

Southend-on-Sea Borough Council

Report of Corporate Director for Corporate Services

to
Standards Committee

on
15th January 2015

Report prepared by: John Williams, Head of Legal &
Democratic Services & Monitoring Officer

Agenda
Item No.

5

Monitoring Officer's Report

Part 1 Public Agenda Item

1. Purpose of Report

To provide the Standards Committee with an update on ethical issues and the need to promote and maintain high standards of conduct for elected and co-opted Members.

2. Recommendations

2.1 That Council should amend Appendix 1 to the Members' Code of Conduct in Part 5(a) of the Constitution so as to reflect the revised descriptions of the General Principles of Public Life ("the Nolan Principles") made by the Committee on Standards in Public Life.

2.2 That the report be noted.

3. Background

3.1 New Standards Regime

(a) On 19th July 2012 the Council adopted a new standards regime for Councillors and co-opted members pursuant to the provisions of the Localism Act 2011.

(b) The new standards regime:

- Requires Councils to promote and maintain high standards of conduct for its elected and co-opted Members.
- Requires Councils to adopt their own Members' Code of Conduct, consistent with a new set of principles and the provisions of the Localism Act.

- Defines "Disclosable Pecuniary Interests" which must be registered and declared by Members – and imposes criminal sanctions for non-compliance.
 - Abolished the previous national code, the Standards Board for England and the associated legislation.
 - Requires the compilation and publication on the internet of the Register of Members' Interests.
 - Requires Councils to put in place arrangements for dealing with breaches of the Code: However there are very limited sanctions if such a breach is found, essentially naming and shaming and possibly withdrawal of facilities in some cases.
 - Requires Councils to appoint at least one "Independent Person" to assist with dealing with complaints.
 - Applies the same principles to parish and town councils, except that the principal council will operate the arrangements in respect of the Code.
- (c) The Committee on Standards in Public Life is a body which advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders, including monitoring the impact of changes to the local government standards regime by the Localism Act 2011.

In the Committee's 2013/14 Annual Report (see relevant extract at Appendix 1) a relatively positive position is painted, although some difficulties and challenges are identified. The Annual Report also refers to the fact that "the role of the independent person has been generally well received" and I would certainly like to acknowledge the contribution made by Southend's two Independent Persons.

3.2 Members' Code of Conduct

The key document agreed by Council on the 19th July 2012 was the new Members' Code of Conduct "**the Code**". (Leigh on Sea Town Council adopted the same Code on the 12th September 2012).

The Code is contained in Part 5(a) of the Constitution and a copy is attached at Appendix 2.

The Code covers 4 matters:

- Some general obligations about Member conduct
- Rules on registration of interests
- Rules on declarations of interest
- Rules on gifts and hospitality

The Code replaced a national Code which had existed previously. However to ensure some common standards across Essex, a new Code (and the associated documents for dealing with complaints) was developed by the Public Law Partnership at the request of the Essex Chief Executives and Leaders Group.

The Public Law Partnership (which is a partnership of local authority legal Departments across Essex and beyond) has kept the Code under review, but based on experience to-date no necessary changes have been identified.

Furthermore, no legislative changes have required the Code to be amended. The Department for Communities and Local Government (DCLG) did issue revised guidance in September 2013 (**Appendix 3**) advising Members to register personal trade union interests, but this obligation was already included in the Council's Code.

While the Code will continue to be kept under review, the only change recommended at the present time is as follows:

That Council should amend Appendix 1 to the Code so as to reflect the revised descriptions of the General Principles of Public Life ("the Nolan Principles") made by the Committee on Standards in Public Life in its report "Standards Matter" in January 2013. The seven Principles themselves remain unchanged. The details of these revised descriptions are shown in **Appendix 4**.

If Appendix 1 was left unchanged it would not be wrong – merely out of line with the revised descriptions of the Nolan Principles which bring greater clarity.

If the change is made by the Council then Leigh-on-Sea Town Council will be informed so it can bring its Code into line.

3.3 Registration of Interests

A public Register is kept by the Monitoring Officer of interests which Members and co-opted members are obliged to register pursuant to paragraph 11 of the Code and S.29 Localism Act 2011. The registration requirements include any gifts or hospitality accepted with a value in excess of £50.

All new Members must complete the Register and at the start of each municipal year all existing Members are asked to confirm in writing that their registered interests are still correct or to amend them as required. The same applies to co-opted members.

The Register is currently up to date and is open to public inspection on the Council's website as required by S.29 (5) of the Localism Act 2011

The Register of interests of Members of Leigh on Sea Town Council is published on the Town Council's website.

3.4 Declarations of Interests at meetings

The Code contains specific requirements for Members and co-opted members to declare interests at meetings of the Council, Cabinet, Committees, Sub-Committees etc.

There is an item at the start of every meeting for the declaration of interests. Members and co-opted members also complete a slip so that the declarations are accurately recorded in the minutes. More sophisticated arrangements operate at full Council Meetings.

3.5 Training for Members

- (a) Training for Members and co-opted members is provided in a number of ways:
- Shortly after the new Code was introduced a Training Session was held for all Members.
 - Planning Training sessions for the Development Control Committee at the start of each municipal year will generally include a section on the Code, given the frequency of interest issues arising at the Committee.
 - New Member induction always includes a one-to-one session with the Monitoring Officer, where the ethical framework and the provisions of the Code are examined in detail. Other items considered include the Constitution and the Council's decision making processes.
 - Ad hoc advice is provided to Members individually and collectively on the Code – see 3.6 below.
- (b) The Committee is asked for ideas on what additional training it would like to see for all Members in 2015/16.

3.6 Ad hoc advice from the Monitoring Officer

The Monitoring Officer regularly gives advice to individual Members, including co-opted members, about the obligations in the Code and particularly in connection with the registration and declaration of interests.

Often such advice is given outside meetings, but when necessary it will be provided at the meeting.

In addition the Monitoring Officer will provide advice to a wider group of Members when this is required. For example:

- Members of the Development Control Committee re interests in respect of a specific application.
- All Councillors in respect of Part 2 reports and the need to maintain confidentiality.

3.7 Complaints

Since the new Standards regime was introduced in July 2012 have been a small number of complaints alleging that a Member has breached the Code. However following consultation with the Independent Person, as required by the relevant procedures in Part 4(i) of the Constitution, none of these complaints passed the threshold to merit further investigation.

3.8 Members requests for dispensations

In 2012 five Members, being members of the Board of South Essex Homes, were granted dispensations to participate in Council business despite having a disqualifying interest.

Two further Members, being members of the current Board of South Essex Homes, have now submitted dispensation applications – see item 4 on the agenda for this meeting.

3.9 Promoting and maintaining high standards of conduct for elected and co-opted Members

The previous sections of this report set out the various steps which have already been taken, or put in place, to promote and maintain high standards of conduct for elected and co-opted Members.

Training is of course an on-going matter as is monitoring the Code and compliance with it.

However the views of the Committee on further action which might be taken would be welcome.

4. Corporate Implications

4.1 Contribution to Council's Vision & Corporate Priorities

Excellent Council

4.2 Financial Implications

None

4.3 Legal Implications

As set in the report

4.4 People Implications

None

4.5 Property Implications

None

4.6 Consultation

None

4.7 Equalities and Diversity Implications

None

4.8 Risk Assessment

There are no significant risk issues associated with this report.

4.9 Value for Money

No significant issues.

4.10 Community Safety Implications

None

4.11 Environmental Impact

None

5. Background Papers

None

6. Appendices

- Appendix 1 –** Extract from the Annual Report 2013/14 of the Committee on Standards in Public Life
- Appendix 2 –** Members' Code of Conduct
- Appendix 3 –** The Department for Communities and Local Government (DCLG) revised guidance to Councillors "Openness and Transparency on personal interests" issued in September 2013.
- Appendix 4 –** Proposed changes to Appendix 1 to the Members' Code of Conduct to reflect the revised Nolan Principles

UNCLASSIFIED

Annual Report 2013-14

Committee on Standards
In Public Life

September 2014

THE SEVEN PRINCIPLES OF PUBLIC LIFE

The Seven Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The Principles also have application to all those in other sectors delivering public services.

SELFLESSNESS

Holders of public office should act solely in terms of the public interest.

INTEGRITY

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY

Holders of public office should be truthful.

LEADERSHIP

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

UNCLASSIFIED

CONTENTS

THE SEVEN PRINCIPLES OF PUBLIC LIFE	1
Contents.....	2
Foreword.....	3
Introduction	5
Overview of Activities	6
Strengthening Transparency around Lobbying	6
Public Perceptions Survey	9
Ethical Standards for providers of public services	12
Ethics in Practice.....	13
Standards check.....	14
Behaviour and conduct of the police.....	14
Local government standards.....	15
Electoral system.....	17
REPRESENTATIONS AND SPEECHES	18
Appendix 1: About the Committee	21
Terms of reference.....	21
Status	21
Funding and administration.....	22
Policy on openness	22
Appendix 2: Members of the Committee	23
Members active in 2013-2014 who are currently members	23
Members active in 2013 – 2014 who have subsequently stood down.....	26
Research Advisory Board	26
Members' attendance (1 April 2013 – 31 March 2014).....	27
Remuneration.....	27
Appendix 3: Financial Information	29
Appendix 4: Reports and Publications	30

FOREWORD

Since Lord Nolan set down the seven principles of public life - honesty, integrity, objectivity, accountability, openness, honesty and leadership - almost twenty years ago what we mean by public life in this country has changed significantly.

As we finalise this report, the full implication of the 'no' vote in the Scottish referendum is beginning to dawn on the United Kingdom. A momentous shift in democratic accountability is irrefutable; with new local structures, further devolution and a reallocation of power across our country widely expected.

In recent years the country has also adapted to widespread changes in the delivery of public services – including new third party providers of front line services, Clinical Commissioning Groups, Academies and Free Schools and Elected Mayors and Police and Crime Commissioners.

In the face of these changes, our research shows that public support for the seven principles endures. These principles are not merely theoretical concepts, they have practical consequences for ordinary people in receipt of public services. The public must feel reassured that for example safeguarding or educating children, caring for the elderly, or security arrangements at our prisons, are carried out in line with these expected behaviours.

The Committee for Standards in Public Life is at the centre of the storm over values which currently convulses British public life. Today, issues around the accountability of policing and local government are centre stage. Yesterday, it was the ethical standards of Members of Parliament: of particular relevance was the issue of lobbying. Before that, it was the scandals which surfaced concerning the performance of private companies who are in receipt of vast sums of public money. The Committee is determined to promote high standards in British public life. This requires facing up to the implications of such troubling controversies. I believe that the work we have carried out this year, detailed in this report, is an important contribution to the debate.

The Nolan principles were revolutionary at the time because they focused on behaviour and culture, rather than processes. High ethical standards need to be embedded and internalised in the culture of organisations. This applies equally to all providers of services to the public - whether they are in the private, public or voluntary sector. It is therefore important that all those involved in public service from MPs to front line local services remain alert to the fundamental role that high ethical standards play in the healthy functioning of society. Nearly twenty years on from the introduction of the seven principles of public life, they remain as relevant as ever in building public trust in our changing democracy.

UNCLASSIFIED

Finally, over the course of this year, the term of membership of two long-standing members of the Committee, Dame Denise Platt and Sir Derek Morris ended. Their departure will be a great loss for the Committee and I thank them for the enormous contribution they have made and the dedication with which which they carried out their role.

A handwritten signature in black ink that reads "Paul Bew". The signature is written in a cursive, slightly slanted style.

Paul Bew
Chair

UNCLASSIFIED

inquiry into the police's compliance with the new Code of Ethics; in particular the role of leadership in promoting and sustaining these values in the face of all the other pressures on the force."

42. The Committee have considered seriously this recommendation. The Committee are likely to focus over the coming year on the accountability mechanisms for holding the police to account generally and specifically the role of Police and Crime Commissioners in representing the public in holding Chief Constables to account, and on the issues where we have heard the most concern namely the extent of their public remit and their role as ethical leaders. This will compliment and not duplicate the considerable work already underway by Her Majesty's Inspectorate of Constabulary to review anti-corruption capability in police forces and the inspection of police integrity and the College of Policing Review of police leadership.

Local government standards

43. The Committee has continued this year to maintain a watching brief of the standards regimes in local government and the changes resulting from The Localism Act 2011 implemented in 2012. Having emphasised at the time the need for a mandatory code of conduct, strong local leadership, and effective independent persons and expressed concern at the lack of sanctions, the Committee also recognised the need to allow new arrangements to bed down.
44. The survey carried out by Local Government Lawyer on the implementation of the Localism Act 2011,¹³ suggests indications are that the role of the independent person has been generally well received and there is some evidence that the number of vexatious complaints is falling. However, the effectiveness of the sanctions regime for non-adherence to Local Authority codes of conduct, which apart from criminal prosecution, provides only for censure or suspension from a particular committee or committees, remains an issue of concern. We are aware that there have been recent individual cases that illustrate this, in particular the lack of a sanction to suspend councillors who have seriously breached the code of conduct.
45. In contrast to the recent public debate on parliamentary standards calling for greater sanctions, tightening of codes of conduct, and a greater independent element, local government is now largely self regulated with no systematic approach to conduct issues and limited sanctions. There remains in our view a significant risk under these arrangements that inappropriate conduct by Local Authority

¹³ <http://www.localgovernmentlawyer.co.uk/images/stories/Localism%20Act%20Special%20Report.pdf>

UNCLASSIFIED

members will not be dealt with effectively, eroding public confidence and trust in local government. We call upon the Local Government Association to support strong long leadership and continue to use its peer challenge process to offer sector led improvement in this area¹⁴ as we believe the LGA has a major responsibility to provide the leadership and peer support across the sector to ensure that all councils and councillors live up to the public's expectations of high standards of ethical behaviour in those whom they elect.

46. As part of the research for the Committee's *Ethics in Practice* report, we conducted a snapshot survey of Local Authorities' approach to induction and training. The Committee sent an electronic questionnaire to Local Authority Monitoring Officers in England, asking them to circulate it further to elected members. We received over 130 responses from Monitoring Officers and elected members.
47. The Committee was extremely pleased to learn that 90% of those who responded to the survey stated that their Local Authority provided an induction programme for newly elected councillors. Coverage and awareness of the Seven Principles of Public Life in local government was also pleasingly high, with 68% of respondents saying their induction covered the Seven Principles of Public Life, 88% saying it covered their Code of Conduct and 83% of respondents saying that councillors at their Local Authority were familiar or fairly familiar with the Seven Principles of Public Life.
48. Despite these positive results, however, the Committee remains alert to the challenges to ethical standards arising from financial constraints and changes to the Local Authority standards regime. The Committee will therefore continue to monitor provision of Local Authority induction programmes and the profile of standards, conduct and ethical behaviour within those programmes by repeating this survey in 2015.
49. More generally, we have provided evidence to the Communities and Local Government Select Committee inquiry on local government procurement, highlighting our belief that public sector procurement processes should take account of ethical issues as part of delivering value for money in the broadest sense. Our report *Ethical standards of third party providers of public services* considered the ethical principles and standards that the public and commissioners of services have of those delivering public services and the necessary safeguards to ensure those principles and standards are met, is directly relevant to local government who spends over a quarter of its annual expenditure on procuring goods and services from third party providers.

¹⁴ See Thanet District Council Corporate Peer Challenge 28 April 2014 at thanet.gov.uk

UNCLASSIFIED

Part 5(a) – Members’ Code Of Conduct

General Provisions

Introduction and Interpretation

As a Member you are a representative of Southend-on-Sea Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code:

“**meeting**” means any meeting of:

- (a) The Authority;
- (b) The Executive of the Authority;
- (c) Any of the Authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Areas Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members;
- (d) Any briefings by officers and site visits organised by the Authority.

“**relevant period**” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“**profit or gain**” includes any payments or benefits in kind which are subject to Income Tax.

“**beneficial interest**” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“**Member**” includes a co-opted member.

1. Who does the Code apply to?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- 2.1 You must comply with this Code whenever you:
 - (a) Conduct the business of the Authority, or
 - (b) You are acting as a representative of the Authority.
- 2.2 This Code has effect in relation to your conduct in your official capacity.

2.3 Where you act as a representative of the Authority:

- (a) On another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) On any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General Obligations

3.1 You must treat others with respect.

3.2 You must uphold the law

3.3 You must not:

- (a) Do anything which may cause the Authority to breach any of the equality enactments.
- (b) Bully any person.
- (c) Intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings.

in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or

- (d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4. Confidential Information

You must not:

- (a) Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (b) Prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an Advantage or Disadvantage

You must:

- (a) Not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) When using or authorising the use by others of the resources of the Authority:
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Members' Interests

6. Disclosable Pecuniary Interests¹

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as "Relevant Persons").

6.2 A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect:

- (i) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (ii) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your 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;
- (iii) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (iv) A beneficial interest in any land in the Authority's area;
- (v) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer;
- (vi) Any tenancy where to your knowledge:
 - (a) the landlord is the Authority; and
 - (b) the tenant is a body in which you or a Relevant Person has a beneficial interest;

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011.

- (vii) Any beneficial interest in securities of a body where:
1. that body (to your knowledge) has a place of business or land in the area of the Authority 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. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

7. Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:

- (i) any person or body who employs or has appointed you;
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2 (vii) which has been fully discharged within the last 12 months.

8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where:

- (i) It relates to or is likely to affect 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 Authority;
- (ii) It relates to or is likely to affect any body:
 1. exercising functions of a public nature;
 2. directed to charitable purposes; or
 3. 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;
- (iii) It relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 3 years;
- (iv) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of:
 - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

Note: Only items (i) – (iii) are registerable non-pecuniary interests.

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 9.1** Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2** Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest.
- 9.3** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4** Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Effect of Interests on Participation

10.1 Disclosable Pecuniary Interests

- (a)** If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i)** You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
 - (ii)** You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer.
- (b)** If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i)** exercise executive functions in relation to that business; or
 - (ii)** seek improperly to influence a decision about that business
- (c)** If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

10.2. Other Pecuniary Interests

If you have an Other Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (i) Disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3); and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held.

10.3 Non-Pecuniary Interests

After having declared an interest in accordance with paragraph 9.1 you may then participate and vote unless a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw.

11. Registration of Members' Interests

(a) Subject to paragraph 12, you must, within 28 days of:

- (i) This Code being adopted by or applied to the Authority; or
- (ii) Your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority.

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you or a Relevant Person has in so far as you are aware of their interests at that time;
 - ii. Other Pecuniary Interests referred to in paragraph 7 that you have; and
 - iii. Non-pecuniary interests referred to in paragraph 8 (sub paragraphs (i) – (iii)) that you have.
- (b) You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change.

12. Sensitive Information

12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or Other Pecuniary Interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's Monitoring Officer.

12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

13. Register of Gifts and Hospitality

13.1 You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Authority.

13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

13.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

The Nolan Principles and Section 28(1) of the Localism Act 2011

Selflessness

To serve only the public interest and never improperly confer an advantage or disadvantage on any person.

Integrity

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

Accountability

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

Openness

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

Honesty

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

Leadership

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

© Crown copyright, 2013

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

September 2013

ISBN: 978-1-4098-3604-9

The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests of your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

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.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Proposed Revisions to Appendix 1 to the Members' Code of Conduct

The Nolan Principles (as revised by the Committee on Standards in Public Life in January 2013) and Section 28(1) of the Localism Act 2011

Selflessness

~~To serve only the public interest and never improperly confer an advantage or disadvantage on any person.~~

Holders of public office should act solely in terms of the public interest.

Integrity

~~Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.~~

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

~~Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.~~

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

~~To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.~~

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

~~To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.~~

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

~~Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.~~

Holders of public office should be truthful.

Leadership

~~Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.~~

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.