

Declarations of Interest

1. Aim

- 1.1 To explain the requirements in relation to the declaration of interests by Councillors. This is a statutory requirement under the Localism Act 2011, and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Section 29 Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members and co-opted members of the authority. The Monitoring Officer must ensure that a copy of the authority's register is available for inspection at a place in the authority's area at all reasonable hours, and that the register is published on the authority's website. This is to ensure openness and transparency in decision-making.

2. Summary

- 2.1 The local authority has a register of interests which is available as required by the legislation for public inspection and is published on the authority's website. The requirements of disclosure of interests are set out by statute, and the process for publishing and disclosable pecuniary interests was agreed by full Council when the Council Code of Conduct was updated in September 2021. The requirements surrounding disclosure of interests are set out in the Councillor Code of Conduct.

3. Recommendations

- 3.1 That the committee note the report.
- 3.2 That the committee re-establish a Working Group to look at the issue of disclosable and non-disclosable interests and receive a report back from this Group once it has concluded its work.

4. Report Detail - Know

- 4.1 The local authority has a register of interests which is available as required by the legislation for public inspection and is published on the authority's website. The requirements of disclosure of interests are set out by statute, and the process for publishing and disclosable pecuniary interests was agreed by full Council when the Council Code of Conduct was updated in September 2021. The requirements surrounding disclosure of interests are set out in the Councillor Code of Conduct.
- 4.2 There are three types of interest referred to in the Councillor's Code of Conduct :- Disclosable Pecuniary Interests; Other Registerable Interests and non-registerable interests. The council's code in relation to interests follows the Model Code of Conduct created by the LGA. The relevant provisions of the Council Code of Conduct relating to interests is set out in Appendix 1 below.

4.3 Disclosable pecuniary interests are defined by regulation referred to above as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:- (a) that body to the member’s knowledge has a place of business or land in the borough; and (b) either (i) the total nominal value of the securities exceeds £25,000 or 1/100 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 exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

4.4 Other registerable interests the Walsall Code of Conduct requires members also to register include the following:- Any interest in any activity which is or could be related to the business of the Council. These include: a) any position (for example, as trustee, governor, or unpaid director) that may have influence in any charitable or voluntary organisation, including: b) any to which you are nominated or appointed by the Council; and c) any position of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

4.5 Non-registerable interest - Where a matter arises at a meeting which directly relates to a Councillor’s financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, the Councillor must disclose the interest. The Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any

discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

- 4.6 Where a matter arises at a meeting which affects – a: the financial interest or well-being of a Councillor; or b: a financial interest or well-being of a relative, or close associate of a Councillor; or c: a financial interest or well-being of a body included in those to be disclosed under Other Registrable Interests as set out in Table H; then the Councillor must disclose the interest. In order to determine whether a Councillor can remain in the meeting after disclosing an interest (as per paragraph above) the following test will be applied by the Councillor, who may seek advice from the Chair of the meeting, and/or any Legal or Democratic Services Officer present in the meeting:-
- a: to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- b: a reasonable member of the public knowing all the facts would believe that it would affect the Councillor's view of the wider public interest, or be perceived as a conflict of interest; then
- c: the Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.
- 4.7 Standards Committee have previously received a report on the current registration system, and the guidance and training given to Councillors in respect of the same. A Working Group was agreed in July 2023 to discuss this which did not meet in that municipal year. It is proposed that the membership of the Working Group be re-agreed to allow this work to be completed.
- 4.8 The disclosure of non-registerable interests are often the most difficult to determine and this will form part of the working group's remit and will be the subject of updated training. This includes the decision as to whether or not the Member can remain in the meeting and vote on an item.
- 4.9 Non-registerable interests - Occasions may arise when a matter under consideration would or would be likely to affect the well-being of a member, their family, friend or close associate more than it would affect the well-being of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).
- 4.10 There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance. Case law in the First Tier Tribunal decision of Bristol CC v Information Commissioner <https://www.bailii.org/uk/cases/UKFTT/GRC/2023/878.html> resolved that Sensitive information on the register of members' interests is subject, under the

Localism Act 2011, to the discretion of the Monitoring Officer, and thus 'this operates as a statutory bar' to disclosure under section 44 FOIA.

- 4.11 To date, the Monitoring Officer has always required that a member wishing to withhold their address from publication in the register provide some evidence of threat of violence and intimidation. However, the direction of opinion on this is turning and the Committee on Standards in Public Life (CSPL) 2019 recommended that Councillors should not be required to register their home addresses. In addition, since 2019 there is no longer a requirement for candidates for Council elections to have their home address published on the ballot paper. This brings such candidates into line with parliamentary MPs. Recently, the DLUHC Minister for Local Government wrote to all Council CEOs and Monitoring Officers encouraging Monitoring Officers to look sympathetically at accommodating requests for the withholding of home addresses from published versions of the Register of Interests where there are legitimate concerns of violence or intimidation.

5. Financial information

- 5.1 None contained within this report.

6. Legal implications

- 6.1 The council must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging its duty under subsection, a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The disclosure of member interests is an important part of openness and transparency in decision making.
- 6.2 The requirements of the Localism Act 2011 requires that the Monitoring Officer must establish and maintain a register that is public and available for inspection and the public. This register must be published online.

7. Decide

- 7.1 The committee is asked to note the report and establish a working group as set out in the recommendations.

8. Respond

- 8.1 That the Monitoring Officer brings a report back to Standards Committee following the completion of the work being undertaken by the working group in respect of disclosure of interests. Councillors should be provided further training in relation to the registration and declaration of interests.

9. Review

- 9.1 That this issue is kept under review and considered as part of any wider review of standards of conduct by Councillors.

Background Papers:

Appendix 1

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APPENDIX 1

Registration of Interests Extract

2. Within 28 days of election and re-election or appointment and re-appointment Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". Councillors should also register details of their other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

3. Councillors must register their interests so that the public, Council employees and fellow Councillors know which interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects Councillors by allowing them to demonstrate openness and a willingness to be held accountable. Councillors are personally responsible for deciding whether or not to disclose an interest in a meeting, but it can be helpful for them to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

4. Councillors should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

5. "Disclosable Pecuniary Interest" means an interest of a Councillor, or of their partner if they are aware of their partner's interest, within the descriptions set out in Table 1 below.

6. "Partner" means a spouse or civil partner, or a person with whom the Councillor is living as husband or wife, or as a civil partner.

7. Councillors must ensure that their register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

8. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

9. Where a Councillor has a 'sensitive interest' she/he must notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees she/he will withhold the interest from the public register. Non-participation in case of disclosable pecuniary interest

10. Where a matter arises at a meeting which directly relates to a Disclosable Pecuniary Interests as set out in Table 1, Councillors must: - disclose the interest; and - not participate in any discussion or vote on the matter; and - not remain in the room unless they have been granted a dispensation. Dispensation may be granted in limited circumstances, to enable Councillors to participate and vote on a matter in

which they have a disclosable pecuniary interest. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

11. Where a Councillor has a disclosable pecuniary interest on a matter to be considered or is being considered by them as a Cabinet member in exercise of their executive function, they must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it. Disclosure of Other Registerable Interests

12. Where a matter arises at a meeting which directly relates to an Other Registerable Interests (as set out in Table 2), Councillors must disclose the interest. Councillors may speak on the that 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 they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest. Disclosure of Non-Registerable Interests

13. Where a matter arises at a meeting which directly relates to a Councillor's financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, the Councillor must disclose the interest. The Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

14. Where a matter arises at a meeting which affects – a: the financial interest or well-being of a Councillor; or b: a financial interest or well-being of a relative, or close associate of a Councillor; or c: a financial interest or well-being of a body included in those to be disclosed under Other Registrable Interests as set out in Table 2; then the Councillor must disclose the interest.

15. In order to determine whether a Councillor can remain in the meeting after disclosing an interest (as per paragraph 14 above) the following test will be applied by the Councillor, 8 who may seek advice from the Chair of the meeting, and/or any legal or democratic services officer present in the meeting. a: to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and b: a reasonable member of the public knowing all the facts would believe that it would affect the Councillor's view of the wider public interest, or be perceived as a conflict of interest; then c: the Councillor may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. Where there is a 'sensitive interest', Councillors must disclose they have an interest but should not disclose the nature of that interest.

16. Where a Councillor has a personal interest in any business of the Council and has made an executive decision in relation to that business, he/she must make sure that

any written statement of that decision records the existence and nature of that interest.
Disclosure of Interests at Overview and Scrutiny Meetings

17. If a Councillor you is the Chair of an Overview and Scrutiny meeting they should not preside over the scrutiny of a relative. Section 28(10) Localism Act 2011 defines a relative as: a) a spouse or civil partner, b) someone they are living with as husband and wife or as if they were civil partners, c) a grandparent d) a lineal descendant of grandparent, e) a parent, sibling or child of a person within paragraph a) or b), f) the spouse or civil partner of a person within paragraph c),d),e), or g) living with a person within paragraph c), d), or e) as husband and wife or as if they were civil partners.

18. Scrutiny has a role to play in holding decision-makers accountable therefore if a Councillor was previously a Cabinet Member they should not scrutinise decisions that were taken when they were a part of the Cabinet. This means they should leave the room during the discussion of the item. This is particularly pertinent upon the initial changing of roles but, depending on the issue, can still have significance after a substantial period of time. A discussion with the Monitoring Officer should be sought if there is an item on an agenda that Councillors think they may have an interest in.