

Summary Sheet

Standards and Ethics Committee Report

Standards and Ethics Committee Meeting – 30th January 2020

Title

Guidance on Members Registration and Disclosure of Interests

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

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Ward(s) Affected

All

Executive Summary

A summary of the requirements in relation to the registration of Members Interests.

Recommendations

1. That the Committee note the contents of the report and the requirements relating to members' interests.
2. That the Monitoring Officer issues to all Members a reminder about the requirement for Members to register relevant interests, as set out within the report, and that ongoing reminders be issued on a six monthly basis.

List of Appendices

1. Code of Conduct
2. "Openness and transparency on personal interests" – DCLG Sept 2013

Background Papers

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title : Guidance on Members Registration and Disclosure of Interests

1. Recommendations

3. That the Committee note the contents of the report and the requirements relating to members Interests.
4. That the Monitoring Officer issues reminder about the requirement for members to register relevant interests, as set out within the report be issued to all members, and ongoing reminders be issued on a six monthly basis.

2. Background

2.1 Register of members interests

2.1.1 Pursuant to s.29 Localism Act, there is a requirement for the Council's Monitoring Officer to:

- Establish and maintain a register of members' and co-opted members' interests.
- Make the register available for inspection.
- Publish the register on the council's website.

The Council complies with this requirement and makes completed Members Register of Interest forms available on the Council website.

2.1.2 The requirement upon each individual member in respect of the registration and disclosure of their interests is set out in the Code of Conduct, the relevant part of which is attached at Appendix 1.

An explanation as to the requirements in respect of each element of the Code of Conduct and the obligations upon members is set out below.

2.2 Disclosure of pecuniary interests on taking office

2.2.1 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (2012 Regulations) defines disclosable pecuniary interests. The Localism Act abolished the previous requirements of personal and prejudicial interests, although it is a matter for each Authority to decide if they still wish to define personal interests, which the Council does, (see below)

2.2.2 A member or co-opted member of a relevant authority must, within 28 days of becoming a member, notify the monitoring officer of any disclosable interests that they, their spouse or civil partner they live with, have. This is set out in 30 of the Localism Act 2011.

2.2.3 The 2012 Regulations specify the pecuniary interests that members and co-opted members of relevant authorities are required to include in the register of interests. These include any:

- Employment, office, trade, profession or vocation that the member carries on for profit or gain.

- Contract between the member and the member's local authority under which goods or services are to be provided or works are to be executed and that has not been fully discharged.
- Beneficial interest in land that is within the authority's area.

These requirements are replicated in the Council's Code of Conduct.

2.2.4 Upon re-election or re-appointment there is no requirement on the member to re-notify the local authority in relation to an interest that is already on the authority's register of interests.

2.2.5 As well as disclosing such interests on the register, a member is required to disclose a disclosable pecuniary interest of which the member is aware, at a meeting where any matter to be considered relates to that interest.

2.2.6 If the interest is not registered, or is subject to a pending notification, the member must notify the monitoring officer of the interest within 28 days. In these circumstances, the member is prohibited from participating in the discussion at the meeting, unless they have a dispensation under section 33 of the Localism Act.

In relation to disclosable pecuniary interests the Code of Conduct states:

*(2) Where you have a **disclosable pecuniary interest** in any business of the Council and you attend a meeting of the Council at which the business is considered, unless the interest is a sensitive interest (see sub-paragraph (3)), you must disclose the existence and nature of that interest and, unless you have been granted a dispensation (see sub-paragraph (4)), you must not take part in the discussion or vote on that item and must withdraw from the meeting room, including the public gallery, before the item is considered by the meeting.*

In summary therefore if a member has a Disclosable Pecuniary Interest in any business of the council, and attends a meeting at which it is discussed, the interest must be disclosed, and the member must not take any further part in the discussion or vote and must leave the room.

2.2.7 As set out above the requirement on a member to disclose a disclosable pecuniary interest at a meeting is subject to two exceptions which are:

- Sensitive interests
- Dispensations

Further information in respect of Sensitive Interests and Dispensations is set out below.

2.2.8 In September 2013 the DCLG published an updated version of "Openness and transparency on personal interests: A guide for Councillors". The guide gives basic information for councillors, including parish councillors, on how to be open and transparent about their personal interests. This guide is at Appendix 2. The guidance confirms that any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 is a disclosable pecuniary interest and requires councils own codes of conduct to specifically require councillors to register their personal trade union interests.

4.3 Personal Interests

2.3.1 Unlike the previous statutory model code of conduct, there is no category of personal interests that have to be declared under the Localism Act. As stated above it is for the relevant authority to determine what is entered in the authority's register.

2.3.2 The Council has determined that "Personal interests" as set out below should be disclosed by members:

Personal interests

8. *You have a personal interest in any business of the Council where either it relates to or is likely to affect –*
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;*
 - (ii) any body –*
 - (aa) exercising functions of a public nature;*
 - (bb) directed to charitable purposes;*
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or*
 - (dd) which is a private club or society, such as the Freemasons, a recreational club, working men's club or private investment club,*
of which you are a member or in a position of general control or management;
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25; or*
 - (iv) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of you or a member of your family or a close friend or someone with whom you have a close association to a greater extent than it*

would affect the majority of other council tax payers, ratepayers or inhabitants of your ward or electoral area.

2.3.3 The Code of Conduct goes on to state:

11. (1) *Where you have a **personal interest** in any business of the Council and you attend a meeting of the Council at which the business is considered unless the interest is a sensitive interest (see subparagraph (3)), you must disclose the existence and nature of that interest and then consider whether the interest is of such significance that it warrants withdrawal from and no further participation in the discussion or vote on that item, with any such withdrawal from the meeting being recorded in the minutes.*

2.3.4 As such whether the member must also leave the room during a debate depends on the circumstances of the meeting and the nature of the interest. This is a matter for the individual member to decide, and in this respect members are urged to err on the side of caution and transparency.

2.4 Sensitive interests

2.3.1 A sensitive interest is when the member and the monitoring officer consider that disclosure of the interest could lead to the member, or a person connected with them, being subjected to violence or intimidation. For the Monitoring Officer to agree that this is the case appropriate evidence of the risk of violence or intimidation needs to be provided by the member.

2.3.2 Therefore, if the monitoring officer agrees, the member merely has to disclose the existence of an interest, rather than the detail of the interest, at a meeting and the monitoring officer can exclude the detail of the interest from the published version of the register of members' interests.

2.4 Dispensation

2.4.1 The Council is able, upon written request, to grant dispensations for up to four years for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest if, having had regard to all relevant circumstances, it considers that:

- Not granting the dispensation is likely to impede the particular business transaction.
- Without the dispensation, the representation of different political groups on the body would be so upset as to alter the outcome of any vote on the matter.
- The granting of the dispensation is in the interests of individuals living in the authority's area.
- Where the authority is one to which Part 1A of the Local Government Act 2000 applies, not granting the dispensation would prevent each member of the authority's executive from participating in the business of the executive.

- It is otherwise appropriate to grant a dispensation.

2.5 Criminal offences

As stated in the Code of Conduct a criminal offence is committed where a member:

- Fails, without reasonable excuse to comply with the requirements of the Code of Conduct to register or declare disclosable pecuniary interests.
- Takes part in council business at a meeting when the member has a disclosable pecuniary interest.

The prosecution must be brought by, or on behalf of, the Director of Public Prosecutions (DPP) and must be brought within:

- Twelve months of the DPP having the evidence to warrant prosecution.
- Three years of the commission of the offence being committed.

2.6 Members Interests

2.6.1 All members register of interest forms have been reviewed and by members and updated where appropriate, and reconfirmed as accurate over the past six months.

2.6.2 Appropriate reminders will be issued to all members to ensure that checking of register of interest forms is an ongoing process by members.

2.6.3 Although as stated above upon re-election or re-appointment there is no requirement on the member to re-notify the Council in relation to an interest that is already on the authority's register of interests, following the all-out elections in May 2020, new members will be required to provide a Register of interests, and all existing members will be asked to review and update their Registers of Interests.

3. Key Issues

- 3.1 That members are aware of the requirements of registering and disclosing their interest as set out above and comply with those requirements.

4. Options considered and recommended proposal

- 4.1 The relevant recommendations are set out above.

5. Consultation

- 5.1 N/A

6. Timetable and Accountability for Implementing this Decision

- 6.1 As set out above a reminder will be issued to Members in respect of registering and disclosing their interests following the meeting and then re-issued on a six monthly basis.

7. Financial and Procurement Implications

- 7.1 None

8. Legal Implications

- 8.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. The information set out in this report explains how members should comply with the requirements of the Localism Act, thereby contributing to the promotion and maintenance of high standards of conduct.

9. Human Resources Implications

- 9.1 None

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 None

11. Equalities and Human Rights Implications

- 11.1 None

12. Implications for Partners and Other Directorates

- 12.1 None

13. Risks and Mitigation

- 13.1 None

14. Accountable Officer(s)

Bal Nahal, Head of Legal Services