

Disclosable pecuniary and other registrable interests and the code of conduct

This note sets out the headings of the sections you will be required to complete on your online declaration of interests form explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Provisions in relation to Disclosable Pecuniary Interests are enforced by criminal sanction. They came into force on 1 July 2012. Disclosure of 'other registrable interests' are required by the Shropshire Council Code of Conduct.

1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) details of which are required to be included in the register of interests. A form has been provided previously for you to complete which sets out what amounts to a disclosable pecuniary interest.

2. Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Shropshire Council's website. Town/Parish Councils with a website are required to also publish the register of interests for their members on their website

3. Sensitive interests

A sensitive interest where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees.

If the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest but may state that you have a disclosable pecuniary interest, the details of which are withheld as they are of a sensitive nature.

If the interest is not on the register, you will need to disclose to the meeting at which the matter is discussed not the nature of the interest, but that you have a disclosable pecuniary interest in the matter.



Headings set out on the declaration of interests form

The online form asks for details of your disclosable pecuniary interest and other registrable interests under the following headings:

Disclosable Pecuniary Interests

The form will ask you for the following information which must be completed for **both you and your partner** (Partner includes your spouse, civil partner or person with whom you are living as if they were your spouse or civil partner)

- **Employment, office, trade, profession or vocation**

Any employment, office, trade, profession or vocation carried on for profit or gain by you or your partner

- **Trade Union Membership**

- **Sponsorship**

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period (“relevant period” means the period of 12 months ending with the day on which you give a notification of its existence) in respect of any expenses incurred by you in carrying out your 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 you or your partner (or a body in which you or your partner has a beneficial interest*) and the 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

“body in which the relevant person has a beneficial interest” means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest; and “director” includes a member of the committee of management of an industrial and provident society.

- **Land**

Any beneficial interest in land which is within the area of the Council. “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 to receive income;

• Corporate tenancies

Any tenancy where (to your knowledge)—

- a. the landlord is the Council; and
- b. the tenant is a body in which you or your partner has a beneficial interest.

• 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 Council; and
- b. (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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class

* “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.

Other Registrable Interests

You must register as an Other Registrable Interest the following (**nb you do not need to include interests that relate only to your partner**):

- Any unpaid directorships
- Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- Any body of which you are a member or in a position of general control or management:
 - I. exercising functions of a public nature;#
 - II. 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)+

* *Membership (which does not include simply being on a mailing list), of local campaign or Facebook groups will only need to be registered if they are bodies of a type set out in paragraphs (C) (i) to (iii) above. Generally, it is unlikely that these groups will be regarded as formal bodies to be registered. However, each case should be considered on its own merits. ‘A Body’ is defined as ‘a number of persons united or organised’. Some groups are very united on their cause and organised, but their purpose must fall under one of the functions listed above. There must also be some formality to the membership, such as registration for example. Simply attending a meeting of a local campaign does not of itself make you a ‘member’ of that organisation.*



There has been a growth in organisations which are more nebulous in nature, and no formal membership requirements exist, such as Extinction Rebellion. It can be helpful to ask yourself the question “do I consider I am a member of the organisation” and if the answer is yes, then register the membership for transparency purposes.

What is a “body exercising functions of a public nature”?

Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -

- does that body carry out a public service?*
- is the body taking the place of local or central government in carrying out the function?*
- is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?*
- is the function exercised under legislation or according to some statutory power?*
- can the body be judicially reviewed?*

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature. Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of a council, school governing bodies

+ The second category of other registerable interests refers to membership of a body or being in a position of general control and management of a body, one of whose principal purposes includes the influence of public opinion or policy. This includes any political party or trade union. Memberships of political parties and Trade Unions therefore need to be registered. Remember that if because of membership of a political party or a trade union any payment or financial benefit is received, it is likely to come under the Sponsorship category of DPI.

Requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

(Detailed guidance will be provided at the Induction Sessions on 'Ethical Governance and Conduct')

Non participation in case of disclosable pecuniary interest

- A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
 - 1. You may not participate in any discussion of the matter at the meeting.
 - 2. You may not participate in any vote taken on the matter at the meeting.
 - 3. If the interest is not registered, you must disclose the interest to the meeting.
 - 4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
 - 5. The code of conduct requires that you must leave the room during the discussion and voting on the matter.
- B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Dispensations

The authority may grant you a dispensation, but only the following circumstances, to enable you to participate and/or vote on a matter in which you have a disclosable pecuniary interest.

- a) That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;
- b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- c) That the authority considers that the dispensation is in the interests of persons living in the authority's area;

- d) That, without a dispensation, no member of the Cabinet would be able to participate on the matter when it came to be discussed at a meeting of the Cabinet; or
- e) That the authority considers that it is otherwise appropriate to grant a dispensation.

Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale (currently £5000) and disqualification from being a councillor for up to 5 years. Any allegations of a failure to comply with the code of conduct other than in respect of a Disclosable Pecuniary Interest will be dealt with locally and the following sanctions might be appropriate:

- a) Recommending to the member's Group Leader (or in the case of un-grouped members and Town/Parish Councils, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub- Committees of the Council;
- b) In respect of Shropshire Council, recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- c) Instructing the Monitoring Officer to arrange training for the member;
- d) Removing or recommend that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority;
- e) Excluding or recommend that the member be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings;
- f) Censure the Member with or without a notice being required to be placed in the press.



Predetermination or Bias

There will be situations where matters are discussed which do not affect the Disclosable Pecuniary Interests of the member and his/her partner [or the “other registrable interests” or “Non registrable interests” of the member](#) but during which participation of that member is still inappropriate.

It is not a problem for councillors to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. They may even have been elected specifically because of their views on this particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission.

However, the councillor must be open to the possibility that, however unlikely, they will hear arguments during the debate about the issue that will change their mind about how they intend to vote. As long as they are willing to keep an open mind about the issue they are entitled to take part in any vote on it.

The appearance of predetermination or bias on behalf of any member who takes part in the discussion or voting on a matter may result in the validity of any decision taken on the matter being challenged through the courts. Members should take care to not participate (and should usually leave the meeting room) when discussions on matters which they may have predetermined or in respect of which they may be perceived to be biased take place.

An example of such bias occurring would be where an application for planning permission made by a relative of the member was being discussed.