



Monitoring Officer Advice Note No. 3b: Dated 21.2.25

Declaring Interests at any Council Tax Calculation meeting or the Budget Meeting

Introduction

I issued a Monitoring Officer Advice Notes in February 2023 and 2024 giving advice to members in the form of some FAQs about whether members would have to declare a pecuniary or other interest in items appearing on the agenda for the budget council meeting. Further FAQs have been provided since then. I have updated that advice for the forthcoming budget meeting. I hope you find this useful. In you are in any doubt, please email or call me straight away and I will be happy to help.

What interests do I need to declare?

Paragraph 8.1 of the Enfield Member Code of Conduct requires members to always draw attention to any relevant interest in any proceedings of the Council or its committees. Such disclosures should be made even if the interest has already been included in the register of Interests.

Paragraph 14.1 states that if you have an interest in a matter under discussion at a meeting of the Council, you must disclose the interest to the meeting, unless the Monitoring Officer advises that the interest is sensitive and need not be disclosed publicly. If your interest is specifically a Disclosable Pecuniary Interest, as defined in the Constitution, then you should declare and leave the meeting. If it is some Other Pecuniary Interest or if it is a non-pecuniary, you can remain and may vote.

Can I vote on the Council Tax if I have Some Council Tax Arrears (FAQ 3):

In accordance with section 106 of the Local Government Finance Act 1992 (“the 1992 Act”), where a payment of Council Tax that a member is liable to make has been outstanding for **two months or more** at the time of a meeting, the Member must disclose the fact of their arrears (though they are not required to declare the amount) and cannot vote on any of the following matters if they are the subject of consideration at a meeting (and must withdraw from the meeting):

- (a) Any decision relating to the administration or enforcement of Council Tax
- (b) Any budget calculation required by the Local Government Finance Act 1992 underlying the setting of the Council Tax
- (c) Any recommendation, resolution or other decision which might affect the making of the Annual Budget calculation.

Any members who are in arrears of Council tax should seek immediate advice from the Monitoring Officer.

Can I vote on the Council Tax Support Scheme if I am in receipt of Council tax Support?

This is not covered by the budget report this year but ordinarily, yes, you should declare the interest. Please see previous advice notes on this subject.

Can I vote on the Rent Setting report if I am a Council Tenant?

Yes, but you should declare the interest.

This is not an interest which is included in the list of Disclosable Pecuniary Interests but is still a pecuniary interest as it affects your finances more than the rest of the population in the borough. Members who are Council tenants will therefore have some 'Other Pecuniary Interest' in the rent setting report and should therefore declare the interest at the meeting. It is not a DPI (Disclosable Pecuniary Interest) so you may stay and vote if you wish.

Do I have to declare an interest in an item of business relating to budgets, financial strategies or a budget/capital re-alignment if I am a director of a Council-Owned Company?

Yes, it is best to declare the interest in the interests of openness and transparency but you can stay and vote.

The holding of a position in a local authority company which may be mentioned in a budget report is unlikely to amount to a DPI (as it does not fall under one of the categories listed in the Code of Conduct) so you are not precluded from voting on the matter. Nevertheless, since it affects a company in respect of which you hold a position of management or control, you should declare this as a non-pecuniary personal interest but you may remain, speak and vote on the item. This may be relevant to you if you are a director of Energetik, Montague or HGL Ltd, for example. It would also apply if another organisation such as NLWP was affected.

Like most councillors, I am a Council Tax Payer, do I need to declare an interest in the item on setting the Council Tax (or Council Tax Support) simply because I am a councillor living in the borough?

Generally speaking, you do not need to declare this as you share this interest with most other residents in the borough. Advice from DCLG in 2013 provided:

“Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support. If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land. Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

This advice was echoed by the LGA more recently in guidance they provided on a new model code of conduct issued by that organisation, namely:

“The LGA is clear that you do not have a DPI simply if you are voting to set the Council Tax or precept. Guidance issued by the Government in 2013 made clear that ‘any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

The Council Tax and precept are charges on all relevant properties in the area and do not directly relate to any single property in such a way as to give rise to a DPI. Members are therefore fully entitled to vote on the matter (subject to rules about Council tax arrears).”

Can I vote on setting the Council Tax Base and estimates if I am in arrears of Council tax?

The rules relating to arrears of Council Tax apply to any decisions on calculations used for setting the Council tax so they apply to the Council Tax Base Report as well (usually done at a different meeting). Accordingly, where a payment of Council Tax that a member is liable to make has been outstanding for **two months or more** at the time of a meeting where the Council tax Base is set then the Member must disclose the fact of their arrears (though they are not required to declare the amount) and cannot vote on the matter (and must withdraw from the meeting).

Any members who are in arrears of Council tax should seek immediate advice from the Monitoring Officer.

Do I have to declare an interest in any Budget items?

Members will not normally have a Disclosable Pecuniary Interest in the budget report as it is not generally constructed in a way which affects specific interests. You may have children in education or parents in care but you share those interests with many other residents of the borough and so they do not amount to a DPI. Obviously, if there is something very specific in the budget that directly affects an interest of yours then you may well need to declare it and, in some cases, not vote. If in doubt, please seek advice from the Monitoring Officer before the meeting.

Do I have to declare an interest if the budget or some other item of business mentions the NHS in some way and I work for the NHS or a close relative works for the NHS?

Unless there is something very specific which directly relates to you or your relative or to the part of the NHS you work for, it is unlikely that you will have a pecuniary or personal interest in the item. It is unlikely you need to declare it at the meeting as the item is probably so broad that it would be unlikely to constitute an interest for you personally. If an item specifically relates to a hospital you work at, then you may wish to declare a personal interest but you can remain, speak and vote on the item unless it directly affects you personally in a financial way. If it is likely to directly impact on your own personal financial situation then you may have a pecuniary interest and would need to declare that interest and absent yourself from that item.

What about if I am a school governor or a member of an academy board?

If the item relates to schools generally, then you are unlikely to have a personal interest or a pecuniary interest as the interest is probably so broad that it would be unlikely to constitute an interest for you personally.

If an item relates to a specific school or schools in which you have an interest i.e. as a governor or as a member of an academy board or similar then you may wish to declare a personal interest as it would be likely to affect you more than other residents in the borough. However, it is unlikely to amount to a pecuniary interest and so you can remain, speak and vote on the item.

Do I have to declare an interest in the Pay Policy Statement if my partner or another family member works for the Council?

No. This report merely sets the pay policy and does not affect the finances of any particular individual.

Further Advice and Guidance

If you have any concerns or questions please contact me at terry.osborne@enfield.gov.uk or, in my absence, the Deputy Monitoring Officer at claire.johnson@enfield.gov.uk

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