

CHAPTER 5 – CODES AND PROTOCOLS

PART 1 – MEMBERS’ CODE OF CONDUCT

Preamble

- (A) This Code of Conduct has been adopted by Medway Council to support its duty to promote and maintain high standards of conduct by Members of the Council as required by the Localism Act 2011. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests. A flow chart summarising the rules on participation at meetings can be found at [Appendix 2](#).
- (B) The Code is based on the [Seven Principles of Public Life](#) under section 28(1) of the Localism Act 2011, which are set out below. This Preamble and the Seven Principles of Public Life do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (C) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (D) Except in the case of non-voting co-opted members, in accordance with section 34 of the Localism Act 2011, where you have a [Disclosable Pecuniary Interest](#) it is a criminal offence if, without reasonable excuse, you:
- (i) Fail to notify the Authority’s Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member.
 - (ii) Fail to disclose the interest at Meetings where the interest is not entered in the Authority’s register.
 - (iii) Fail to notify the Authority’s Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the Authority’s register and is not the subject of a pending notification.
 - (iv) Take part in discussion or votes, or further discussions or votes, at Meetings on matters in which you have the interest which are being considered at the meeting.
 - (v) Fail to notify the Authority’s Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority.
 - (vi) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
 - (vii) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (E) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. Except in relation to the matters referred to in paragraph (D) above which will give rise to a criminal offence, if it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

Medway Council Member Code of Conduct

1. Scope

You are an elected Member or a co-opted Member of Medway Council.

You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

Where you act as the Council's representative:

- a) On another local authority body, you must comply with that body's code of conduct.
- b) On any other body, you must comply with this Code, except to the extent that it conflicts with any lawful obligation which that body is subject to.

Non-voting co-opted Members of Medway Council must also comply with the provisions of this Code.

2. General Conduct

2.1 You must:

- i) not conduct yourself in a manner which could reasonably be regarded as bringing the Council or your position into disrepute.
- ii) not bully or harass any person (including specifically any Council employee) .
- iii) not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is or is likely to be involved in any complaint about any alleged breach of this code of conduct.
- iv) not do anything which compromises or is likely to compromise the impartiality of those who work for the Council or on its behalf.
- v) comply with any formal standards investigation and take any action required by the Councillor Conduct Committee, following consideration of a complaint and you must do so within timescales stipulated by the Committee.

(Note: bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

Examples of bullying and harassment behaviour include:

- *Spreading malicious rumours, or insulting someone by word or behaviour*
- *Copying memos that are critical about someone to others who do not need to know*
- *Ridiculing or demeaning someone – picking on them or setting them up to fail*
- *Exclusion or victimisation*
- *Unfair treatment*
- *Overbearing supervision or other misuse of power or position*
- *Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected*

- *Making threats or comments about job security without foundation*
- *Deliberately undermining a competent worker by overloading and constant criticism*
- *Preventing individuals progressing by intentionally blocking promotion or training opportunities.*

3. Disclosing and Accessing Information

3.1 You must not disclose information given to you in confidence, or information which you believe or ought reasonably to know is confidential, except where:

- (a) you have the consent of a person authorised to give it; or
- (b) you are required by law to disclose the information; or
- (c) you disclose the information to a third party to obtain legal advice, provided that the third party agrees not to disclose the information to any other person; or
- (d) you disclose the information reasonably, in the public interest, in good faith and in compliance with the requirements of the Council.

3.2 You must not prevent another person from gaining access to information which that person is legally entitled to.

4. Using the Council's Resources

4.1 You must, when using or authorising the use by others of the resources of the authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. You should have regard to the [guidance](#) issued by the Councillor Conduct Committee on the use of council resources.

5. Making Decisions

5.1 You are accountable for your decisions to the public and you must co-operate with whatever scrutiny is appropriate to your office.

5.2 You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

6. Acting in the Public Interest

- 6.1 You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- 6.2 You must not place yourself under a financial or other obligation to individuals or organisations that might seek to influence you inappropriately in the performance of your official duties. In all decision making you should carefully consider whether your impartiality has been compromised as a consequence of being lobbied.
- 6.3 When carrying out your public duties you must make all choices, such as making appointments, awarding contracts, or recommending individuals for rewards or benefits, on merit.

7. Social Media

- 7.1 You must not publish on social media material that a reasonable person would consider offensive or abusive.
- 7.2 You should be aware that members of the public may perceive you to be acting as a Councillor or co-opted Member even when you are acting in your personal capacity. This includes everything you publish on social media. It is your responsibility to make it clear in any posts/tweets, etc. whether you are acting in your personal capacity or as a Councillor or co-opted Member.

INTERESTS

8. Disclosable Pecuniary Interests (“DPIs”)

8.1 “**DPI**” means those disclosable pecuniary interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in [Schedule One](#) to this Code.

8.2 You will have a DPI in a matter being considered at a Council meeting where your DPI is closely aligned to the business of the Council agenda item and where the interest is:

- (a) your interest, or
- (b) an interest of your spouse or civil partner, or a person with whom you are living as if you were a married couple or civil partners and provided you are aware that the other person has the interest.

9. Registering Disclosable Pecuniary Interests

9.1 You must give written notice to the Council’s Monitoring Officer of any DPI within 28 days of taking office as a member or co-opted member and within 28 days from when you become aware of any new DPI or any change to one already registered.

9.2 Following any disclosure at a meeting of a DPI which is not entered on Medway Council’s register of interests or the subject of pending notification, you must notify the Monitoring Officer in writing of the DPI within 28 days beginning with the date of disclosure.

9.3 Where you are discharging a function of Medway Council (acting alone) and a DPI has not been entered onto Medway Council’s register of interests and is not the subject of a pending notification, you must notify the Monitoring Officer in writing of the DPI within 28 days of becoming aware that you have a DPI in any matter to be dealt with, or being dealt with, in discharging that function.

10. Disclosing Disclosable Pecuniary Interests

10.1 If you are present at a meeting and you know you have a DPI in any matter to be considered, you must disclose the existence and nature of the DPI at the start of the meeting, or when the interest becomes apparent, even if the DPI has already been registered.

10.2 If you have a [sensitive interest](#), you need not disclose the nature of your interest but merely the fact that you have a DPI in the matter.

11. Participation in Meetings or Decision Making when you have a DPI

11.1 Unless a [dispensation](#) has been granted, if you are present at a meeting and you have a DPI in a matter to be considered you must:

- a) not take part in any discussions of the matter.
- b) not take part in any vote on the matter.
- c) leave the meeting room (including the public gallery).

11.2 Where you are discharging a function of the authority (acting alone) and you have a DPI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else).

12. Other Significant Interests (OSIs)

12.1 You will have an OSI in a matter being considered at a Council meeting where your interest is closely aligned to the business of the Council agenda item and where the business affects the financial position or well being of the following to a greater extent than most inhabitants of the area affected by the decision:

- i) you;
- ii) a member of your family or friends or any person with whom you have a [close association](#);
- iii) any person or body from whom you have accepted or received any [gifts or hospitality](#) as specified in [Schedule Two](#);
- iv) any outside body or group specified in [Schedule Two](#) of which you are a member or in a position of general control or management (as relevant).

And where a member of the public with knowledge of the relevant facts would reasonably think that your interest is so significant that it would be likely to prejudice your judgement of the public interest.

13. Participation in Meetings or Decision Making when you have an Other Significant Interest (OSI)

13.1 Unless a dispensation has been granted, if you are present at a meeting and you have an OSI as defined in [paragraph 12](#) in a matter you must disclose the existence and nature of the interest at the start of the meeting, or when the interest becomes apparent.

13.2 If you have a [sensitive interest](#), you need not disclose the nature of your interest but merely the fact that you have an OSI in the matter.

13.3 You must:

- a) not take part in any discussion of the matter
- b) not take part in any vote on the matter
- c) leave the meeting room (including the public gallery).

13.4 Where you are discharging a function of the authority (acting alone) and you have an OSI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by

someone else).

14. Dispensations

- 14.1 Where you have a [Disclosable Pecuniary Interest](#) or other significant [interest](#) you may still be able to participate and/or vote at a meeting if you have obtained a dispensation from the [Councillor Conduct Committee](#). A dispensation request [form](#) is attached to the Code (Appendix 1).
- 14.2 There are 5 circumstances in respect of which a dispensation may be granted, namely:
- (a) that so many members of the decision-making body have disclosable pecuniary interests or OSIs in a matter that it would impede the transaction of the business;
 - (b) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - (c) that the dispensation is in the interests of persons living in Medway;
 - (d) that without a dispensation, no member of the Cabinet would be able to participate in this matter, or
 - (e) that it is otherwise appropriate to grant a dispensation.

15. Registration of Non Pecuniary Interests and Gifts and Hospitality

- 15.1 The Council has decided that you must register certain non-pecuniary interests as defined in [Schedule Two](#) to this Code. It is only your interests which have to be registered and not those of your spouse or civil partner. You must also register any gifts or hospitality in accordance with [paragraph 16.2](#) of the Code.
- 15.2 You must give written notice to the Council's Monitoring Officer of any non-pecuniary interest or any gifts or hospitality which the Code requires you to register within 28 days of taking office as a member or co-opted member and within 28 days from when you become aware of any new interest or receive any new gifts or hospitality or become aware of any change to anything already registered.
- 15.3 Where you are discharging a function of Medway Council (acting alone) and any non-pecuniary interest or gifts or hospitality which the Code requires you to register have not been entered onto Medway Council's register and are not the subject of a pending notification, you must notify the Monitoring Officer of the interest or the gift or hospitality within 28 days of becoming aware of the interest or from receiving any gift or hospitality in any matter to be dealt with, or being dealt with, in discharging that function.

16. Gifts and Hospitality

16.1 From time to time Members may be offered gifts and hospitality.

16.2 You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year). You must also register the source of the gift, benefit or hospitality.

Interpretation

In this Code:

“Authority” means the Medway Council.

“Close association” means someone with whom you are in regular or irregular contact over a period of time, who is more than an acquaintance, and is someone whom a reasonable member of the public might think you were prepared to favour or disadvantage when discussing a matter that affects them.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a voting or non-voting member of:

- (a) any committee or sub-committee of the Authority, or
- (b) And represents the Authority on, any joint committee or joint sub-committee of the Authority.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in [Schedule One](#) to the Code and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner or a person with whom you are living as if you were a married couple or civil partners and provided you are aware that the other person has the interest.

“Meeting” means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

“Member” means a person who is an elected member of the Authority and includes voting and non-voting Co-opted Members.

“Non-pecuniary interests” means those interests as set out in Schedule Two which the Code requires a Member to register.

“Other Significant Interest” means where your interest is closely aligned to the business of the Council agenda item and where the business affects the financial position or well being of the following to a greater extent than most inhabitants of the area affected by the decision:

- i) you;
- ii) a member of your family or friends or any person with whom you have a [close association](#);
- iii) any person or body from whom you have accepted or received any gifts or hospitality as specified in [Schedule Two](#);
- iv) any outside body or group specified in [Schedule Two](#) of which you are a member or in a position of general control or management (as relevant).

And where a member of the public with knowledge of the relevant facts would reasonably think that your interest is so significant that it would be likely to prejudice your judgement of the public interest.

“Register of Members’ Interests” means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011 and the register of specified non-pecuniary interests and gifts and hospitality under this Code.

“Sensitive Interest” means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

SCHEDULE ONE – DISCLOSABLE PECUNIARY INTERESTS

Interest	Description
Employment, office, trade, profession or vocation	<p>Any employment, office, trade, profession or vocation carried on for profit or gain.</p> <p><i>Note:</i></p> <p>(a) <i>the nature of every employment, business, office, trade, profession or vocation that you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners have which is carried on for profit or gain, with a short description of the job concerned</i></p> <p>(b) <i>the name and address of the employer</i></p> <p>(c) <i>if you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners, are employed by a company, the name and address of the company paying your or their wages or salary, not that of the ultimate holding company</i></p> <p>(d) <i>the name and address of any company for which you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners, are a paid director</i></p> <p>(e) <i>the name and address of any firm in which you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners are a partner.</i></p> <p>(f) <i>where you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners hold an office, the name of the person or body which made the appointment,.</i></p>
Sponsorship and election expenses	<p>Any payment or provision of any other financial benefit:</p> <p>i) in respect of any expenses incurred by you in carrying out your duties as a Member, or</p> <p>ii) towards your election expenses</p> <p>Made or provided in the 12 months before you declared your interests on becoming a Member.</p> <p>This includes any payment or financial benefit from a trade union.</p> <p><i>Note:</i></p> <p><i>Name of any person or body (other than Medway Council) who has made a payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Member.</i></p>

<p>Contracts</p>	<p>Any contract you or any person listed in paragraph 8.2 (b) of the Code, (or a body in which any of the latter have a beneficial interest) have with Medway Council for works, services or supplies which has not been fully discharged.</p> <p><i>Note:</i></p> <p><i>Describe the subject matter and the length of all contracts (goods, services or works) which are not fully discharged:</i></p> <ul style="list-style-type: none"> <i>(a) between you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners, and the Council;</i> <i>(b) between you and a firm in which you are a partner, or a company of which you are a paid director or a corporate body in which you have shares of a value described below in “Securities”;</i> <i>(c) between your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners and a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described below in “Securities”.</i>
<p>Land</p>	<p>Any beneficial interest in land within the area of Medway Council.</p> <p><i>Note:</i></p> <p><i>The address or a brief description of the property (e.g. houses, land and buildings) in the area of Medway, which you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners, own, lease or rent (other than leases or tenancies with the Council).</i></p>
<p>Licences</p>	<p>Any licence (alone or jointly with others) to occupy land in the area of Medway Council for a month or longer.</p> <p><i>Note:</i></p> <p><i>The address or a brief description of the property (e.g. houses, land and buildings) in the area of Medway, which you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners, occupy under licence (alone or jointly with others), for a month or longer.</i></p>

<p>Corporate tenancies</p>	<p>Any tenancy where (to your knowledge):</p> <p>(a) the landlord is Medway Council; and</p> <p>(b) the tenant is a body in which you or your spouse or civil partner or a person who you are living with as if you are a married couple or civil partners has a beneficial interest.</p> <p><i>Note:</i></p> <p><i>The address or a brief description of the property where:</i></p> <p>(a) <i>you, or a firm in which you are a partner, a company of which you are a paid director or a person or a corporate body in which you have shares of a value described in “Securities” below, are lessees or tenants of the Council;</i></p> <p>(b) <i>your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners or a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described in “Securities” below, are lessees or tenants of the Council.</i></p>
<p>Securities</p>	<p>Any beneficial interest in securities of a body which (to your knowledge) has a place of business or land in the area of Medway Council and:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 one hundredth of the total issued share capital of that class.</p> <p><i>Note:</i></p> <p><i>Name the company or other body which to your knowledge has a place of business or land in the area of Medway in which you or your husband/wife/civil partner or a person with whom you are living as if you are a married couple or civil partners have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100th of the total issued share capital (whichever is the lower).</i></p>

SCHEDULE TWO – NON-PECUNIARY INTERESTS

Interest	Description
<p>Appointments to an outside body by the Council</p> <p>Membership of other outside bodies or groups as specified in this Schedule.</p>	<p>Any body of which you are a member or in a position of general control or management and to which you have been appointed or nominated by the Council.</p> <p>Any body of which you are in a position of general control or management which:</p> <ul style="list-style-type: none"> i) exercises functions of a public nature (e.g. Parish Council, Health, Police or Fire Authority) ii) is directed to charitable purposes (e.g. an Industrial and Provident Society or Charitable Body) or; iii) includes as one of its principal purposes the influence of public opinion or policy (e.g. any political party or trade union, Professional Association, Civic Society or Interest Group (e.g. National Trust, RSPB, Greenpeace))

Appendix 1

Medway Council Dispensation Request Form

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the [Monitoring Officer](#).

Your name	
Decision-making body in respect of which you require a dispensation	
Details of your membership of that body	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to participate in any discussion of that business	Yes/ No
Dispensation requested to participate in any vote taken on that business	Yes/ No

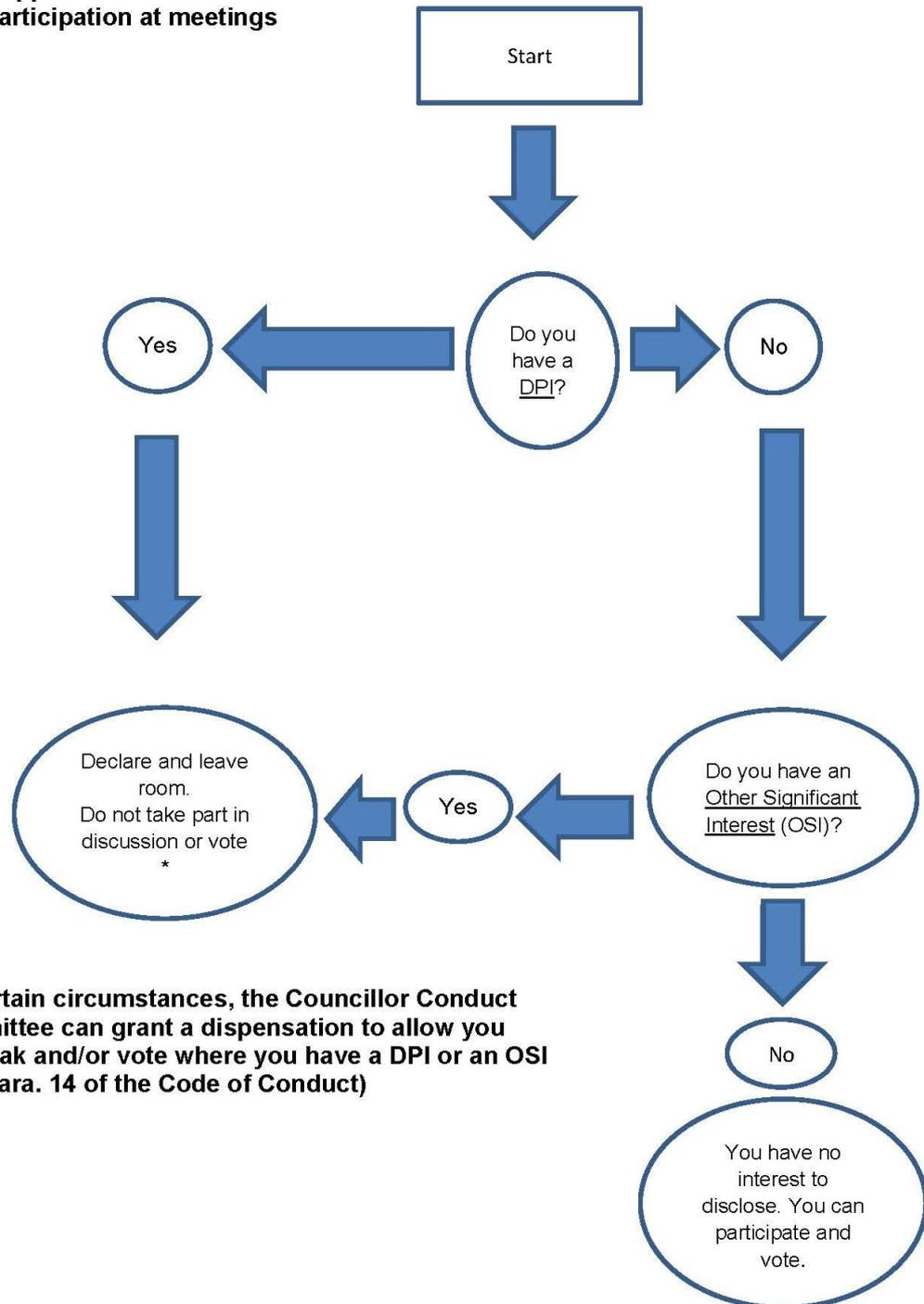
Signed.....

Dated.....

Please send your completed form to:

Monitoring Officer
Medway Council
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR

Appendix 2 - Guide to Participation at meetings



***In certain circumstances, the Councillor Conduct Committee can grant a dispensation to allow you to speak and/or vote where you have a DPI or an OSI (see para. 14 of the Code of Conduct)**

