



INTEGRITY IN PUBLIC LIFE

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# ADVICE NOTE FOR MEMBERS ON HOW TO DECLARE INTERESTS

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## 1. Introduction

- 1.1 This Advice Note, issued by the Standards Commission for Scotland (Standards Commission), aims to provide advice to members of devolved public bodies on how and when to declare an interest at meetings.
- 1.2 Devolved Public Bodies are obliged to have Codes of Conduct for their appointed members. These Codes are based on a Model Code of Conduct approved by the Scottish Parliament. The Model Code identifies and outlines the types of interest that must be declared. The Standards Commission has produced Guidance on how the provisions in the Model Code should be interpreted. A copy of the Guidance can be found on the Standards Commission's website at [www.standardscommissionscotland.org.uk/guidance/guidance-notes](http://www.standardscommissionscotland.org.uk/guidance/guidance-notes). This Advice Note does not, therefore, repeat advice about what interests require to be declared and / or how members should identify whether they have a declarable interest. Instead, it aims to provide guidance on when such a declaration should be made. The Advice Note also suggests wording that members may wish to use when declaring an interest.

## 2. When an interest should be declared

- 2.1 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered at a meeting. You should review agendas or papers sent in advance of meetings in order to determine whether you have a declarable interest in any items. Your declaration of interest must be made as soon as practicable at the meeting, however if you do only identify the need for a declaration of interest when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary.
- 2.2 The interest must be declared at the meeting in question, regardless of whether or not you have already provided advance notice of it to any officer, colleague or the chair.

## 3. Wording to use

- 3.1 In order to be as transparent and consistent as possible, you may wish to consider using the following wording:

*“I declare an interest in item (x) for the following reason(s)..... ”*

- 3.2 The information you provide in terms of your reasoning does not need to be detailed but should be sufficient for those at the meeting to understand why you are making a declaration.
- 3.3 For example, you could state: *“I am a Member of (x), who are one of the parties affected by ....”, or “my partner is employed by (x) who could be potentially benefit from ”.*
- 3.4 You may wish to refer to the objective test when making a declaration. For example, if you are associated with a body, society or organisation as a result of your private and personal interests (and not because of your role as a member of devolved public body) and you consider the objective test applies, you could state:

*“I am an officeholder of (x). I consider my interest in (x) would be seen by a member of the public acting reasonably in a different light because it is the interest of a member of a devolved public body as opposed to an ordinary member of the public. As such, I consider the objective test applies and I will withdraw from the meeting during any discussion and voting on item (x)”.*

- 3.5 Again, in order to be as transparent as possible and so that your actions are recorded in any minute of the meeting, you should end your declaration by clearly stating that you will leave the room when the item you have the interest in is being considered. For example, you may wish to state:

*“As I have declared an interest, I will withdraw from the meeting during any discussion and voting on item (x)”.*

- 3.6 Occasionally, in the interests of transparency you may wish to explain to the meeting that you have considered making a declaration but have decided it would not fall within the objective test. In such circumstances you should consider saying something along the lines of:

*“I have considered whether I require to declare an interest in item (x) for the following reasons ..... However, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.”*

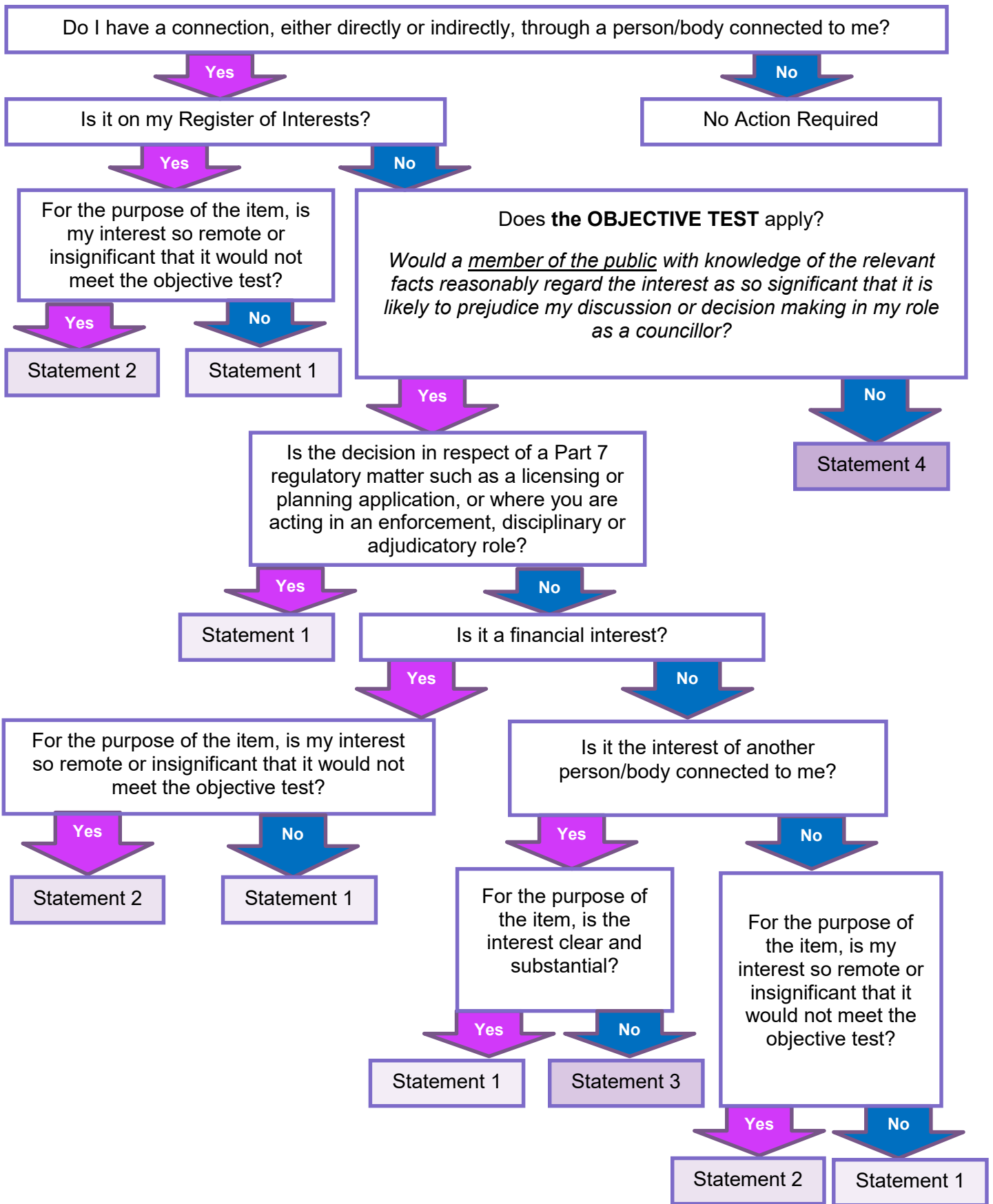
#### **4. Further Sources of Information**

- 4.1 If you any queries or concerns about this Advice Note or how to interpret or act in accordance with the provisions in the Model Code of Conduct for Members of Devolved Public Bodies, you should seek assistance from your Standards Officer.
- 4.2 Further information can also be obtained from the Standards Commission using the contact details outlined below.

Standards Commission for Scotland  
Room T2.21, Scottish Parliament  
Edinburgh, EH99 1SP  
Tel: 0131 348 6666  
Email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk)

Data control and version information				
Date	Action by	Version Updated	Current version	Brief Description
10/08/17	LJ	N/A	V1	Implementation of Advice Note





### **EXCLUSIONS AND DISPENSATIONS**

In some circumstances an exclusion or dispensation may apply to your interest. Please see overleaf for further details.

## **STATEMENTS**

Statement 1: I have an interest in item XX by virtue of (explain the nature of connection) and so I will leave the meeting and take no part in the discussions and / or voting on the item.

\*Statement 2: I have an interest/registered interest in item XX by virtue of (explain the nature of connection) but have applied the objective test and concluded that it is so remote or insignificant that I will remain and participate.

\*Statement 3: I have an interest in item XX by virtue of (explain the nature of connection) but have applied the objective test and concluded that it is not clear and substantial. Therefore, I will remain and participate.

Statement 4: I have a connection to item XX by virtue of (explain the nature of connection). However, having applied the objective test, I have concluded that I have no interest to declare.

**\*Does not apply for decisions on planning applications, planning agreements, enforcement action or the Local Review Body.**

**GENERAL EXCLUSIONS** - Where a general exclusion applies, you do not require to declare the interest and can remain and take part.

The general exclusions are as follows:-

- As a council tax payer or rate payer in relation to the Council's public services;
- In relation to setting the Council tax;
- Matters affecting councillors' remuneration, allowances, expenses, support services and pension; or
- As a council house tenant.

**SPECIFIC EXCLUSIONS** - Where a specific exclusion applies, you will require to declare the interest but you can remain and take part.\*

\*Specific exclusions do not apply to quasi-judicial or regulatory matters, e.g. planning or licensing applications. In such cases you will require to declare the interest and withdraw.

The specific exclusions cover the following interests:-

- **As a member, or director of, an outside body, where you have been appointed or nominated by the Council or had your appointment approved by the Council and the appointment is on your register of interests.** Outside bodies include:-
  - a devolved public body e.g. Visit Scotland, Children's Reporter, NHS Lothian;
  - a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme, e.g. SESTRANS;
  - a body discharging functions of Scottish Enterprise or Highlands and Islands Enterprise by agreement from either agency;
  - a company established wholly or mainly to provide services to the Council which has contracted with the Council to supply said services.
- As a member of the Cairngorm National Park Authority. Please note there are special rules in relation to the CNPA in that Members will be able to remain and participate in respect of certain planning applications. Please take advice from your Council's Monitoring Officer in such circumstances.
- Where you have been appointed by the Council to a Regional Transport Partnerships (RTP). *N.B.* The RTP exclusion includes quasi-judicial and regulatory matters except any quasi-judicial or regulatory matter on which the RTP has made an application to the council, has formally objected to an application made by another party, or is the subject of an order made or proposed to be made by the council.

**Where a specific exclusion applies the following wording can be used:-**

I have an interest in item XX by virtue of *[insert details of interest]*. However, a specific exclusion applies and, therefore, I will remain and participate.

## **DISPENSATIONS**

In some very limited circumstances the Standards Commission can grant dispensations in relation to the existence of financial or non-financial interests which, in terms of the Councillors' Code of Conduct, would otherwise prohibit participation in discussion and voting.

For example, a dispensation was granted to councillors who are appointed by their Councils to Health and Social Care Integration Joint Boards. This allows them to participate in health and social care matters without having to declare an interest at Council meetings.

**If a dispensation is in place, the following wording can be used:-**

I have an interest in item XX by virtue of my membership of XX, however, a dispensation has been granted therefore I will remain and participate.