

TOWN CLERK BRIEFING NOTE**45 PREJUDICIAL INTERESTS**

Para 12(2) of the Council's Code of Conduct (the National Model) states:

Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Rye Town Council adopted this Code on 1 May 2007.

The Standards Board for England (SBE) advised that, for para 12(2) to have effect, local councils would need to ensure that their Standing Orders/written procedures 'validated' para 12(2) – if not, these documents would need to be amended. Unfortunately, the SBE isn't inclined to offer guidance on how this might be achieved. It advised me to seek legal advice when I put the question following to it:

Does para 12(2) apply also to an adjourned section of a lawful meeting of a Council?

I put this question to the law firm engaged by SALC (Headley's) at the SALC Clerks' Networking Day on 3 July. Coincidentally, at the same time SALC's Director (who was present) received an email/text from a District Monitoring Officer with the same question!

Headleys were unable to give a definitive answer and explained that there were a number of Code of Conduct issues where the opinions of lawyers and Monitoring Officers conflicted. However, it did suggest that, in interpreting the Code of Conduct in relation to prejudicial interests, local councils should keep in mind the SBE guidance that 'members with prejudicial interests have no greater rights than a member of the public'.

Like Rother, Rye Town Council's Standing Orders do not permit the public to participate during meetings – only during periods of adjournment.

Given that it is likely to take 6 months or more for the Code to 'settle down' and a degree of clarity to emerge, I suggest that the Council **does not** amend its Standing Orders but proceeds as follows:

a) At Council and Planning & Townscape meetings: Members with a prejudicial interest wishing to speak should do so during the Public Question Time adjournment at the start of the meeting and then absent themselves when the relevant agenda item is reached.

b) For all other Committees: the Member with the prejudicial interest wishing to speak should notify the Chairman/Clerk before the meeting starts so that the Chairman can use his discretion (Standing Order 68) to adjourn the meeting at the relevant time to hear from that Member and any members of the public wishing to speak on that agenda item. The Member with the prejudicial interest would leave the Chamber at the point the meeting was reconvened.

Note: It might prove desirable to introduce a time limit for adjournments called under Standing Order 68.