

# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 1**

### **Member Code of Conduct**

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## **Chapter 5 Part 1:**

### **Member Code of Conduct of Broxtowe Borough Council**

#### **Part 1: General Provisions**

##### **Introduction**

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the Code, the purpose of the Code, the principles the Code is based on and when the Code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All Councils are required to have a local Member Code of Conduct.

##### **Definition**

For the purposes of this Code of Conduct, a "Member" means a Member or Co-opted Member of Broxtowe Borough Council ('the Council').

A "Co-opted Member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a Member of the Council but who

- a) is a Member of any Committee or Sub-Committee of the Council, or;
- b) is a Member of, and represents the Council on, any Joint Committee or Joint Sub-Committee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee".

##### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, Council Officers and the reputation of the Council and local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

You are Member or Co-opted Member of the Council and you have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

## **Application of the Code of Conduct**

The Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011.

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office or attend your first meeting as Member or Co-opted Member and continues to apply until you cease to be a Member.

The Code of Conduct applies to you when you are acting in your capacity as a Member or Co-opted Member of the Council and conduct the business of the Council (which, in this Code includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council on another Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct.

When you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct, which you are unsure of. Town and Parish Members are encouraged to seek advice from their Clerk (who may refer matters to the Monitoring Officer).

## **General principles of Member conduct**

In accordance with the Localism Act provisions, when acting in this capacity you are committed to behaving in a manner that is consistent with the following Seven Principles of Public Life also known as the Nolan Principles set out below: These general principles underpin the obligations in the Code of Conduct that follows and aim to achieve best value for our residents and maintain public confidence in this Council:

## **SEVEN PRINCIPLES OF PUBLIC LIFE:**

1. **SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.
2. **INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.
3. **OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **ACCOUNTABILITY:** Holders of public office are accountable for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office internally and externally, including by local residents.
5. **OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **HONESTY:** Holders of public office should be truthful.
7. **LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Part 2 – Member Code of Conduct**

### **General Obligations:**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

#### **1. Respect**

- 1.1 You must always treat all others with respect, including the organisations, staff and public you engage with and those you work alongside.
- 1.2 You must value colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.

#### **2. Bullying, harassment and discrimination**

- 2.1 You must not do anything which may cause the Council to breach any of the equality enactments.
  - a) bully any person;

- b) harass any person;
- c) behave in an improper or offensive manner;
- d) discriminate unlawfully against any person due to their race, age, religion, gender, sexual orientation or disability and will promote equalities.

### **3. Impartiality of Officer of the Council**

- 3.1 You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 3.2 You must deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

### **4. Confidentiality and access to information**

- 4.1 You must not disclose information:
  - a) given to you in confidence by anyone, or
  - b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
    - i) you have the consent of a person authorised to give it;
    - ii) you are required by law to do so;
    - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
    - iv) the disclosure is:
      - 1. reasonable and in the public interest or necessary due to safeguarding concerns; and
      - 2. made in good faith and in compliance with the reasonable requirements of the Council, *and*
      - 3. you have consulted the Monitoring Officer [or Clerk] prior to its release.
- 4.2 You must not improperly use knowledge gained solely as a result of your role as a Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
- 4.3 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **5. Disrepute**

- 5.1 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

## **6. Use of your position**

- 6.1 You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 6.2 You will not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

## **7. Use of local authority resources and facilities**

- 7.1 You must not misuse Council resources;
- 7.2 You must, when using or authorising the use by others of the resource of the Council act in accordance with the Council's reasonable requirements;
- 7.2 You must ensure that such resources are not used improperly, including use for political and party political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.

## **8. Decision making**

- 8.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by Officers of the Council acting pursuant to their statutory responsibilities (including a Proper Officer designated by the Council), or other professional Officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit
- 8.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.
- 8.3 You must behave in accordance with all the Council's legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures.
- 8.4 You must not allow other pressures to unreasonably deter you from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.

## **9. Complying with the Code of Conduct**

- 9.1 You will undertake Code of Conduct training provided by your Council.
- 9.2 You will fully cooperate with any Code of Conduct investigation and/or determination.

- 9.3 You will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings; in relation to an allegation that a Member (including yourself) has failed to comply with their Council's Code of Conduct;
- 9.4 You will comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

## **Protecting your reputation and the reputation of the Council**

### **10. Interests**

- 10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable.

You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A, is a criminal offence under the Localism Act 2011.

### **11. Gifts and hospitality**

- 11.1 You will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- 11.2 You will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- 11.3 You will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £25 that you have been offered but have refused to accept

### **12. Dispensations**

- 12.1 You may request a dispensation from the Monitoring Officer. ~~for one meeting only.~~
- 12.2 You must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting **or period of time using the dispensation request form.**
- 12.3 You must make any request 5 days prior to the meeting at which the dispensation is required.
- 12.4 ~~You must make any further requests for dispensation to the Standards Hearing Sub-Committee.~~



12.4 You will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

Appendix A sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

## Disclosable Pecuniary Interests

### 1. Definitions

“Disclosable Pecuniary Interest” means any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

### Table of Disclosable Pecuniary Interests

Subject	Prescribed description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain, which you, your spouse or civil partner, undertakes. {any unpaid directorship}
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from your Council) made or provided within the previous 12 month period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Any contracts</b>	<p>Any contract which is made between you, your spouse or your civil partner or person with whom you are living with as spouse or civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and the Council under which a) goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.</p> <p><i>For this purpose “body in which you or they have a beneficial interest” means a firm which the relevant person is a partner or a body corporate of which the relevant person</i></p>

	<p><i>is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. "Director" includes a Member of the Committee of management of an industrial and provident society.</i></p>
<b>Land</b>	<p>Any beneficial interest in which you, or your spouse or your civil partner, have and which is within the area of the Council.</p> <p><i>For this purpose " Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner (alone or jointly with another) to occupy the land or to receive income.</i></p>
<b>Licences</b>	<p>Any licences (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of the Council for a month or longer.</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to your knowledge) a) the landlord is the Council; and b) the tenant is a body in which you, or your spouse or your civil partner or the person with whom the Member is living with, as if they were spouse/civil partners is a partner of or a director of or has a beneficial interest in the securities of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the area of the relevant Council; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth 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 Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouse/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <p><i>For this purpose, "securities" mean shares, debentures, debenture stock, loan stock, bonds, units of a 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.</i></p>

**Note - Failure to declare a Disclosable Pecuniary Interest and to take part in any discussion in or vote on any matter in which the Member has a pecuniary interest is a criminal offence, which is punishable by a fine of up to £5,000 and disqualification.**

**“Registrable Interests”** are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

**“Other Registerable Interests”** are a personal interest in any business of your Council which relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your Council; or
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a Member or in a position of general control or management.

**“Non-Registrable Interests”** are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **“Dispensation”** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix.

A **“Sensitive Interest”** is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

A matter **“directly relates”** to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter **“affects”** your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

## 2. Registering Interests

- 2.1 You must, within 28 days of this Code being adopted by the Council, or taking office as a Member or appointed as a Co-opted Member, register all details of Disclosable Pecuniary Interest and Other Registerable Interests, with the Monitoring Officer.
- 2.2 You must upon your re-election as a Member or your re-appointment as a Co-opted Member, within 28 days re-register all details of Disclosable Pecuniary Interest and Other Registrable Interests, with the Monitoring Officer.
- 2.3 You must register any change to a Disclosable Pecuniary Interest or new interest within 28 days of becoming aware of it.
- 2.4 You must notify the Monitoring Officer where you have a Sensitive Interest, with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.5 You must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest or Other Registerable Interest, as defined by the Council.

## 3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non- Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

### 3.1 Disclosable Pecuniary Interests

- 3.1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

#### **Action to be taken**

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public
- **you must not participate in any vote** or further vote taken on the matter at the meeting and

- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

### 3.2 Other Registerable Interests

- 3.2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

#### **Action to be taken**

Where a matter arises at any business of the Council, of its Executive or any Committee of the Executive, or any Committee, Joint Committee, or Joint Sub- Committee of the Council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
  - **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
  - **you must withdraw from the room** unless you have been granted a Dispensation.
- 3.2.2. The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a Member's service on more than one Council. For the avoidance of doubt, participation in discussion and decision making at one Council will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another Council. 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.

### 3.3 Non-Registerable Interests

- 3.3.1 Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

#### **Action to be taken**

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and

- **you must withdraw** from the room unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but **affects**

- a) a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- b) a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

**Action to be taken**

- **you must disclose the interest** and extent of your interest including enough detail to allow a member of the public to understand its nature, at the commencement of that consideration, or when the interest becomes apparent.

In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 **affects** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the Ward affected by the decision; and
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

**Action to be taken**

- **you must not take part in any discussion or vote** on the matter but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 **does not affect** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the Ward affected by the decision; and/or
- b) a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest

**Action to be taken**

- **you may remain in the room,**
- **you may speak** if you wish to and take part in any discussion or
- **you may vote** on the matter, provided you have disclosed your interest under paragraph 3.3.2.

#### **4. Single-Member-Decision-Making**

4.1. In the event that you are making a decision as a single Member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your Executive function (i.e., single-Member-decision-making) and the interest is:

- a) A Registrable Interest; or
- b) A Non-Registrable Interest that falls under paragraph 3.3.3 above

##### **Action to be taken**

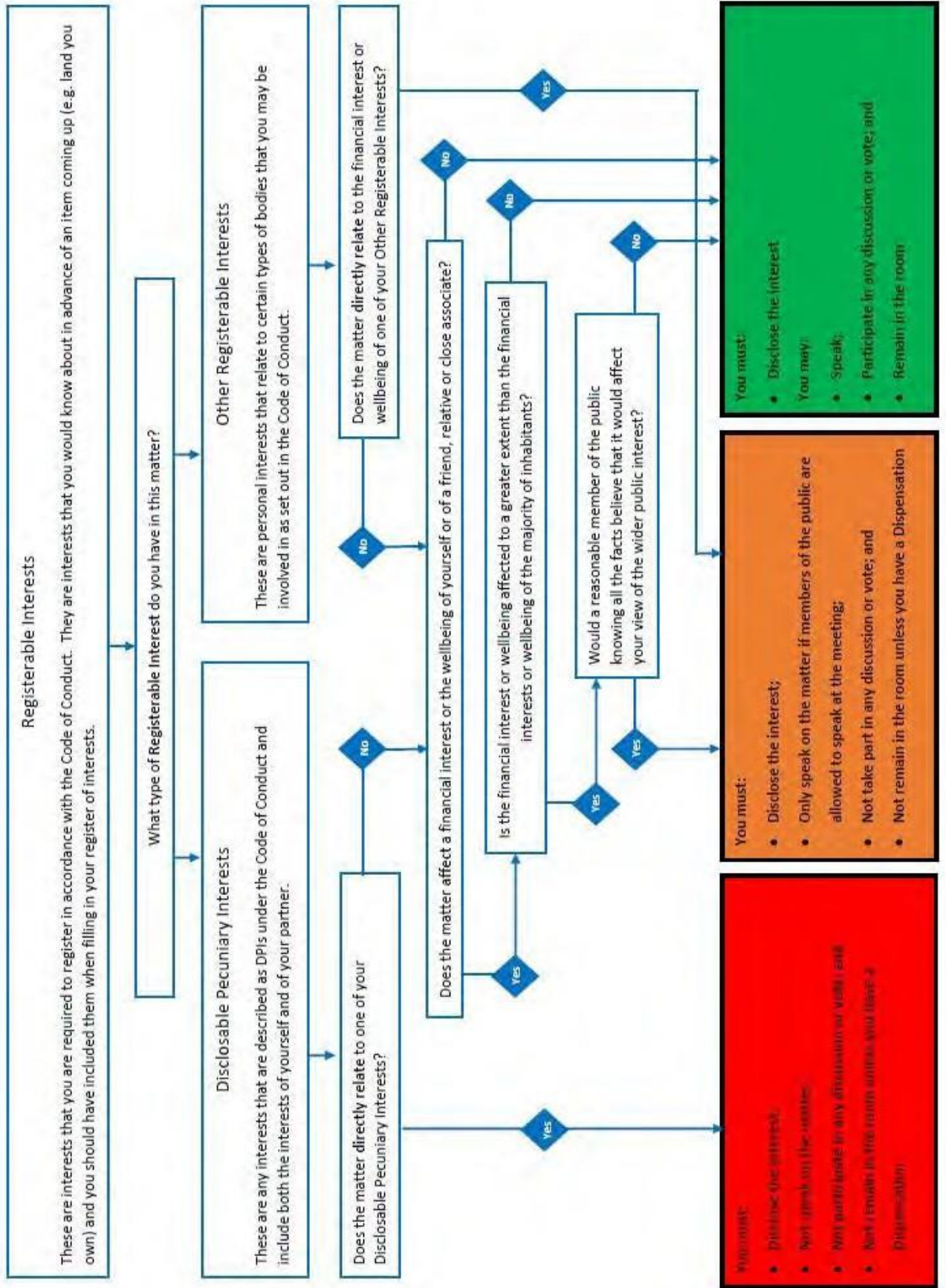
- **you must notify** the Monitoring Officer of the interest and
- **you must not** take any steps or further steps in the matter apart from arranging for someone else to deal with it.

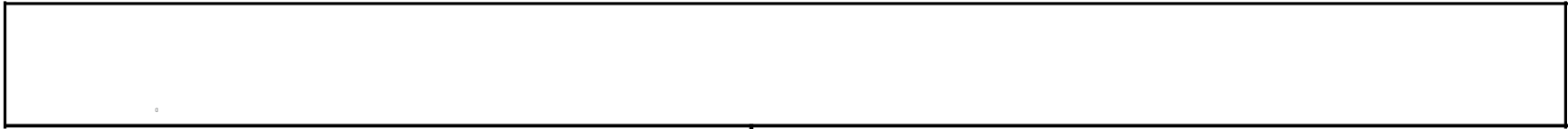
4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your Executive function (i.e. single-Member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.4,

##### **Action to be taken**

- **you must** make sure that any written statement of that decision records the existence and nature of your interest.







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Non-Registerable Interests

with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.