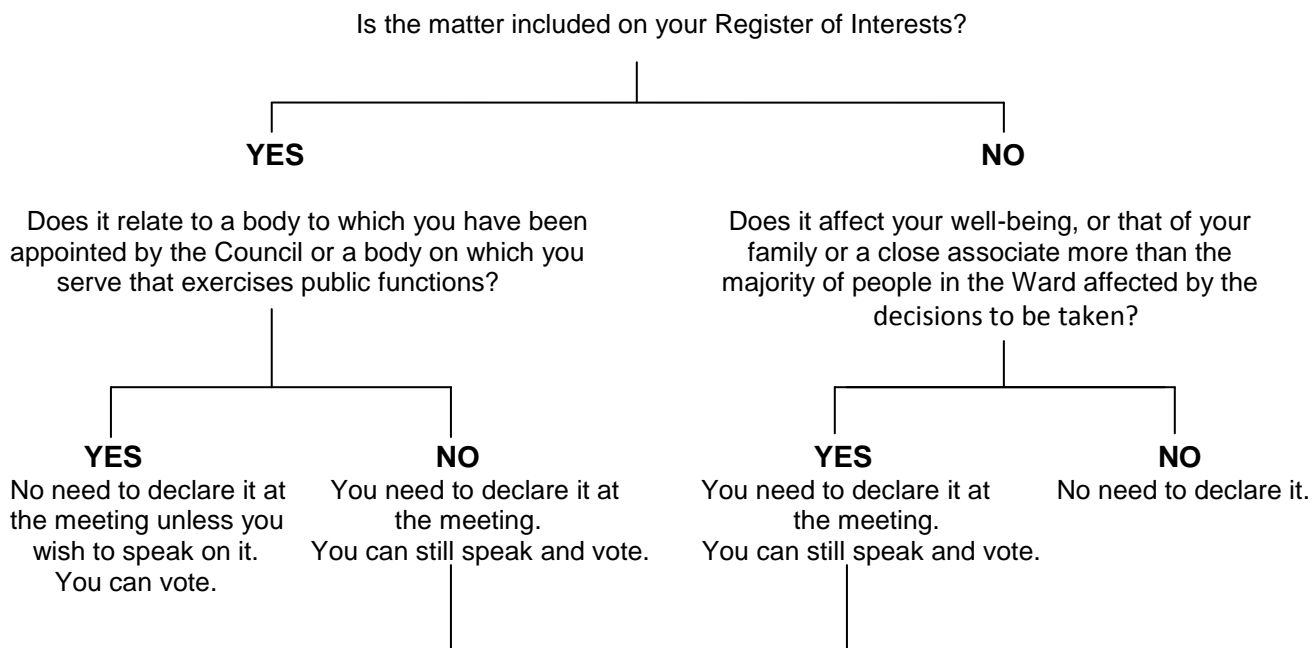
A member with a prejudicial interest should not seek improperly to influence a decision on the matter in question.

Members are encouraged to bring their personal experience to bear when considering matters but they should not be involved in taking decisions if they have a prejudicial interest.

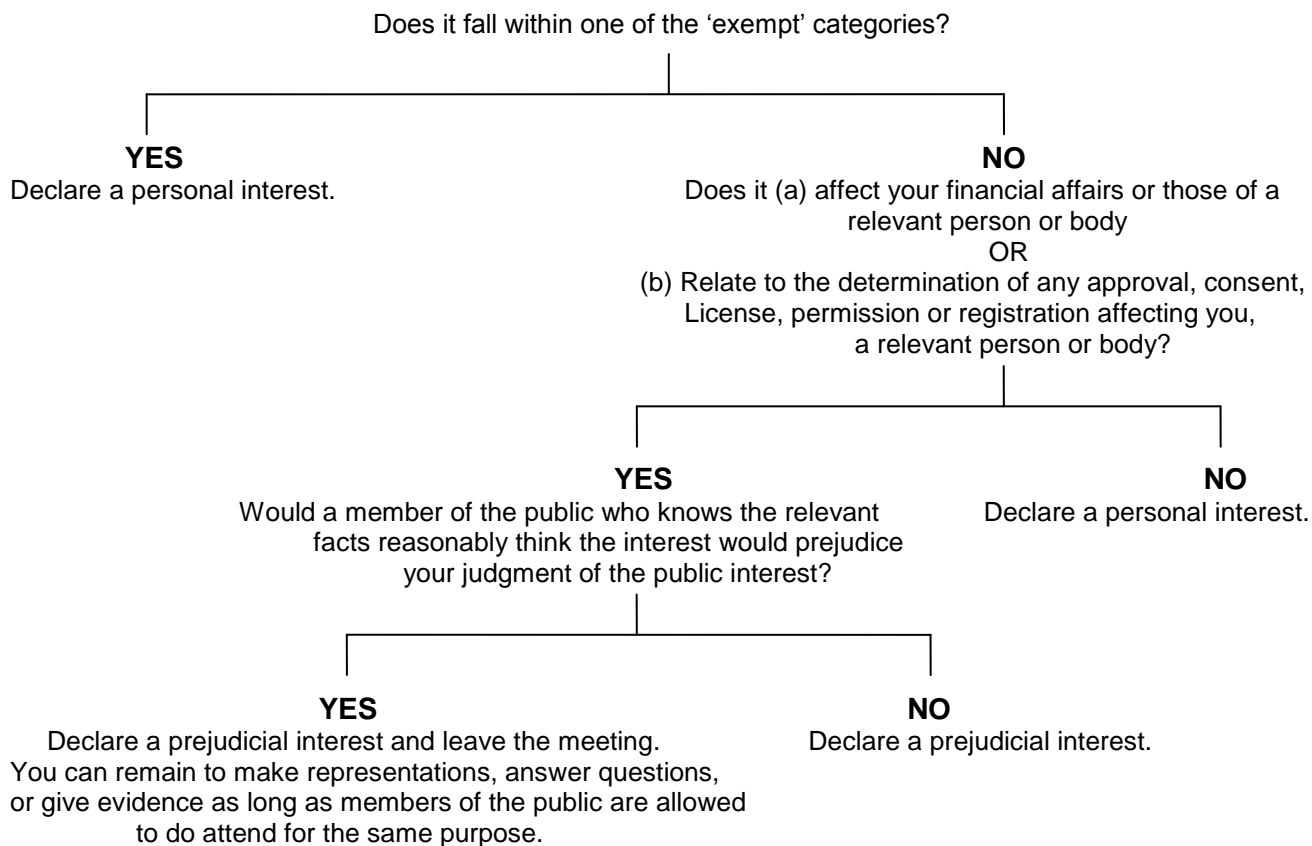
For further information on the nature of prejudicial interests contact the Head of Legal and Democratic Services or the Head of the Council, Cabinet and Committee Secretariat (ex 3134).

The chart below has been produced to aid Members when deciding whether to **declare** an interest at a meeting and whether that interest is **personal or prejudicial**.

Step 1: Do I have a personal interest that needs to be declared?



Step 2: Is my personal interest a prejudicial one?



Gifts or hospitality

Members are required, within 28 days of receiving gifts or hospitality over the value of £25, to provide written notification to the Council's Monitoring Officer giving details of the nature of that gift or hospitality and the person from who it was received. Please contact Mick Steward on 7641 3134.

Protocol/Guidance to avoid potential conflicts and Interests

Former Councillor Sir Simon Milton has been appointed as a Deputy Mayor of London by Boris Johnson, the Mayor for London. Sir Simon is responsible for advising the Mayor for Planning and Environment Matters. Sir Simon is the Civil partner of Councillor Robert Davis, Cabinet Member for Built Environment and Deputy Leader of the Council. Accordingly the Standards Committee agreed a protocol to avoid potential conflicts of interest.

The protocol is available at: www.westminster.gov.uk/governance

ADDITIONAL GUIDANCE FOR ALL MEMBERS OF THE CITY COUNCIL ON DECLARATIONS OF INTEREST FOLLOWING THE LOCAL GOVERNMENT OMBUDSMAN'S REPORT INTO THE BELGRAVE ROAD/VAUXHALL BRIDGE ROAD MATTER

1. The full Council received a report on the Ombudsman's report into complaints about the way in which the Council had dealt with traffic proposals affecting Belgrave Road and Vauxhall Bridge Road at their meeting on 14 November 2001. Most of the complaints were rejected by the Ombudsman, but he did find that three Councillors failed to declare a personal or private non-pecuniary interest at the Committee meetings on 30 June 1998 and 26 January 1999; and that a fourth Councillor had a "clear and substantial interest" which was not declared at those two Committee meetings. He said that these Councillors breached the National Code of Local Government Conduct and that this amounted to maladministration.
2. The City Council's Standards Committee, therefore, approved this guidance to all Councillors in an attempt to avoid a similar situation arising in the future.
3. The relevant provisions of the former National Code, which were found by the Ombudsman to have been breached in the Belgrave Road/Vauxhall Bridge Road matter, have now been superseded by the statutory Code of Conduct for Members and Co Opted Members summarised above.
4. Direct and Indirect Pecuniary Interests (under the Local Government Act 1972) and substantial and non substantial non pecuniary interests (under the former National Code of Local Government Conduct) are now replaced simply by "personal interests" and "prejudicial interests" under the new Code of Conduct.

5. Under the former National Code if a member had a significant non-pecuniary interest it had to be declared, but the Member could nevertheless participate in debate and vote, unless the interest was "clear and substantial". Similarly, under the new Code, personal interests must be declared but a member who has declared such an interest may nevertheless participate and vote unless the interest is also "prejudicial" in which case (generally speaking) the Member must leave the meeting when the matter is being decided. (In addition the Code provides that a Member with a prejudicial interest must not exercise executive functions in relation to the matter in question nor seek to improperly influence a decision about the matter).
6. A "prejudicial interest" is (subject to exceptions) 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 the Member's judgement of the public interest.
7. In the Belgrave Road/Vauxhall Bridge Road matter, all four Councillors concerned lived within the consultation area for the traffic proposals concerned. Three lived in streets at varying distances from the principal routes affected, but the fourth lived literally a few doors away from Belgrave Road, although not on a street which was identified in the Committee reports as being particularly affected by traffic flows etc. as result of the proposals concerned. None of the Councillors concerned realised at the meetings in question that they ought to be declaring an interest. Arguably, none of the Councillors concerned were more affected by the proposal to remove Belgrave Road from the red route network than other people living in the area although, as previously noted, one Councillor did live particularly close to Belgrave Road.
8. The Ombudsman concluded, in relation to the first three Councillors, that whilst they should have declared a non-pecuniary interest, the interests were not "clear and substantial" and they were, therefore, entitled to participate and vote on the issue. With regard to the fourth Councillor, however, the Ombudsman wrote as follows:-

"Councillor B's case is more difficult to judge because of the proximity of his home to Belgrave Road.

....The reports about the red route options did not say that either option would have an effect on Councillor B's street.....

Councillor B's house is a few doors away from Belgrave Road: because of this proximity, I consider that a member of the public, knowing the facts, probably would reasonably think that Councillor B might be influenced by his interest

On balance, I have concluded that Councillor B's interest was clear and substantial and that, in accordance with paragraph 11 of the Code, he should have withdrawn from the meetings at which the red routes were considered."

(Emphasis added.)

It is reasonable to suppose that if a similar situation arose under the new Code of Conduct. The first 3 Councillors would be held to have "personal interests", but only the fourth a "prejudicial interest" (on the basis that the value of his home would have been affected by the proposals).

9. In view of the Ombudsman's findings, the Standards Committee would advise all Councillors as follows:
 - If you (or a relative or friend or other person with whom you are associated under paragraph 8 of the Code) are included within the consultation area for a development proposal, highway scheme, or other matter, this is arguably because the view has been taken that you (or they) may be affected by the matter in question (albeit, possibly, along with many others). That being the case, it would be safest to conclude that you have a personal interest in the matter and to declare that interest if you are present at a meeting at which the matter is being considered (or if you are a Cabinet Member taking a decision on the matter). The only exception would be if you are not affected to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the ward affected.
 - Declaring such an interest does not mean that you need necessarily withdraw from participation in debate, voting or decision making. You need to decide whether the interest is prejudicial. If it is not, then you may continue to take part in the discussion of the matter and vote on it (or if a Cabinet Member, make the relevant decision).
 - If, however, it is prejudicial, then you should not take any part in the proceedings and should always withdraw from the meeting whilst the matter is being considered (in the case of a Cabinet Member invited to make a decision, the decision will need to be taken either by the Leader, or by another Cabinet Member nominated by the Leader).
 - In deciding whether such an interest is prejudicial, you should ask yourself whether members of the public, knowing the facts of the situation, would reasonably regard it as so significant that it is likely to prejudice your judgment of the public interest. If you think so, and the proposals could have an impact on you (or a person or body described in paragraph 8 of the Code) you should regard the interest as prejudicial.
 - You will need to make a judgment on the facts and, if in doubt, seek advice from the Head of Legal Services, preferably well in advance of the meeting in question. What does seem to be clear from the Ombudsman's decision is:
 - You are likely to have a prejudicial interest and should not, therefore, participate if you are affected by the proposed decision in some particular way, ie. more than the generality of those affected by the decision, eg. in the context of a highway scheme, if you live in the principal streets affected, or in a street which is identified as being indirectly affected, such as by increased or decreased traffic flows.

- Even if you are not particularly affected by a scheme in this way, but you live particularly close to the routes concerned, then, in view of the Ombudsman's decision in the Belgrave Road/Vauxhall Bridge Road case, and if the scheme could have a financial impact on you (or a person or body mentioned in paragraph 8 of the Code) it would be advisable to regard your interest as prejudicial and, therefore, not to participate.
- In the context of a development proposal, if you are in any way directly affected, eg because you are within sight of the development, overlooked by it, or directly affected by increased or reduced traffic or parking, and the proposal could have a financial impact as aforesaid then you should regard the interest as prejudicial.

(Note: The guidelines set out above have been modified since they were approved by the Standards Committee to take account of changes introduced in the new Code of Conduct).

Advice

In general, if Members are in any doubt about whether they have a personal or prejudicial interest in a matter, or in respect of any other aspect of the Code of Conduct, they are encouraged to seek advice from the Head of Legal and Democratic Services on extension 2711.