

## Briefing Note No. 23-05 Code of Conduct - Declaration of Interests

**Service:** Legal and Governance  
**Further Enquiries to:** [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk)  
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### Introduction

1. This briefing note provides further advice to elected Members regarding the declaration of disclosable pecuniary interests or other interests at committee meetings, in accordance with the Code of Conduct adopted by Full Council.
2. This includes advice on what actions the code and associated guidance require depending on what interests are declared.
3. Members are also reminded of the updated obligations in respect of the registration of gifts or hospitality.
4. Members are encouraged to familiarise themselves with the entire Code and its Guidance at [Part 12 of the Constitution](#). The code and guidance remains the primary authority in relation to interests and declarations.

### Background

5. Following a review of the Code of Conduct by a cross-party working group, the Standards Committee recommended an update to the Members' Code of Conduct and its associated guidance. This involved consideration and adaptation of the updated LGA Model Code first published in December 2020.
6. At its meeting on 18 October 2022 Full Council approved the proposed code and guidance as Part 12 of the constitution.
7. The new code included additional requirements in respect of the declaration of interests, as also included within the LGA Model Code.
8. As stated in the approved guidance (Part 12B Paras 5.2-5.3):

*The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.*

*You should consider your obligations in respect of registering and declaring interests within this context.*

*As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.*

## **Key changes relating to Interests**

9. The Code of Conduct guidance, including in relation to interests, is also now included as part of the constitution itself at Part 12B.
10. The guidance distinguishes between three different types of interests: Disclosable Pecuniary Interests (DPIs), Other Registerable Interests (ORIs), and Non-Registerable Interests (NRIs), as well as providing a definition of a Sensitive Interest.
11. Members are now required to leave the room after making declarations in several circumstances unless a dispensation has been granted.
12. Specific advice is included for Cabinet Members (Paras 5.12 and 5.17 of Part 12B).

## **Definitions of Interests**

13. A DPI is defined at Table 1 of Part 12B, and is the legislatively required declarations included on your Register of Interest. For example, any beneficial interest in land and property within the council area, your employment, or relevant corporate tenancies. The register includes your spouse or partner's interests.
14. An ORI is defined at Table 2 of Part 12B, stating you must register:
  - a) any unpaid directorships
  - b) any body to which you are a member or are in a position of general control or management and to which you are nominated or appointed by the council
  - c) any body
    - i) exercising functions of a public nature;
    - ii) directed to charitable purposes;
    - iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

This would include if you are a member of a city, town, or parish council. These interests should also appear on your public Register of Interest.

15. An NRI is where a matter directly relates to (i.e. is about) or affects your financial interest or wellbeing, or a financial interest or wellbeing of a relative or close associate, which does not otherwise fall within the definition of a DPI and is not included on your Register of Interest. For example, if a planning application was made by your sibling, or a grant application submitted by a former long term business partner with whom you remain close, or the discussion is about charging blue badge users and your partner has a blue badge. These interests are not included on your Register of Interest.

## **Declaring Interests at meetings**

16. The LGA has produced a flowchart for the assistance of Members to determine the nature of their interest, whether it needs to be disclosed at a meeting (rather than simply included on their published Register of Interests if it is registerable), and what action should be taken in response at a meeting.
17. Officers have adapted this flowchart for the Wiltshire Council Code of Conduct. This is attached to this briefing note. The details are set out below.

### Disclosable Pecuniary Interests

18. If a matter at a meeting directly relates to (i.e. is about) one of your Disclosable Pecuniary Interests, you must disclose that interest at the meeting.
19. You are not able to participate in any discussion or vote on that matter and must leave the room. You may only remain, participate, or vote, if you have requested and been granted a dispensation.
20. **You are not able to speak as a member of the public.** This also reflects the existing position of the government in its 'Openness and transparency on personal interests' guide for councillors, which is an appendix to the code guidance.

### Other Registerable Interests

21. If a matter at a meeting **directly relates** to (i.e. is about) the finances or wellbeing of one of your Other Registerable Interests, you must disclose the interest at the meeting.
22. You may speak on the matter only if members of the public are also allowed to speak at the meeting, and therefore only speak in that capacity as a member of the public, not an elected Member.
23. You must not otherwise take part in any discussion or vote on the matter and must not remain in the room after speaking unless you have requested and been granted a dispensation.
24. **Area Boards** - at our Area Boards, the public are allowed to speak throughout an item and therefore a Wiltshire Councillor with an Other Registrable Interest would be able to speak on a relevant agenda item, before leaving the room for any vote.
25. **Council meetings generally** – at most council meetings the public are entitled to speak during a defined part of the agenda (or at the start of an agenda item) and therefore a Wiltshire Councillor with an Other Registrable Interest would be able to speak on the relevant matter during that defined period of time before leaving the room for any debate or vote. For example, they would be able to remain in the room for the officer presentation and public speaking sections of consideration of a planning application.

### Non Registerable Interests

26. If a matter **directly relates** to (i.e. is about) the finances or wellbeing of one of your Non-Registerable Interests, you must also disclose the interest at the meeting.
27. As with an Other Registerable Interest in this situation you may speak on the matter only if members of the public are also allowed to speak at the meeting, and therefore only speak in that capacity as a member of the public, not an elected Member.
28. You must not otherwise take part in any discussion or vote on the matter and must not remain in the room after speaking unless you have requested and been granted a dispensation.
29. , Where a matter arises at a meeting which merely **affects**, rather than directly relates to (i.e. is about):

- a) Your own financial interest or wellbeing;
- b) A financial interest or well-being of a relative or close associate; or
- c) A financial interest or wellbeing of a body included under Other Registrable Interests

You must also disclose the interest at the meeting. However, in order to determine whether you can then remain or participate in the meeting after disclosing such an interest you should apply the following test (see para 5.16 of Part 12B):

30. Where a matter referred to above affects the financial interest or wellbeing:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the division affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

Then you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have requested and been granted a dispensation.

31. If in applying the test above the matter does not affect the financial interests or wellbeing to a greater extent than the majority of inhabitants, and a reasonable member of the public knowing all the facts would not believe it would affect your view of the wider public interest, then you may remain, participate, and vote on the matter.

32. You should seek advice from the Monitoring Officer by contacting Democratic Services in the first instance if you are uncertain if a matter would affect your interest in this manner.

33. **Area Boards** at our Area Boards, the public are allowed to speak throughout an item and therefore subject to the rules above a Wiltshire Councillor with a Non Registrable Interest would be able to speak on a relevant agenda item before leaving the room for any vote.

34. **Council meetings generally** – at most council meetings the public are entitled to speak during a defined part of the agenda (or at the start of an agenda item) and therefore subject to the rules above a Wiltshire Councillor with a Non Registrable Interest would be able to speak during that defined period of time before leaving the room for any debate or vote

#### Leaving the Room

35. Where a Member is required to leave a room after making a declaration of an interest, it is advised that this applies for consideration of the whole of the matter in which there is an interest, unless they have been granted a dispensation. Again, if you are unsure how to manage this, you should speak to the Monitoring Officer for advice.

36. If speaking as a member of the public, you would need to comply with the same rules in respect of registering to speak, and any time limits for that meeting. You would be able to be present for any section for public participation, if there is a specific period allocated for that. However, unlike the public you would then need to withdraw from the room once you had spoken.

37. LGA guidance is that this would be the case even if you are not a member of the committee, but simply attending as a member of the public.

### Sensitive Interests

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

39. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register in accordance with S32 of the Localism Act 2011.

40. If you have a sensitive interest, you would not have to disclose the nature of the interest at a meeting, but would have to declare that you have an interest and take the other actions required above.

### Additional declarations

41. In the interests of openness and transparency many Members often declare 'non-pecuniary interests' at meetings, for example being acquainted with individuals or groups relevant to the matter, but not being closely associated or friendly with them or the matter being discussed or determined.

42. For the avoidance of doubt, it is advised that an interest of this nature, not falling within the categories of interests within the Code guidance, would not require a declaration, though a Member may choose to make one. If such a declaration is made, it would not prevent a Member from remaining in the room, participating, or voting, unless they considered this was appropriate in the circumstances.

### **Gifts or Hospitality**

43. Part 12A Para 10 of the Code of Conduct requires that:

*10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority, or from persons who may apply to the local authority for any permission, licence or other significant advantage.*

*10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.*

*10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept*

44. If Members have received or been offered a gift or hospitality in line with the above provisions, they should complete a form as attached to this briefing note and submit this to the Monitoring Officer through Democratic Services.

45. Para 4.2.10 of Part 12B of the constitution provides the following guidance on gifts and hospitality.

*In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.*

*However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.*

### **Dispensations**

46. In certain circumstances the council may grant a dispensation to permit a Member to take part in business of the authority even if the Member has a Disclosable Pecuniary Interest relating to that business. As the code now sets out categories of other interests, dispensations may also be requested for those interests.

47. The circumstances in which a dispensation may be granted are where the council:

- considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- considers that granting the dispensation is in the interests of persons living in the authority's area,
- considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or,
- considers that it is otherwise appropriate to grant a dispensation.

48. Any request for a dispensation would be determined by a Dispensation Sub-Committee. For that reason, it is important that any Member seeking a dispensation submit their request as soon as practicable, so that it may be resolved ahead of consideration of the matter, and if possible at least 15 clear working days ahead of the meeting.

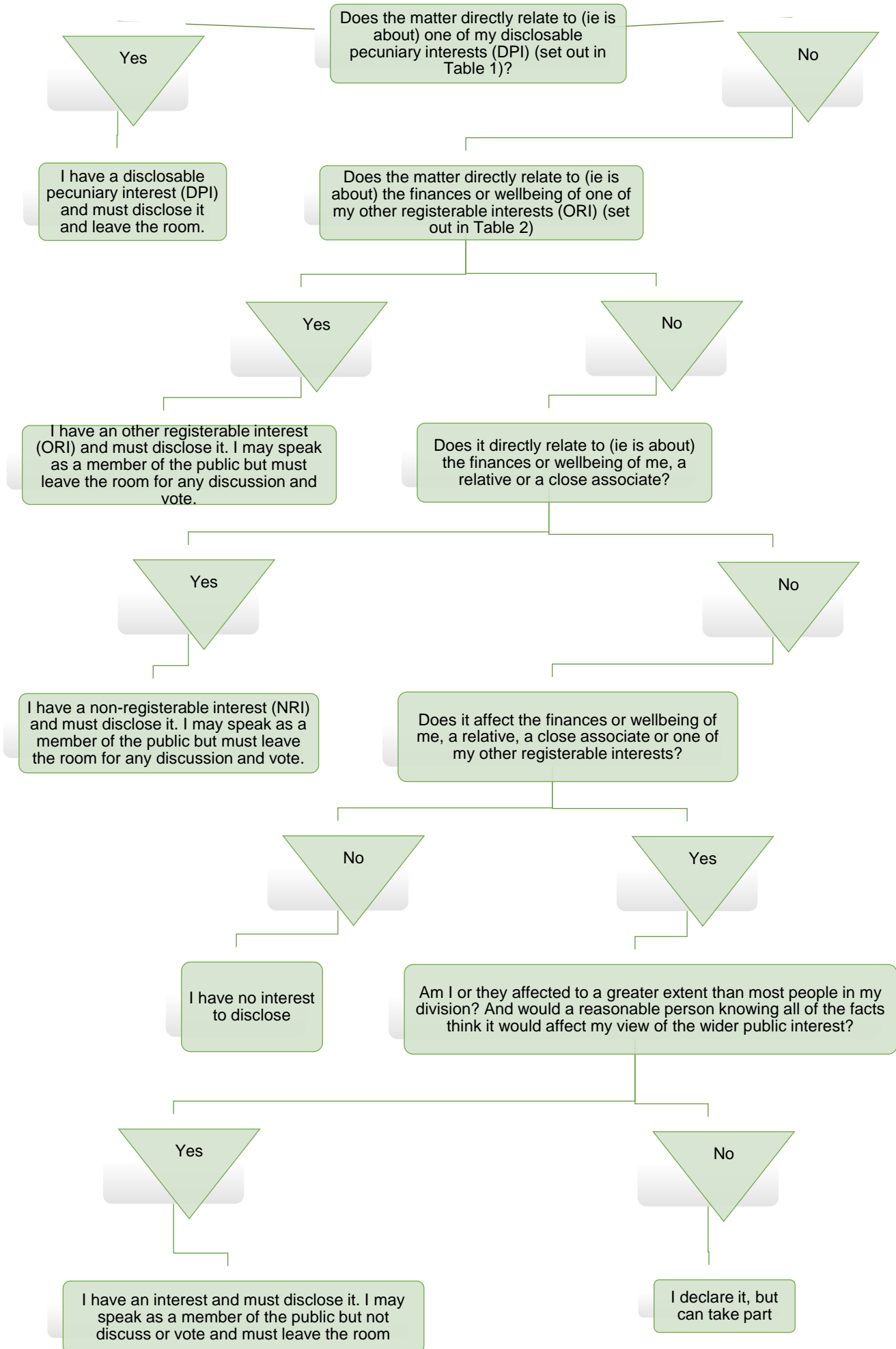
49. Dispensations must specify the period for which they have effect, not exceeding four years.

50. Parish councils are responsible for considering their own dispensation requests and Members of other councils should contact their clerk.

### **Queries**

51. Any queries on these or additional matters related to the Code of Conduct should be submitted to [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk) for the attention of the Monitoring Officer.

## Flowchart on Interests



## Declaration of Gift or Hospitality Received

Paragraph 10 of the Wiltshire Council Code of Conduct states:

*10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority, or from persons who may apply to the local authority for any permission, licence or other significant advantage.*

*10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.*

*10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept*

**NAME OF MEMBER**

**DATE GIFT OR HOSPITALITY RECEIVED/OFFERED** \_\_\_\_\_

**DESCRIPTION OF GIFT OR HOSPITALITY**

**PROVIDER OF GIFT OR HOSPITALITY** \_\_\_\_\_

**ESTIMATED VALUE OF GIFT OR HOSPITALITY** \_\_\_\_\_

**GIFT OR HOSPITALITY ACCEPTED**

**YES/NO**

**Date registered.....**

**Signature.....**



## Request for a Dispensation

*Please complete the following details and give as much information as possible.*

- 1. Please summarise the matter to which your interest relates:**
  
  
  
  
  
  
  
  
  
  
- 2. What is the nature of your interest?**
  
  
  
  
  
  
  
  
  
  
- 3. For which meeting(s) or period are you seeking a dispensation?**
  
  
  
  
  
  
  
  
  
  
- 4. Please set out in detail the reason(s) why you consider you should be granted a dispensation.**

Name	Date

When completed this form should be sent for attention of the Monitoring Officer at [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk)