

# **COMMUNITY & TOWN COUNCILS IN MONMOUTHSHIRE**

## **MEMBERS' CODE OF CONDUCT 2008**

This note is intended to provide a quick reminder of the main points of the Code, but it is not intended as legal advice. The full Code is available from the Clerk to your Council who will also offer advice and guidance about the Code. I am more than happy to help with any matters relating to the Code or the ethical framework in general.

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This note may be provided in alternative format such as large print, audio tape or Braille on request.

## THINGS YOU MUST DO

- Follow the Code when you are acting as a member of your council or representing the council, including meetings with members or officers.
- If appointed to another relevant authority or body follow their code if they have one, otherwise follow your council's code.
- Be aware what personal and prejudicial interests are.
- Keep your register of interests up to date.
- Treat others with respect.
- Register gifts and hospitality received as a member, worth more than the value agreed by your council.
- Avoid accepting any gift that would place you under an improper obligation.
- Respect the principle of equality of opportunity for all people.

## THINGS YOU MUST NOT DO

- Bring your council or your office into disrepute
- Use your councils resources improperly, imprudently or unlawfully
- Compromise the impartiality of people who work for your council
- Bully or harass any person Use your position improperly for personal gain or to advantage someone else
- Attend meetings where you have a prejudicial interest- there is one exception (p.5)
- Disclose confidential information, other than where the law allows it.
- Prevent anyone from getting information to which they are entitled

## DEALING WITH PERSONAL INTERESTS

You must make decisions only on their merits and in the public interest. Apply this quick **three step test** to find out if you might have a personal interest or a personal and prejudicial interest and if so what action you must take:-

### STEP ONE - DO I HAVE A PERSONAL INTEREST?

- Does the issue affect the well-being or finances of you, a person with whom you live or a person with whom you have a close personal relationship more than most other people who live in your ward or (in cases where your authority does not have wards) your authority's area? **OR**
- Does the issue relate to an interest in land, contracts, election expenses, your employment or your business, shares that you hold, and so forth (see paragraph 10(2)(a) of the Code)? **OR**
- Might a member of the public reasonably see a conflict between your duty to take the decision on behalf of your council as a whole and your role in representing constituents in your ward? **OR**

- Does the issue relate to a body to which you are elected, or appointed by your council, or to any other body e.g. another council, a company, charitable body, lobby group, trade or professional association or private club or society of which you are a member or hold a position of control or management?

If you answered no to all 4 questions then you are unlikely to have a personal interest and can speak and vote.

If you answered yes to any of the questions then it is likely that you have personal interest and you should now go to step two:-

## **STEP TWO - DO I HAVE A PERSONAL INTEREST THAT IS ALSO PREJUDICIAL?**

- **Is your personal interest such that a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it would be likely to harm or impair your ability to judge the public interest?**

In considering this question please note that there is **no** prejudicial interest where the business relates to:-

- another relevant authority of which you are a member \*
- another public authority or body exercising functions of a public nature and in which you hold a position of general control or management \*
- a body to which you have been elected, appointed or nominated by your council \*
- your role as a school governor (whether or not appointed by your council) unless it relates particularly to the school of which you are a governor
- your role as a member of a local health board where you have not been appointed or nominated by your council \*
- a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500

There are also some exceptions where the matter relates to certain functions relating to housing, school meals, transport and travelling expenses, sick pay schemes, and also allowances and pensions payable to members (see paragraph 12(2)(b) of the Code)

*\* This exception does not apply if the decision relates to any approval, consent, licence, permission or registration.*  
If you have either a personal interest or a personal and prejudicial interest then you should now go to step three:-

## STEP THREE - WHAT ACTION SHOULD I TAKE?

- **Personal interest, which is not prejudicial**-"say and stay"-you can take part in the meeting and vote but you must declare the interest orally at the start of the meeting or the discussion (depending on your council's procedures) or as soon as the personal interest becomes apparent and (if not disclosed in writing before) give written notice at or immediately after the meeting.
- **Personal and Prejudicial interest-general principle**- "say and go"- generally you must declare the interest and then withdraw from the room where the matter is being considered, not take part in the decision, not seek to influence the decision and not make any oral or written representations, unless you have a dispensation (see below)
- **Prejudicial interest-exception to general principle**- if the general public are allowed to attend the meeting for the purpose of putting forward their views, giving evidence or answering questions then you can also attend to do the same, provided that you declare the interest and then leave the meeting immediately afterwards. You do not need a dispensation for this.

## SHOULD I APPLY FOR A DISPENSATION?

If you have a personal and prejudicial interest which prevents you from speaking and taking part in the decision-and you would like to do so, contact your clerk initially (if you are a community councillor) or otherwise our Legal Services team for advice or an application form.

## THE CODE-MAIN ROLES OF KEY PLAYERS

- **The Standards Committee** grants dispensations, promotes and maintains standards of conduct, arranges advice and training and determines breach of Code allegations.
- **The Monitoring Officer** acts as lead officer for the Standards Committee, maintains registers of interests, gifts and hospitality (for county councillors) provides advice and training and assists the Standards Committee to monitor the Code.
- **The Public Services Ombudsman for Wales** receives and screens all alleged breaches of the Code, investigates as necessary and where appropriate refers reports to the Standards Committee or the Adjudication Panel for Wales for determination.
- **The Adjudication Panel for Wales** determines breach of Code allegations (more serious) and determines appeals from Standards Committee decisions.

## **BREACH OF THE CODE-POTENTIAL OUTCOMES**

- Breach but no action needed
- Breach and censure
- Breach and suspension from office for up to 1 year
- Breach and disqualification as member for up to 5 years