



DISCLOSABLE PECUNIARY INTERESTS AND THE CODE OF CONDUCT

This note 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.

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

You have 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.

4 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.

5 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.

6 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.

7 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 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.