

Declaration of Interests

A Quick Guide for Elected Members

1. Introduction

This guide is intended to be a quick guide for members about what they must declare on their register of interests and when the existence of an interest needs to be declared at meetings of the Council. In many cases it will be clear what needs to be declared but if you are in any doubt, please do consult the Monitoring Officer or Deputy Monitoring Officer in the first instance.

2. What has to be declared on your Register of Interests?

- 2.1 Members are legally required to declare certain types of financial interests (called Disclosable Pecuniary Interests) on their Register of Interest. With most of these interests, members must also declare any such interests that their spouse or civil partner (or someone with whom they live as spouse or civil partner). ***Where a spouse/civil partner's need to be declared, these are shown marked with a * in paragraphs 3.1 to 3.7.*** Failure to declare these types of interests can be a criminal offence.
- 2.2 The Code of Conduct also requires members to declare their membership of certain types of organisations. They do not, however, have to declare their spouse or civil partner's membership of such organisations.
- 2.3 Members must register both types of interest (referred to in paragraphs 2.1 and 2.2 above) within 28 days of the Code of Conduct being adopted by the council or their election or appointment to office (where that is later).
- 2.4 Members must make sure that their Register is kept up to date. If you become aware of a new interest or a change to a registered interest, you must declare it within 28 days of becoming aware of it.

3. Disclosable Pecuniary Interests

The following financial interests must be declared on your register of interests:

*Employment**

- 3.1 Any employment, office, trade, profession or vocation carried on for profit or gain. This will include your position as an elected member. You should give details of your employer, any business or partnership.

*Land and Property**

- 3.2 Any land or property which you own or lease or where you have a tenancy (either alone or with another) within the area of the council. This includes land or property which you have a right to occupy or to receive income. You must identify the land or property. You do not have to disclose any land or property outside the council's area.

*Licences**

- 3.3 Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Sponsorship

- 3.4 Any payment (or other financial benefit) that you have received in the previous 12-month period in relation to election expenses. This does not include payments from the council.

*Corporate Tenancies**

- 3.5 You must declare any tenancy that you know of where the Council is the landlord and the tenant is either:
- (a) a firm in which you are a partner; or
 - (b) a body corporate of which you are a director; or
 - (c) a body corporate in the securities of which you have a beneficial interest. (see paragraph 3.7 below)

This may apply to outside bodies on which you sit as a director. Where you are aware of such a tenancy, you should identify the land.

*Contracts**

- 3.6 You must declare any contract which is made between the Council and
- (a) you; or
 - (b) a firm in which you are a partner; or
 - (c) a body corporate of which you are a director; or
 - (d) a body corporate in the securities of which you have a beneficial interest. (see paragraph 3.7 below)

Only contracts for goods or services or works must be declared and only for as long as the contract is in operation. This means that once the contract is at an end, you no longer have an interest.

If you have an interest 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 an interest.

*Securities**

- 3.7 If you hold securities (e.g. shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme) then you must declare them if:
- (a) the company has a place of business in the Council's area; and
 - (b) you own more than 1% of the total issued share capital, or more than £25,000 total nominal value

For example, if you have set up a company with another person and you have taken one share each with a nominal value of £1, you will need to declare this as you hold 50% of the total issued share capital.

4. Other Registrable Interests

- 4.1 There are other interests that you must declare on your form. These relate to your membership of certain organisations or where you are in a position of general control or management. The organisations are set out below:

Unpaid directorships

- 4.2 Some organisations such as charities and not for profit companies (e.g. companies limited by guarantee) may have unpaid directors. Where you have been appointed as an unpaid director (expenses excluded) you must declare this.

It can be difficult to know whether you are a director of an organisation as it is not always easy to establish the legal status of their governing body. Members of the governing body 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 charitable 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.

Appointments by the Council

- 4.3 At the annual meeting of the Council, the Council appoints members to outside bodies. Appointments can also be made during the year when required. Where you have been appointed to any outside body, it must be declared on your register of interests. Governance Services can provide a list of all the bodies to which you have been appointed by Council.

Membership of Certain Other Bodies

- 4.4 There are other types of organisations which you must declare if you are a member or hold a position of general control or management. These are:
- (a) Organisations which exercise functions of a public nature. For example, other councils, public health bodies, a housing association or a school governing body.
 - (b) Organisations which have a charitable purpose or purposes. The charitable purpose need not be the principle purpose of the organisation.
 - (c) Organisations where one of their principles purposes includes the influence of public opinion or policy. Examples include political parties and trade unions. It might also include professional associations and campaigning groups.
 - (d) Organisations whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that body. This could be because the organisation requires secrecy about its rules, membership or conduct. It could also require a commitment of allegiance to or support for the organisation.

5. Declaring Interests at Meetings

Disclosable Pecuniary Interests (Section 3)

- 5.1 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests, you must declare the interest. You must not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

Other Registerable Interests (Section 4)

- 5.2 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

Other times when Interests must be declared – Non Registerable Interests

- 5.3 There may be times when a matter arises at a meeting that **directly relates** to your financial interests or well-being, but which is not a Disclosable Pecuniary Interest. When this happens, you must declare the interest. You can speak on the matter only if members of the public can speak and you must leave the room. The same rules apply if the matter directly relates to the financial interests or well-being of a relative or close associate.
- 5.4 If a matter **affects** (rather than directly relates to) the financial interests of you, a relative or a close associate or a body that is included in your Other Registrable Interests, then you must declare the interest in all cases. In order to decide whether you can stay in the meeting, you need to consider the following test, whether:
- The matter affects the financial interest or well-being to a greater extent than it affects the majority of people living in the ward affected by the decision, **and**
 - A reasonable person knowing all facts would think that your interest would affect your view of the wider public interest.

If the answer to both parts of the test is “yes”, then you may not stay in the meeting and can only speak if members of the public can do so.

If the test does not apply to the matter, then you must declare your interest but may remain and speak and vote.

6. Conclusion

The rules around registering and declaring interests are complex and require careful consideration. You are strongly advised to seek advice from the Monitoring Officer or Deputy Monitoring Officer if you have any concerns about whether you should register an interest or declare an interest at a meeting. While it is your responsibility to ensure that you make the correct declarations, they will always try to give you clear unbiased guidance to help you make your decision.

Does the matter relate to one of the member's DPIs? (Section 3)

Yes

The member has a DPI and cannot take part without dispensation

No

Does the matter directly relate to the finances or wellbeing of one of the member's ORIs? (Section 4)

Yes

The member has an ORI and must disclose it. The member can speak as a member of the public but must not discuss or vote and must leave the room

No

Does the matter directly relate to the finances or wellbeing of the member, a relative or close associate?

Yes

Is the member affected to a greater extent than most people? And would a reasonable person think the member's judgment is clouded?

No

Does the matter affect the finances or wellbeing of the member, a relative, a close associate or one of my ORIs?

Yes

The member has an interest to disclose and must disclose it. The member can speak as a member of the public but must not discuss or vote and must leave the room

No

No

The member has no interest to disclose

Yes

The member must declare the interest in all cases. In order to decide whether they can stay in the meeting, consider the "test" at Section 5.4

