

A Quick Guide to the New Code of Conduct

Overview

What does the Code Cover?

The City Council's Code has three parts. The first part deals with general behavioural issues with which Members will be familiar from the old Code. It requires Members to treat others with respect, not bring the Council into disrepute, to treat confidential information properly, to use the Council's resources appropriately, to respect the impartiality of Council staff and to have regard to advice from statutory officers.

The second part deals with disclosable pecuniary interests which must be registered by law and can prevent members' participating in meetings.

The third part deals with other interests which the Council has decided should be registered or declared in certain circumstances.

Disclosable Pecuniary Interests

What is a disclosable pecuniary interest?

These are interests which the Secretary of State requires to be registered. They are set out in the First Schedule to the Council's Code. Importantly they include the interests of a Member's spouse or partner. These interests must be registered by law and failure to declare in line with legal requirements is a criminal offence.

What if I don't know about my partner's interests?

You only have to register the interests of your partner if you are aware of those interests.

When do I have to register a disclosable pecuniary interest?

You should ensure that your register is kept up to date. The criminal offences in respect of non registration, however, only apply if you fail to register an interest within 28 days of you taking office or if you are

present at a meeting and you have such an interest which you fail to register within 28 days of the meeting.

What happens if I have a disclosable pecuniary interest in something being discussed at a meeting?

You cannot participate in the discussion at the meeting, you cannot vote, if the interest is not registered you must disclose it. It is a criminal offence to breach any of these requirements.

The Council's Standing Orders require a Member with such an interest to withdraw from the room.

Could I use public speaking rights if I have a disclosable pecuniary interest?

Under the old code a Member with a prejudicial interest could speak as a member of the public before withdrawing from the meeting room. The new law does not have that same specific exemption. There is a question mark as to whether using public speaking rights amounts to participating in the discussion. In the absence of any clear guidance on this at the moment and the potential criminal penalties, the general view of local government lawyers is to advise that Members are cautious and do not use public speaking rights.

My trades union contributed to my election expenses. Do I have a disclosable pecuniary interest in any matter affecting its Members?

No. The old code said that you had a personal interest in any business which *related to or was likely to affect* one of your registered interests. The new legal requirement is worded differently: "if you are present at a meeting and you have a disclosable pecuniary interest in any matter".

The best interpretation which we can put on those words is that the business must be *about* your disclosable pecuniary interest before you have to declare it. It is difficult to see how that can ever arise in the trades union situation. It could though arise in other circumstances – for example if the Council was deciding whether to award a contract to your employer.

Remember as well that, although you may not have a disclosable pecuniary interest, you may still have a personal or prejudicial interest.

Who decides whether to prosecute?

Only the Director of Public Prosecutions can authorise a prosecution. ACSES which is the professional body representing Monitoring Officers has suggested that the DPP should issue a public statement on the approach to be taken on prosecution decisions.

Will I be able to register using the online system?

Yes, we are in the process of adapting the modgov system to enable this. However, in order to ensure that interests are registered in good time a form has been made available for making the registrations which can be returned to Democratic Services for uploading.

Other interests

What else needs to be registered?

Schedule 2 to the Code lists other interests which the Council has decided should be registered. These relate to other bodies which Members are involved with. Members will be familiar with the list from the old Code. You do not need to register any interests that your partner might have in these bodies.

What about gifts and hospitality?

The Council has retained a requirement to register gifts and hospitality received but has raised the estimated value for £25 to £50.

When do I need to declare these interests at meetings?

The new Code has made a change. If you only have a personal interest in a matter then, so long as it is registered, you do not need to declare it at a meeting.

If you have a prejudicial interest in a matter you will still need to leave the room and so would declare your interest in the usual way.

What other personal interests do I need to declare?

If the business of the council would have a particular effect on you or someone with whom you have a close association then you should still declare it

I could still do with some more advice

We are all on a learning curve with the new arrangements. Advice is available from Andy Docherty, Glen McCusker, the Democratic Services team and the lawyers who support the Planning Committee. We would though ask you to try to raise questions as soon as you can so that you get the best advice possible.