



EXTRACT FROM THE GUIDE TO LEICESTERSHIRE COUNTY COUNCIL'S MEMBERS' CODE OF CONDUCT (RELATING TO DUAL HATTED MEMBERS).

Re: Paragraph 4.12 of the Members' Code of Conduct – Dual-hatted members

- Membership of another public body e.g. a district council or parish council, gives rise to a Personal Interest where you are involved in discussions or decisions relating to that other public body ("dual-hatted members"). When and whether that interest becomes one which might lead to bias, with the consequence that you cannot take part in the discussion and vote, is an issue which has generated considerable debate and differences of view in different authorities. Advice on this issue is set out further below.

Membership of another public body ("dual-hatted" members)

- A considerable number of members of the County Council will also be members of public bodies, such as district or parish councils. Such membership does give rise to a Personal Interest, where you are involved in discussions or decisions relating to that other public body. When and whether that interest becomes one which might lead to bias, with the consequence that you cannot take part in the discussion or vote, is an issue which has generated considerable debate and differences of view in different authorities.
- The approach of the County Council has always been that members should not be prevented from taking part in discussions when they have an electoral mandate from constituents in two different authorities, but that it must be recognised that there may be exceptional circumstances where a member cannot take part in a debate at either or both authorities.
- The Code states that the provisions relating to Personal Interests which might lead to bias "shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances." (*See paragraph 4.12 of the Code.*)

- In those unusual circumstances where a member has to consider whether he/she can take part in a debate, the following issues will be relevant.
 - It may be helpful for members to think in terms of differentiating between the effect of what is being discussed upon those they represent and its effect upon the other body concerned.

Example - if as a member of the County Council and a District Council you are convinced of the merits of a bypass to serve the interests of those in the area that you represent, you may have to consider highways issues at the County Council and planning issues at the District Council. By reason of being “dual-hatted” you should declare a Personal Interest at each authority arising from membership of the other, but that membership would not of itself give rise to a Personal Interest which might lead to bias. If, of course, land was affected which was owned by you, your spouse or a member of your family or a close associate or friend, then the position would be different.

- If the decision of one authority is of a commercial or financial nature which affects the other authority, or concerns property of the other authority, you will have to consider whether the effect of the decision is significant for the other authority in the context of the size of the budget affected and other factors.
- There may be some occasions when the legal relationship between the two authorities on a particular matter means that a member cannot take part in a discussion. These situations are unusual and advice should be sought from the County Solicitor or the Head of Democratic Services.

Example - when one authority is considering a planning or licensing application submitted by the other authority of which you are a member. Or, a situation where a discussion takes place or a decision is made where the two public authorities of which you are a member are in legal dispute and/or where litigation is threatened or has been commenced.

- You should also bear in mind that the position may not be the same at the two authorities of which you are a member in any particular case.

Example - the financial effect of a decision at an authority with a very large budget would be very different from the financial impact of the same decision upon an authority with a comparatively much smaller budget.

Key Note

As is always the case, the decision as to whether a Personal Interest is one which might lead to bias is one for you and you alone but, as this issue in particular has caused difficulties over the years, if you are in any doubt as to whether or not your interests might lead to bias, you should seek advice from the County Solicitor or the Head of Democratic Services. If at all possible, you should raise the issue with officers prior to the meeting in question to enable officers to find out more information and, if appropriate, talk to colleagues in the other public body concerned.