
Ethics Committee

6 November, 2018

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Director of Finance and Corporate Services

Ward(s) affected:

None

Title: Guidance on Declaration of Interests

Is this a key decision?

No

Executive Summary

At its meeting in July 2018, the Committee decided that it would like to consider the guidance issued to elected members on the declaration of interests.

This report sets out the guidance and information on registering and declaring interests that is currently available to members and makes some suggestions as to how this might be improved.

At present there is a page on the Members' Information pages of the Council's Intranet which gives an overview of members' duties in respect of interests. It also includes links to the form for registering interests (which also includes guidance), a document containing Frequently Asked Questions about interests and a step by step guide to amending the online Register of Interests form. In addition members receive training at least once every 3 years on the Code of Conduct which includes the registration and declaration of interests.

Recommendations: the Ethics Committee is recommended to:

(1) Authorise the Monitoring Officer:

- (i) to update and streamline the FAQs as set out in the report;**
- (ii) to produce a step by step guide to declaration of interests ;and**

(iii) delete the hard copy register of interests form and guidance notes from the Member Information pages of the Intranet;

and to bring the revised and new documents to a future meeting of the Committee for approval; and

(2) to make any recommendations for changes that it considers appropriate.

List of Appendices included:

Appendix 1: Frequently Asked Questions

Appendix 2: Current form for registration of interests

Other useful background papers:

<https://coventrycc.sharepoint.com/Info/Pages/Declaration-of-interest.aspx>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Guidance on Declaration of Interests

1. Context (or background)

- 1.1 At its last meeting, the Committee decided that it would like to consider the guidance issued to members on the registration and declaration of interests. This report sets out the current guidance given to members and requests the Committee to consider what changes, if any, it would like to make to that guidance.
- 1.2 The Localism Act 2011 imposes a statutory duty on the Monitoring Officer to establish and maintain a register of members' "Disclosable Pecuniary Interests" (DPIs). The register must be available for public inspection and on the Council's website. Members have a legal duty to register any DPIs that they have and to declare them at meetings of the Council when appropriate. The Council includes a local requirement to register other interests and to declare non-registrable interests at meetings.
- 1.3 When considering guidance on interests, members need to be aware that this falls into two separate, but connected, areas:
 - Guidance on registering DPIs on their publicly available register
 - Guidance on when an interest should be declared during meetings. This is broader as it will cover not only DPIs but also "other relevant interests" and considerations of bias or predetermination.
- 1.4 At present there is a page on the Members' Information pages of the Council's Intranet which gives an overview of members' duties in respect of interests. It also includes:
 - links to the form for registering interests (which also includes guidance);
 - a document containing Frequently Asked Questions about interests; and
 - a step by step guide to amending the online Register of Interests form.

In addition members receive training at least once every 3 years on the Code of Conduct which includes the registration and declaration of interests.

- 1.5 Members who are unsure about whether they need to register an interest or declare at meetings can, and do, seek advice from the Monitoring Officer, Deputy Monitoring Officer and officers in Governance Services or Legal Services.

2. Options considered and recommended proposal

- 2.1 **Option 1:** do nothing. This is not recommended as the forms and guidance have been in place for over 5 years and would benefit from a review.
- 2.2 **Option 2:** review the guidance, both in the FAQs and the notes attached to the Register of Interests form and consider whether there are any other ways that the Committee would want to make members aware of the rules around acceptance of gifts and hospitality.
- 2.3 The Committee's attention is drawn to the following observations of officers:

2.3.1 FAQs

The FAQs were produced at the time the standards regime was overhauled by the Localism Act 2011. They were an attempt to provide a comprehensive set of answers to questions that members might ask about the completing their register of interests. Although there are some questions geared to the declaration of interests in meetings, the FAQs concentrate on the registration of interests. The FAQs are in need of updating in the light of later government guidance and experience. They are not in a particularly user friendly format and would benefit from being more interactive, allowing users to click on and open the question(s) they are interested in, rather than having to scroll through the entire document.

2.3.2 Declaration of Interests at meetings

There is some information in the FAQs about the declaration of interests at meetings, including the declaration of “other relevant interests”. However, there is nothing to remind members about times where they will not have an interest (DPI or other relevant interest) but where their participation may lead to allegations of bias or predetermination. This topic is covered in Code of Conduct training but as members only have to attend training every 3 years, it would be better to have guidance online that members can refer to. In addition, separating out the guidance on declaring interests from the FAQs and designing a step by step guide to declaring interests may assist members.

2.3.2 Guidance Notes with Form for Registration of Interests

The guidance notes at Appendix 2, which form part of the form for registering interests, date from when members completed their register in hard copy and are out of date in some ways. However, as members now complete their forms online through Modern.Gov, the Committee is asked to consider whether there is any need to keep this as a separate document since it is no longer used.

Recommendations: the Ethics Committee is recommended to:

(1) Authorise the Monitoring Officer:

- (i) to update and streamline the FAQs as set out in the report;**
- (ii) to produce a step by step guide to declaration of interests ;and**
- (iii) delete the hard copy register of interests form and guidance notes from the Member Information pages of the Intranet;**

and to bring the revised and new documents to a future meeting of the Committee for approval; and

(2) to make any recommendations for changes that it considers appropriate.

3 Results of consultation undertaken

3.1 None.

4. Timetable for implementing this decision

Any recommendations of the Committee will be implemented within an appropriate time frame.

5. Comments from the Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

Members are required to register and declare their statutory and non-statutory interests by the Localism Act 2011 and under the Code of Conduct. While the responsibility for making these declarations rests with the individual member, having up to date and accessible guidance on how to discharge this responsibility aids transparency and assists the Council in promoting and maintaining high standards of ethical behaviour as is required under section 27 of the Localism Act 2011.

6 Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

6.2 How is risk being managed?

The purpose of this report is to suggest ways in which the risk of members failing to comply with their statutory and non-statutory obligations can be minimised. It is prudent to review the guidance issued to members from time to time to ensure that it is up to date, relevant and accessible.

6.3 What is the impact on the organisation?

Updating and improving guidance given to members will help ensure that the Council meets its obligation to promote and maintain high standards of ethical behaviour.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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Appendix 1: Frequently Asked Questions Members' Interests

Foreword

These FAQs are intended to help Elected and Co-opted Members decide whether they have any interests which fall within the description of DPIs in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the Regulations"), when completing a form for the registration of their Disclosable Pecuniary Interests (DPIs).

While the FAQs are there to help you decide whether you have a DPI, they should not be taken to be an authoritative statement of the law. The FAQs are for information only and are aimed at assisting you with the completion of your form.

If you have a particular problem in deciding whether you need to register an interest, please do consult the Monitoring Officer in the first instance, but you should be aware that you may also need to take your own independent advice.

1. What exactly do I have to disclose about my employment or business?

The Regulations say that you must enter on the register your "employment, office, trade, profession or vocation carried on for profit or gain". You do not, therefore, have to enter on the register any employment that is unpaid or voluntary unless you receive some 'gain' in another (non-monetary) form.

The Regulations are silent on whether you need to disclose, for example, the name of any person, firm or company that employs you, in which you are a partner or of which you are a director or a sole trader. However, the purpose of the Register is to ensure openness and transparency about the pecuniary interests of Members. It may be difficult to maintain that openness and transparency if a Member declares his or her job title, trade or profession without indicating for whom they work, or the name of their company, firm or business.

You should also be aware that your position as an elected member is classed as an "office" for the purposes of income tax legislation. Members' allowances are taxable and represent more than just reimbursement for expenditure incurred. Because there is an element of "gain" in the allowances, you should declare your position as elected member under the "employment" section of the form. You do not have to declare the actual amount of allowance(s) received.

2. What is a Trade Union?

The Regulations say that a trade union is one that is within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. This, in summary, means an organisation of workers where one of its main purposes is to regulate relations between the workers and employers. It can also include organisations which are constituent or affiliated organisations.

It will normally be fairly clear whether or not an organisation is a trade union but if you are unsure, please check with the organisation itself.

3. What is a Body Corporate?

A "body corporate" is an organisation which exists as a legal entity in its own right. It might be an incorporated association, a limited company, a government agency or institution, which is identified by name. This would exclude, for example, an unincorporated body consisting of a group of individuals.

It is not always possible to know whether an organisation is a body corporate and so if you are unsure, you should check with the organisation. See also FAQ 11.

4. What are "Securities"?

(1) Securities are defined by the Regulations as: -

"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."

(2) Set out below are some further descriptions of the types of investment that may fall within the definition of "securities". If you are unsure as to whether your investments fall within any of these descriptions, you should seek further independent advice.

- (a) **Shares:** units of ownership in a business or organisation which give entitlement to a share of any dividends paid out by the business or organisation.
- (b) **Debentures:** a debt, often in relation to a company. They are usually issued by large companies as a way to borrow money. Interest is payable on the loan.
- (c) **Debenture Stock:** a version of debentures which are secured against the company's property.
- (d) **Loan Stock:** shares used as security for a loan. They earn a fixed rate of interest, rather than dividends.
- (e) **Bonds:** essentially loans, which pay interest. They usually have a defined term, or date of maturity.
- (f) **Units of a Collective Investment Scheme:** any arrangements to enable persons taking part to participate in, or receive profits or income arising from, the acquisition, holding, management or disposal of the property, or sums paid out of such profits or income. Examples in the UK include Exchange-Traded Funds, Investment Trusts, Open Ended Investment Companies, or With-profits Policies.

5. What is an Industrial and Provident Society?

An Industrial and Provident Society is an organisation carrying out an industry, business or trade, either as a co-operative or for the benefit of the community. It is registered under the Industrial and Provident Societies Act 1965. Examples can include some housing associations, working men's clubs and co-operative societies.

If you are unsure as to whether an organisation is an Industrial and Provident Society, please check with the organisation itself.

6. What is a Licence?

A licence is simply a permission to use land. It allows someone access to the land of another for an agreed purpose. It is not a formal tenancy or lease and so does not give the licensee any legal interest in land. The licence only needs to be registered as a DPI if it is for a period of one month or more.

7. What is a Tenancy?

A tenancy means the possession or occupancy of land, buildings, or other property by title, under a lease or on payment of rent.

8. What does "Land" mean?

The Regulations say that "land" excludes the following:

"an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income."

This means that, for example, a right to access over a neighbour's drive in order to get to your property does **not** give you an interest in the neighbour's land for the purposes of the regulations. This is because you only have the right to drive your vehicle or walk over the neighbour's land to get to your own; you do not have the right to occupy the land or rent it out.

For practical purposes, "land" will normally mean land or property (including buildings or part of a building). It could, however, include other interests if they carry a right to occupy the land or to receive income.

Again, if you are unsure of your position you should seek independent legal advice as to whether any interest that you have in land falls within the definition.

9. What is a "beneficial interest" in land?

The most common examples of a beneficial interest in land are where:

- (a) you own the land (whether or not the land is subject to a mortgage);
- (b) you have a lease of the land; or
- (c) you have a tenancy of land

In all these cases, it does not matter whether you own, lease or rent the land on your own or with another person or persons.

However, there are occasions when someone other than the legal owner of land may have a beneficial interest in it. This could happen where someone has a right to income from property, or a share in it, or a right to the proceeds of sale (or part of the proceeds) even though they are not the legal owner. Someone for whom land is held on trust will also have a beneficial interest in it.

10. Do I have to declare my membership of organisations?

The Code of Conduct says that you have to declare on the form your membership of any organisation or body "whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that organisation or body." Whether you need to declare your membership of a particular organisation or not will depend on the rules of the organisation. This could, for example, arise by reason of an organisation having an obligation of secrecy about its rules, its membership or conduct, and/or a commitment of allegiance or support to that organisation or body. Such organisations or bodies may or may not be charitable concerns and they may also have a local, regional, national or international aspect.

Membership of a political party will not need to be registered. Membership of a trade union is specifically required to be registered under a separate provision of the Code of Conduct (**see FAQ 2**).

Please also see FAQs 11 and 12 below for more detailed information about other outside bodies and when an interest in them might be a DPI.

11. When do my interests in outside bodies amount to a DPI?

The Regulations establish rules about when you have to declare on the register a DPI that you have in an organisation by virtue of its being a "body in which the relevant person has a beneficial interest". The Regulations define such a body as:

- (a) a firm in which the relevant person is a partner or*
- (b) a body corporate:*
 - i. of which the relevant person is a director, or*
 - ii. in the securities of which the relevant person has a beneficial interest.*

There is a number of points to note here:

- (1) "Relevant person" means you, your spouse or civil partner, or a person with whom you are living as such. So if your spouse or partner has an interest then you must declare it on the register of interests.
- (2) Most people will be reasonably clear whether they are a partner in a firm (or their spouse or partner is) since it will usually be in connection with their business trade or profession. If the firm is carried on for profit or gain, they will need to register their interest under "Employment". If the firm has a contract or contracts with the City Council that are not discharged, then these will need to be entered on the register of interests as well. If, to your knowledge, the firm has a tenancy of Council-owned land, this will also need to be declared under Corporate Tenancies.
- (3) Securities are defined in the Regulations and this is set out in **FAQ 4(1)**. Again if you or your spouse or partner has a beneficial interest in any securities of a body corporate you have a DPI only if the body has a contract with the Council and it has not been discharged. You also have a DPI if, to your knowledge, the body has a tenancy of land of which the Council is the landlord. In both cases the DPIs must be declared.
- (4) The question of when an organisation is a body corporate and when members may be directors of the body is dealt with in detail in **FAQ 12**.

12. I don't know whether I am a director of a body corporate, how do I find out?

It is very important that you are clear about the legal status of organisations, and your legal position on them, because if you are a director of a body corporate you will have a DPI if:

- * The body has a contract with the Council which is not discharged, and/or
- * To your knowledge, the body has a tenancy of land of which the Council is the landlord.

It can sometimes be difficult to know the precise legal status of an organisation to which you have been appointed. Different terms may be used at different times to describe the body or your

role within it and this can lead to confusion. It is clear though that for the purposes of the Regulations, what is important is the actual status of the body and those who sit on it, not what they may think is the position or what they are known as.

Set out below is a step by step process to help you decide whether you have a DPI by virtue of your involvement in an organisation. You should work through the questions in turn. Don't forget that you should also carry out the same exercise for any organisations of which your spouse or civil partner is a member, if you are unsure of their position.

(1) Is it a "Body Corporate"

A definition of "body corporate" is already set out in **FAQ 3**. Whether an organisation is a body corporate will turn on its precise legal characterisation. Examples include:

- a limited company registered under the Companies Act 2006
- a company limited by guarantee
- an industrial and provident society
- community, community special and maintained nursery schools, foundation, foundation special, voluntary controlled and voluntary aided schools, some of them with exempt charitable status
- a charitable trust registered as a company with charitable status: (it is normal for Academy schools to be set up this way so please check with the schools)

Examples of bodies which are not a "body corporate" may include:

- * a charitable trust (unless it is registered as a company with charitable status)
- * an unincorporated organisation such as a sports or social club

The legal status of some organisations may not be immediately obvious. For example, a housing association may in law be either a "society, body of trustees or company". Before considering anything else, you need to find out whether the organisation is in fact a body corporate. You should approach the governing body of the organisation or a senior officer of the organisation and ask them to confirm the legal status.

If the organisation is not a body corporate then you do not need to do anything more as you do not have a DPI.

If the organisation is a body corporate you need to go on to consider (2) below.

(2) Are you a "Director"?

The term "director" is not defined by the Regulations except that it is said to include "a member of a committee of management of an industrial and provident society". Anyone who sits on the board of directors of (for example) a limited company or company limited by guarantee will be a director. It does not matter whether the director is or is not paid for their work, or whether they are described as an executive or non-executive director.

With other organisations, it is not so easy to establish the legal status of their governing bodies. Members of the governing body of an organisation may, for example, be described as trustees but if the organisation is registered as a company with charitable status or as an incorporated charity, the trustees are directors. For example, it can be common for governors at academy schools to be Directors because the trust has the legal status of a company. Other schools may also have exempt chartable status but will not necessarily be a company.

It is therefore very important that you go back to the organisation of which you are a member and ask for its view on your legal status, or take your own legal advice on the point. If they advise that you are not a director then you need not disclose anything, as you do not have a DPI.

If the organisation or your legal adviser tells you that in law you are a director, then you need to go on to consider (3) below.

(3) Is there a contract or a corporate tenancy with the body of which you are a director?

Even if the organisation is a body corporate and you are a director, it is important to remember that you only have a DPI which must be disclosed if the organisation:

- * has a contract with the Council which is not discharged; or
- * to your knowledge has a tenancy of land of which the Council is the landlord.

Further information about Contracts and Corporate Tenancies can be found in **FAQ 17** and **FAQ 18**.

13. Why is it important that I check the legal status of organisations of which I am a Member and my own position?

Failure to register a DPI or to declare it at a meeting (if unregistered), knowingly or recklessly providing false or misleading information about DPIs, and participating in the discussion or voting on matter in which you have a DPI are criminal offences. However, if you have a reasonable excuse for your failure to follow the law, you may have a defence to any proceedings. By making proper enquiries of persons within the organisations who might reasonably be expected to know the legal position, you may be able to rely upon the defence of having a reasonable excuse if it turns out that the information was incorrect.

14. Where do I register the outside bodies that I am on?

Unless the outside body fits into one of the categories on the new form, you do not have to register an outside body which you are on (regardless of whether or not you have been nominated by the Council). Please see **FAQs 10, 11 and 12** above for more information about when your membership of an organisation may amount to a DPI.

15. Do I need to register those organisations that I have been appointed to, (whether by the Council or not), where I receive an allowance, paid expenses or other payment?

This will depend on your position within the organisation and the nature of any payment that you receive from it.

The Regulations require you to declare any "employment, office trade, profession or vocation carried on for profit or gain". Although you may not be an employee of the organisation, you may be an "office holder". The Income Tax (Earnings and Pensions) Act 2003 treats "offices" as employment for income tax purposes where the office exists independently of the person holding it. You may hold office in an unincorporated association as well as in a company or other body corporate.

If you are an office holder and receive a taxable allowance from the organisation (even if you are personally not liable to pay income tax), then because it is being treated as income, your appointment to the organisation should be declared under "employment". Reimbursement of

actual expenditure by you in the course of carrying out your duties is unlikely to be viewed as being for profit or gain and does not need to be declared. Whether any other form of payment will be disclosable will depend on why you receive it and whether it is taxable.

Remember that you do not have to disclose the amount of any allowance or other payment you receive under the "employment" DPI, just the organisation who makes the payment.

If you are at all unsure about the tax status of any payments you receive, please contact the organisation concerned in the first instance and then discuss with the Monitoring Officer if necessary.

16. Can I answer written or oral questions at Council where I have a DPI as a result of membership of that outside body?

You may not participate in any discussion about a matter in which you have a DPI or "other relevant interest". However, you can answer any question even though you have a DPI because you are not making any decision and are not participating in a discussion. You are simply answering a question. This would only apply where you are answering a question during any public question time or where other councillors have the right to ask questions.

17. When do I have a DPI in a contract?

The Regulations say that you have a DPI in a contract when the contract is made between the City Council and

- * you; or
- * your spouse or civil partner (or person with whom you are living as such); or
- * a firm in which you or your spouse or civil partner (or person with whom you are living as such) is a partner; or
- * a body corporate of which you or your spouse or civil partner (or person with whom you are living as such) is a director ;or
- * a body corporate in the securities of which you or your spouse or civil partner (or person with whom you are living as such) has a beneficial interest.

You only have a DPI if the contract is for the provision of goods or services or where works are to be executed. You only have a DPI for so long as the contract has not been fully discharged. This means that once the contract is at an end you no longer have an interest.

If you have a DPI in a contract you must give a brief description of the contract and the name of the person or body who is a party to it. It is not enough just to give the name of the organisation or person who has entered into the contract as the Regulations state that you must declare the contract itself. If your interest arises because of your association with a body corporate, you should contact the organisation and ask it to confirm what contracts they currently have with the Council. If there are no contracts, then you do not have a DPI.

18. When do I have a DPI in a Corporate Tenancy?

The Regulations say that you have a DPI in a corporate tenancy when to your knowledge there is a tenancy where the landlord is the City Council and the tenant is either:

- * a firm in which you or your spouse or civil partner (or person with whom you are living as such) is a partner; or
- * a body corporate of which you or your spouse or civil partner (or person with whom you are living as such) is a director ;or
- * a body corporate in the securities of which you or your spouse or civil partner (or person with whom you are living as such) has a beneficial interest.

You need only register your interest under this heading if a relevant organisation actually has a tenancy and you are aware of it. If so, you should identify the land that is the subject of the tenancy. This will include outside bodies if it meets the criteria.

You do not need to declare tenancies of which you personally or your spouse or civil partner are the tenant here but these may need to be declared under "Land".

19. I have a DPI because of my partner's interests: what is my position at Meetings?

The Localism Act says that a Disclosable Pecuniary Interest is an interest of:

- (a) the Member;
- (b) a Member's spouse or civil partner or
- (c) a person with whom the Member lives as husband and wife or as civil partners.

The Act does not distinguish between the interest of Members and those of their partners, so if you have a DPI that arises because of your partner's interests you may not participate in the discussion or voting on a matter that relates to that interest. If the DPI is not entered on the register of interests, you must also declare it at the meeting and notify the Monitoring Officer within 28 days of the meeting.

The Council has also decided that any Member with a DPI (whether entered on the register or not and whether it arises from his or her own interests or those of their partner) must leave the room during the discussion and voting on the matter, which relates to the interest. In addition if you are attending a Cabinet Member meeting (other than as the Cabinet Member concerned) and you have a DPI or an "Other Relevant Interest" in an item of business, you must leave the room during the discussion and the decision-making concerning the matter.

20. My spouse or partner has an Disclosable Pecuniary Interest; do I need to give their details on the register of interests form?

No. The law says that any DPI that arises because of an interest of a spouse or civil partner is an interest of the councillor. You must declare your spouse or civil partner's interest but you do not have to identify it as being their interest. Nor do you have to give details of your spouse or civil partner.

21. If my spouse or civil partner works for the Council, do I need to state this under both the Employment section and Contracts section of the form?

You should enter the interest under "Employment". The Contracts section is intended to deal with other types of contracts (for goods, services and works), not contracts of employment (which is a contract of service).

If your spouse is self-employed or works for a company that provides services to the Council under a contract, this would need to be disclosed under "Contracts".

22. What is an Other Relevant Interest?

The Council has decided that there are some interests that do not fall within the definition of a DPI but which are important enough to be declared at meetings. It has therefore created a group of interests, called "Other Relevant Interests", which Members must declare at meetings. There is no category of Other Relevant Interests to be completed on your form because these will arise at meetings and will depend upon what is on the agenda.

An "Other Relevant Interest" is an interest in a matter where

- (a) A decision in relation to that matter might reasonably be regarded as affecting the well-being or financial standing of the Member or a member of their family or a person with whom the Member has a close association, or an organisation or body to which he or she belongs and is required to register, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which the Member has been elected or otherwise of the authority's administrative area; and
- (b) The interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

23. Who Does an Other Relevant Interest Cover?

An "Other Relevant Interest" is wider than a DPI in that:

- (a) It can affect "well-being" as well as financial interests. Under the previous standards regime, well-being was described as "a condition of contentedness and happiness - anything that could affect your quality of life, either positively or negatively is likely to affect your well-being".
- (b) It applies to the interests of the Member or a member of his or her family (not just spouses or civil partners). A member of your family can be a spouse, civil partner or someone with whom you are living as such, parent, parent in law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent or grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.
- (c) It applies to interests of people with whom the Member has a "close association". This is someone that you are in either regular or irregular contact over a period of time who is more than an acquaintance. It is someone that a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. For example, it may be a friend, a colleague, a business associate or someone whom you know through general social contacts.
- (d) It applies to the interests of an organisation or body of which you are a member and which the Council requires you to enter on your register of interests (although not a DPI). It also applies to trade unions of which you are a member.

You will only need to declare an "Other Relevant Interest" in a matter where you are aware of that interest. You are not expected to undertake research into the employment, business interests and other activities of all your family members and close associates. However, you

should not deliberately ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware of.

24. When will an Other Relevant Interest Apply?

An "Other Relevant Interest" arises where it affects your well-being or financial interests (or those of others as defined)

- (a) more than it affects the majority of Council Tax payers, ratepayers or inhabitants of your ward
and
- (b) the interest is so significant that a reasonable member of the public, knowing all the relevant facts, would think that it would prejudice your judgement of the public interest.

Whether a matter will affect you or your family and close associates more than it would affect others in your ward will depend on the particular circumstances of the matter under discussion. For example, if Planning Committee is considering an application for planning permission on land next to your brother's house, your brother's well-being or financial standing is likely be affected more than the majority of others in the ward. The first part of the test for an "Other Relevant Interest" will apply.

For the second part to apply, the interest must be so significant that other people would think that your ability to judge the public interest would be impaired or harmed.

The mere existence of local knowledge, or connections within the community, would not normally be enough to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people is equally affected by it or whether you or a smaller group are particularly affected.

If you have an Other Relevant Interest, you must disclose it at the meeting and leave the meeting room during the discussion and voting on the matter. This includes Cabinet Member meetings where you are not the relevant Cabinet Member.

25. Do the rules on DPIs and Other Relevant Interests apply to Advisory Panels?

When you act as a member of a Cabinet or Cabinet Member Advisory Panel (CAP) you are not making decisions that bind the Council. A CAP makes recommendations on particular matters to Cabinet Member or Cabinet which then takes a decision. Strictly speaking, therefore, the legal rules on DPIs do not apply to CAPs because they are not formal decision making bodies of the Council. The rules in the Council's Code of Conduct about "other relevant interests" also will not apply to CAPs as they are not formal meetings of the Council.

However, if you have an interest in matter that is being considered by a CAP of which you are a member, you should think very carefully before participating in the discussion on that matter. This is because, a CAP, through its recommendations, can influence the decision that will ultimately be made by Cabinet Member or Cabinet. Although you may not have a statutory DPI or a Code of Conduct interest in the matter, you may nevertheless have a conflict of interest. If you participate in making recommendations to Cabinet on a matter in which you are perceived have an interest, the decision of Cabinet may be later challenged on the ground of bias.

26. When do I need to complete the new form by?

You are required to notify the Monitoring Officer of all your DPIs within 28 days of being elected to the Council, or, if you are a co-opted member, within 28 days of being appointed. Each time you are re-elected or re-appointed you only need to notify the Monitoring Officer of any DPIs that have arisen since your last election or appointment.

If you are at a meeting of the Council (or are a Cabinet member taking a single member decision) and you become aware that you have a DPI that is affected by an item of business but which is not registered, you must notify the Monitoring Officer of that DPI within 28 days of the date of the meeting.

However it is recommended that you complete your form as soon as possible and keep it updated periodically.

27. Will my form be published?

Yes. However, your signature will be excluded together with any interests (whether or not a DPI) which are considered to be sensitive interests.

28. What is a sensitive interest?

You may have a sensitive interest if both you and the Monitoring Officer agree that the nature of the interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence or intimidation. The interest can be a DPI or another interest (for example an "other relevant interest").

If the interest is entered on the register, copies of the register available for public inspection or published must not include details of the interest (but may say that the Member has an interest, the details of which are withheld). If you have to declare a DPI at a meeting, you need only declare its existence and not the details of it.

29. When can I apply for a Dispensation?

The Monitoring Officer has the power to give a dispensation to a Member if she is satisfied that any of the following circumstances applies:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) granting the dispensation is in the interests of persons living in the authority's area,
- (d) without the dispensation each member of Cabinet would be prohibited from participating in any particular business to be transacted by Cabinet, or
- (e) it is otherwise appropriate to grant a dispensation

A request for a dispensation must be made in writing by the Member. The Monitoring Officer has a standard form for Members to use.

The Monitoring Officer's advice is that having an interest in land in the City Council's area will give rise to a DPI in a meeting to set council tax since Members with an interest in land will be affected financially by the level of council tax set. Members are advised to make a prompt request to the Monitoring Officer for a dispensation if they wish to participate in any council tax setting meeting.

Remember, if you are unsure as to whether you have a Disclosable Pecuniary Interest or an Other Relevant Interest, please contact the Monitoring Officer for advice.

18 March 2013.

Appendix 2: Declaration of Interests Form

GUIDANCE NOTES

- (1) This form of notice is intended to help you with your responsibilities under the requirements of relevant legislation. It gives guidance to elected and co-opted members on when their interests, and those of their spouse or civil partner (or person with whom they are living as such) are disclosable pecuniary interests for the purposes of the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. It also sets out the actions you must take if you are aware that you have a Disclosable Pecuniary interest in a matter being considered at a meeting of the Council, which has not been previously entered onto the register of interests.

This form of notice also summarises when you need to declare interests at Council meetings, when you will need to take no part in the discussion of or voting on an item in which you have an interest and when you need to leave the meeting room. Further guidance can be found in the Member Code of Conduct.

Completing the Form

- (2) Please look through the form very carefully and read the notes of explanation for each section before starting to fill it in. The Regulations, which describe the disclosable pecuniary interests that must be registered, also provide definitions for some of the terms used in the Regulations. These definitions are included in each section of the Form, as appropriate. Members are advised to read these very carefully before completing each section of the form and to seek advice if they are unsure about whether they have a disclosable pecuniary interest.

If you need any help at all, please do not hesitate to contact **Christine Forde**, the City Council's Monitoring Officer, on extension 1587

- (3) If you have no interests requiring declaration under any particular heading on the form, please put "none" in the relevant box.

REMEMBER: please complete all of the form and **SIGN** it before returning it. When you have completed and signed the form, please return it to: Legal Services (Monitoring Officer), Room 56, 2nd Floor Council House, Earl Street, Coventry, CV1 5RR.

It will then be kept in a register, which is open to **PUBLIC INSPECTION** without charge at all reasonable hours. It will also be placed on the Council's website for public viewing.

- (4) When you return the notice, you will be sent a photocopy of it for your own record purposes to make it easier for you to make sure that the relevant information is up to date and accurate.
- (5) The notice must be completed by and returned within 28 days of your election or appointment to office. The notice will continue to have effect so long as you continue to be a member of the City Council. On re-election or re-appointment you are only required to notify of any new interests or changes to your existing interests.

However, you are also required under the Localism Act to notify the Monitoring Officer of any disclosable pecuniary interest that you have, to your knowledge, in any matter being considered at a meeting of the Council if that interest is not already registered or the subject of a pending registration. You must do this within 28 days of the date of the meeting. There are also rules about declaring these unregistered disclosable pecuniary interests at the meeting. These rules can be found in the Member Code of Conduct.

Interests of your spouse or civil partner

- (6) As well as your own interests, you are required to declare the interests of your spouse or civil partner (or person with whom you are living as such) **of which you are aware** in **all** categories of Disclosable Pecuniary Interests on the notice with the exception of "Sponsorship". For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. There is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner. Your spouse's or civil partner's name does not need to appear on the register.

Membership of certain bodies and organisations

- (7) The City Council requires members to enter details of membership of certain bodies and organisations on their register of interests. These interests are **not** disclosable pecuniary interests as defined by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. As a result, you would not **normally** have to declare your membership of these organisations at meetings where a matter affecting the organisation is to be discussed nor would you be prevented from discussing or voting on the matter **PROVIDED THAT** your interest was already entered on the register. However, if your membership would fall within the definition of an "other relevant interest" set out in the Member Code of Conduct, you may need to declare the interest at the meeting, not take part in any discussion or voting and leave the meeting room. Guidance can be found on this point in the Member Code of Conduct and you can seek further advice from the Monitoring Officer.

There is no requirement for you to register your spouse's or civil partner's membership of any of these organisations. All of the other interests required to be registered in this form are disclosable pecuniary interests.

Sensitive Interests

- (8) Sometimes a member may have an interest that he or she would prefer not to make public because to do so might result in the member or someone connected with the member being subject to violence or intimidation. If you believe that this is the case in connection with any interest that you have, (whether a Disclosable Pecuniary Interest or not), you should contact the Monitoring Officer and inform them of your concerns. If they agree with you, you may be able to withhold details of the interest from public disclosure.

Data Protection Act 1988

The data controller is Coventry City Council

The information provided on this form will be used only in connection with the purpose(s) of your responsibilities under Sections 30 to 32 of the Localism Act and your information will be kept in a register, which is open to public inspection and will be available online on the Council's website.

I,
of Coventry City Council hereby declare the following pecuniary interests

Employment, office, trade, profession or vocation: Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship: Any payment or provision of any other financial benefit (other than from the City Council) made or provided within the 12 months before this declaration in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts: Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) **and** the City Council —
(a) under which goods or services are to be provided or works are to be executed;
and
(b) which has not been fully discharged.

NB

(a) **"body in which the relevant person has a beneficial interest "** means a firm in which the relevant person 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.

(b) **"director"** includes a member of the committee of management of an industrial and provident society;

(c) **"relevant person"** means the member and the member's spouse or civil partner (or a person with whom the member is living as husband and wife or as if they were civil partners).

(d) **"securities"** means 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

Land: Any beneficial interest in land which is within the area of the City Council
NB

(a) "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or receive income.

(b) "relevant person" means the member and the member's spouse or civil partner (or a person with whom the member is living as husband and wife or as if they were civil partners).

Licences: Any licence (alone or jointly with others) to occupy land in the area of the City Council for a month or longer.

NB

(a) "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or receive income

(b) "relevant person" means the member and the member's spouse or civil partner (or a person with whom the member is living as husband and wife or as if they were civil partners).

Corporate tenancies: Any tenancy where (to your knowledge)—

(a) the landlord is the City Council; **and**

(b) the tenant is a body in which the relevant person has a beneficial interest.

NB

(a) **"body in which the relevant person has a beneficial interest "** means a firm in which the relevant person 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.

(b) **"director"** includes a member of the committee of management of an industrial and provident society;

(c) **"relevant person"** means the member and the member's spouse or civil partner (or a person with whom the member is living as husband and wife or as if they were civil partners).

(d) **"securities"** means 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

Securities: 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 City 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 relevant person has a beneficial interest which exceeds one hundredth of the total issued share capital of that class.

NB

(a) **"relevant person"** means the member and the member's spouse or civil partner (or a person with whom the member is living as husband and wife or as if they were civil partners).

(b) **"securities"** means 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.

Membership of certain organisations: membership of:

(a) an organisation or body whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that organisation or body. This could arise by reason of an organisation having an obligation of secrecy about its rules, its membership or conduct and/or a commitment of allegiance or support to that organisation or body. Such organisations or bodies may or may not be charitable concerns and they may also have a local, regional, national or international aspect; or

(b) of any trade union within the meaning of Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992

NB

*Membership of these organisations is **not** a disclosable pecuniary interest within the meaning of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members are referred to paragraph (7) and to the Member Code of Conduct for guidance on what actions they need to take in connection with any such membership.*