

Essex County Council

Guide to Declaring Interests

Introduction

This guide is intended to help Essex County Councillors declare interests. Since the abolition of the mandatory national code of conduct, every local authority has had slightly different rules. In Essex the Councils have kept the rules similar across the authorities, but for local reasons the rules are not exactly the same. The rules at ECC were simplified in 2016 and are the same as those which apply at the Fire Authority.

We recognise that many members are also members of other local authorities. Since the rules at other councils are different, please be careful about applying this guide to any role on a district or parish council– and seek advice locally.

Types of interest

Disclosable Pecuniary Interests (DPI) - These are national rules. It is a criminal offence to fail to declare a DPI or to vote on something if you have a DPI in it – although you can vote at a meeting of ECC if you have a dispensation from ECC.

The important thing about a DPI is that you **either** have ‘nothing to declare’ – you don’t have to say anything and you can stay in the room **or** you have to declare and leave the room (unless you have a dispensation, when you can declare and stay in the room).

Do not declare that you have a DPI and stay in the room - unless your participation is covered by a dispensation.

Disclosable pecuniary interests are the ones you are required to list in boxes 1-7 of your registration of interest form. The definition is set out in full later in this document but in summary these are:

- Things you or your spouse or partner get paid for doing (including being a paid councillor at another local authority)
- Sponsorships
- Land you or your spouse own or rent (for example your home)
- ECC land which you or your spouse or partner or businesses occupy as a result of an agreement with ECC
- Significant share holdings of you or your spouse or partner
- Contracts between you and others with ECC.

If an item of business particularly affects anything listed in the above then you need to declare **and**, unless you have a dispensation, you **must** leave the room when the business is considered.

Code Interests

If you have a DPI in a matter then you don’t need to consider code interests.

Code interests are defined by the ECC Code of Conduct. There is a two stage test:

Stage 1: You have a Code Interest – which must be declared - if either

- (a) it affects the well-being or financial position of someone or something listed anywhere in the registration of interests form;
- (b) it affects your well-being or financial position (or that of a friend or close associate) more than it affects residents of the affected division generally.

Stage 2: If you have a code interest then, as well as declaring it, you must leave the room when the item is being considered if a member of the public who knew all the facts would believe that the interest would affect your consideration of the public interest. You can of course stay if you have a dispensation.

These are the only types of interest that have to be declared.

Things which do not give rise to an interest:

(1) Matters that mainly relate to your Division

The fact that you represent a division does **not** automatically mean you have an interest in it. You would have an interest if an item particularly affected your home or your employer, but the fact that you are the local member does not give rise to an interest. By all means mention that you are a local member, if you wish to - but you are not required to do this and this is not declaring an interest. See later on for guidance about how to do this.

(2) Membership of ECC Cabinet or an ECC committee

The fact that you are a member of the Corporate Parenting Panel or a Scrutiny Committee or Audit Committee does not give rise to an interest. Again, you may mention this if you so wish, but you are not required to.

Good Practice examples of what to say

You must say:

The type of interest

What the interest is

It is good practice to say whether or not you will remain in the room during the consideration of the item.

DPI: 'I have a disclosable pecuniary interest in item 5 as the road affected runs past my home, and I will therefore be withdrawing from the room when that item is being considered'

DPI (covered by a dispensation): ‘I have a disclosable pecuniary interest in item 5 as the proposal is to support a project by Xtown District Council and I am a member of that Council. However, I have a dispensation which allows me to speak and vote.’

Code Interest (withdrawing): ‘I have a Code interest in item 5 as this item involves the demolition of a house owned by a good friend of mine and I will therefore be withdrawing from the room when that item is being considered’.

Code interest (remaining): “I have a code interest in item 5 which is a planning application submitted by Tesco. I am aware that a distant relative has a Saturday job in a branch of Tesco but I have been advised that I can participate in this item of business.

Mention (no interest): NB You do not need to mention anything which is not a formal interest, but some members at ECC feel more comfortable doing this.

‘I wish to mention that this item particularly affects my Division, although I don’t have a formal interest to declare and I will participate in the debate.’

FAQ

Can the same interest give rise to a Code Interest and a DPI?

No. If you have a DPI, then you don't need to consider the Code further. However, if you do not have a DPI then you should consider whether you have a code interest.

When should I declare an interest?

Declare at the start of the meeting if possible, but if you forget, or don't realise that you have an interest, then declare it at the start of the item of business – or as soon as you realise.

What's a dispensation?

A dispensation is a document issued by the Council which says that a member can stay in the room even if they have an interest. ECC will usually issue a dispensation where the interest arises from membership of another public authority, but the dispensation doesn't apply to granting a planning permission, licence or awarding a contract to another body.

What advice is available about declaring interests?

The rules about declaring interests can be complicated. It is wise to obtain advice before a meeting starts – preferably a few days beforehand. The monitoring officer or deputy are very happy to help. You can request advice by email or phone. Please help us to help you by asking for advice as early as possible. Some advice will always be available at the meeting.

When should I declare a 'non-pecuniary interest'?

The term 'non pecuniary interest' has had no relevance at ECC since 2001 and you should not declare such an interest. If you do declare a 'non pecuniary interest' in error then this will be recorded in the minutes as a 'code interest'.

How can membership of another local authority be a 'pecuniary interest'?

The law defines DPI as including an office 'carried on for profit'. If you receive payment other than out of pocket expenses then you are regarded as making a profit – members are motivated by the desire to serve the public but the fact remains that they are still receiving payment for the hours spent in the role.

What about decisions taken by officers or by the Cabinet Member?

If you are consulted and have an interest then you should mention this in your response. The declaration should be recorded in the record of decision.

Do I have to declare interests relating to my previous employer who pays me a pension?

Almost certainly not. You would only have to declare an interest in a decision which has such a significant impact on your employer's pension fund that it affects your

own financial position. Unless the decision is very big or your former employer is very small then this will not apply.

What is a full list of DPIs?

A member has a Disclosable Pecuniary Interest if they or their partner have an interest of a description set out in paragraphs (1) to (7) below.

(1) Any employment, office, trade, profession or vocation carried on for profit or gain;

(2) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous twelve months in respect of any expenses incurred by the member in carrying out duties as a Member, or towards 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;

(3) Any contract for goods, services or works which has not been fully discharged between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council;

(4) Any beneficial interest in any land in the Council's area;

(5) Any licence of any land in the Council's area (alone or jointly with others) to occupy land for a month or longer;

(6) Any tenancy where to the Member's knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest;

(7) Any beneficial interest in securities of a body where:

1. that body (to the Member's knowledge) has a place of business or land in the area of the Council; and

2. either:

(a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(b) 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 one hundredth of the total issued share capital of that class.

What is the full definition of a Code interest?

You have a '**Code interest**' in matters falling within any of the descriptions which are not a **disclosable pecuniary interest**:

(i) Any contract for goods, services or works which has not been fully discharged between you, your spouse or partner or a body in which the relevant person has a beneficial interest and a **body controlled by the Authority**;

(ii) Any contract with the Authority which has expired within the last 2 years and which was, when it was in force, a **disclosable pecuniary interest**.

(iii) Any tender, bid or quotation submitted within the last 2 years to the Authority which would, if accepted, have amounted to a **disclosable pecuniary interest**. Tenders, bids or quotations are not required to be registered until 28 days after the last date for the submission of tenders, bids or quotations.

(iv) Any body of which you are a member or in which you hold a position of general control or management and to which you have been appointed or nominated by the Authority;

(v) Any other body of which you are a member or in which you hold a position of general control or management -

a. which exercises functions of a public nature;

b. which is directed to charitable purposes; or

c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

(vi) Any matter which might reasonably be regarded as affecting the well-being or financial position of:

1. yourself

2. a body in which you have a **Disclosable Pecuniary Interest** or a **Code interest**,

3. a friend, relative or close associate

to a greater extent than the majority of other council tax payers or inhabitants of the electoral division affected by the decision.

An interest which is a **Disclosable Pecuniary Interest** is not a **Code interest**.

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