

Guidance on Code of Conduct interests and consideration of District wide planning policies.1. Introduction

I am writing to remind you about declarations you may need to make in relation to consultations and decisions on District wide planning policies.

Under the Council's code of conduct there are 3 categories of interest that Members may have:-

- Disclosable pecuniary interests
- Personal interests
- Personal and prejudicial interests

This note sets out the nature of these interests and how they might affect participation and decisions relating to adoption of a new, District wide planning policies. It is also of more general application.

Interests only need to be declared if they fall into these categories. You do not have to declare any interests merely because you are a member of a Town or Parish Council, and you do not have to declare an interest just because residents you represent are affected by planned proposals.

2. Disclosable Pecuniary Interests

'Disclosable Pecuniary Interests' ('DPI's) are defined by regulations made under the Localism Act 2011. The categories are set out in Appendix A to this note.

If you have a DPI which in general will mean you own land being considered for allocation, you must declare the interest and withdraw from the meeting and must not speak or vote unless you have a dispensation (see below).

These interests should already be shown on your Register of Members Interests. If you find that you need to update your entry on the register, please let Committees Section have details.

Please remember that a DPI may arise indirectly, for example, if an employer or other body by which you are remunerated has an interest in land which is affected by local plan proposals. They may also arise through the interests of your spouse, partner etc.

A DPI is personal and private in nature and does not arise merely through representing people affected by a decision. The interest in my view also needs to be clear and direct. A decision on a local plan will affect all Mid Sussex residents in one way or another. For it to amount to a DPI, its impact would need to affect you directly in a personal way that is separate from its impact on most people. If you are unsure whether you have a DPI, please contact me for advice. It may be possible to join in the debate and vote if you have a DPI provided that you have a dispensation. The power to grant dispensation is delegated to me as the Council's Monitoring Officer. Whilst there may be direct and substantial interests that mean a Member should not participate in the debate on planning policy, there is also public interest in Councillors being able to represent their local residents. I will consider requests for dispensations where the interest is not substantial or arises through membership of

another public body, although generally dispensations for a Member having a DPI have not been given in Mid Sussex.

3. Personal Interests

A personal interest is an interest that does not amount to a disclosable pecuniary interest. It can be pecuniary or non-pecuniary in nature. It is most likely to arise where the planning policy has a pecuniary or other personal impact on you, your relatives, close personal associates or organisations to which you are closely connected, but by which you are not remunerated.

The code of conduct definition of personal interest is set out in Appendix B to this note, and if you have a personal interest you need to declare it.

You will only have a personal interest if a decision on the planning policy matter that might reasonably be regarded as affecting your financial position or your wellbeing or that of a related person to a greater extent than the majority of council tax payers, rate payers or inhabitants of the ward affected by the decision.

After declaring a personal interest, you may speak and vote unless your interest is also 'prejudicial'. Again, please contact me if you are unsure about the nature of any interest you have or if you need advice.

4. Personal and prejudicial interests

To decide whether you have a personal interest that is also prejudicial, you need to ask the question:-

Would a member of the public with the knowledge of the relevant facts reasonably regard my interest as so significant it is likely to prejudice my judgement of the public interest?

If the answer to this is 'yes', then you should not take part in the debate or vote and you should leave the room. You may however speak and/or vote if you have been given a dispensation (see below).

5. Dispensations

Unless you have a dispensation, you should not speak or vote if you have a disclosable pecuniary interest or a personal and prejudicial interest. The Monitoring Officer has delegated power to grant dispensations.

Statutory grounds for granting dispensations are set out in the Localism Act 2011. They are :-

- The transaction of business would be impeded (in practice this means the Council or Committee would be inquorate unless dispensations are granted).
- The political balance would be so disturbed as to be likely to affect the outcome of the vote.
- Granting a dispensation would be in the interests of local residents.

- Unless a dispensation is granted, the executive (Cabinet) would be prevented from performing an executive function.

.It is 'otherwise appropriate' to grant a dispensation.

The decision whether or not to grant a dispensation will rest with the Monitoring Officer, taking into consideration the factors above, along with the nature of the interest held by the Councillor. Dispensations have been granted for Neighborhood Plan work, but not when the interest is a disclosable pecuniary interest. If a member wishes to apply for a dispensation, they should make the request to the Monitoring Officer.

Appendix A

Disclosable Pecuniary Interests

A1 You have a disclosable pecuniary interest in any business of the Council if:

- It is a kind described in A2 below
- It is an interest held by you or by another relevant person as set out in A3 below and in the case of an interest held by another relevant person, you are aware that the other person has the interest.

A2 The nature of a disclosable interest is shown below. As an elected or co-opted Member you fall within the description of relevant person as well as others described in A3 below:

1 – Employment office, trade, profession or vocation:- any employment office, trade, profession or vocation carried on for profit or gain.

2 – Sponsorship. Any payment or provision of any financial benefit (other than from the Council) made or provided within the relevant period in respect to any expenses incurred by you in carrying out your duties as a member or towards your election expenses.

This includes any payment or financial benefit from trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3 – Contracts. Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest and the Council
a) under which goods or services are provided or works are to be executed and
b) which has not been fully discharged.

4 – Land. Any beneficial interest in land which is within the Council's area.

5 – Licenses. Any license (alone or jointly with others) to occupy land in the Council's area for a month or longer.

6 – Corporate Tenancies. Any tenancy which to your knowledge:
a) The Council is the landlord and b) the tenant is a body in which the relevant person has a beneficial interest.

7 – Securities. Any beneficial interest in securities of a body where (a) that the body (to your knowledge) has a place of business or land in the Council's area and b) either I) the total nominal value of securities exceeds 25,000 or 100th of the total issued share capital of that body; or II) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest, exceeds 100th of the total issued share capital of that class.

A3 As explained, you will have a disclosable pecuniary interest if you or another 'relevant person' has an interest described in A2. The following are relevant persons.

- Assuming you are an elected or co-opted member of the Council.

Any of the following:

- Your spouse or civil partner
- A person with whom you are living as husband and wife
- A person with whom you are living as if you were civil partners.

A4 You will only have a disclosable pecuniary interest through another person if you are aware that the other person has that interest.

A5 The following are statutory definitions to be used for the interpretation of A2.

- Body in which the relevant person has a beneficial interest means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the interests of which the relevant person has a beneficial interest;
- Director includes a member of the committee of management of a registered society within the meaning given by section 1 (1) of the Co-operative and Community Benefits Societies Act 2014, other than a society registered for credit union.
- Land includes easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.
- Member includes a co-opted Member.
- Relevant period means the period 12 months ending with the day on which a Member gives a notification for the purposes of section 30 (1) or section 31 (7) as is the case may be under the Localism Act 2011.
- Securities means shares debentures. Debentures. Loans. Bonds, units of collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description other than money deposited with a Building Society.

Appendix B

Personal Interests

Even if an interest does not amount to a disclosable pecuniary interest you will have a personal interest in an item of Council business in the following circumstances:-

- B1 The item of business relates to or is likely to affect any personal body who employs or has appointed you or
- B2 a decision in relation to that business might reasonably be regarded as affecting your financial position or wellbeing or that of a related person to a greater extent on the majority of other Council tax payers, rate payers or inhabitants of the Ward affected by the decision or
- B3 the item relates to or is likely to affect:-
- Any body of which you are a Member or in a position of general control or management and to which you were appointed or nominated by the Council or
 - Any body of which you or a related person are a member or in a position of general control or management which does one of the following:
 - a) Exercise the function of public nature
 - b) Is directed towards charitable purposes or
 - c) Seeks as one of its principal purposes to influence public opinion or policy (including any political party or trade union).
 - d) The interest of any person from whom you have received a gift or hospitality with an estimated value of at least £50.
- B4 Related persons.
The following are related persons in determining whether you have a personal interest:-
- A member of your family or any person with whom you have a close business or personal association.
 - Any person who employs or has appointed such persons, any firm in which they are a partner or a company of which they are directors.
 - Any person or body whom such a person has beneficial interests in a class of securities exceeding nominal value of £25,000 or 1% of the total issue share capital (whichever is the lower).

Appendix C

Personal prejudicial interest

To decide whether a personal interest is prejudicial, Members should apply the following test:-

‘would a member of the public with knowledge of the facts reasonably regard my interest as so significant it is likely to prejudice my judgement of the public interest’

If the answer is ‘yes’, you should treat your interest as ‘personal prejudicial’ and act accordingly.