



Standards Committee

Date: FRIDAY, 21 SEPTEMBER 2012
Time: 11.30am
Venue: COMMITTEE ROOM 2 - COMMITTEE ROOMS

Members: Deputy Robin Eve
Alan Graham (Co-opted Member)
The Revd Dr Martin Raymond Dudley
Howard Lederman (Co-opted Member)
Deputy Edward Lord
Felicity Lusk (Co-opted Member)
Julian Malins
Matthew Richardson
Anthony Williams (Co-opted Member)
Alderman Fiona Woolf

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Lunch will be served in the Guildhall Club at 1pm

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**
2. **DECLARATIONS BY MEMBERS OF ANY PERSONAL AND PREJUDICIAL INTERESTS**
3. **ELECTION OF CHAIRMAN**
To elect a Chairman pursuant to Standing Order 29.
For Decision
4. **ELECTION OF DEPUTY CHAIRMAN**
To elect a Deputy Chairman pursuant to Standing Order 30.
For Decision
5. **MINUTES OF THE PREVIOUS MEETING**
To agree the minutes of the meeting held on 7th June 2012.
For Decision
(Pages 1 - 4)
6. **UPDATE - INDUCTION FOR INDEPENDENT PERSONS**
Verbal update from the Comptroller & City Solicitor relative to the induction arrangements for the Independent Persons.
For Information
7. **NEW MEMBER CODE OF CONDUCT AND INTEREST PROVISIONS UNDER THE LOCALISM ACT 2011**
A joint report of the Town Clerk and Comptroller & City Solicitor relative to the introduction of a new Code of Conduct and interest provisions under the Localism Act 2011.
For Decision
(Pages 5 - 26)
8. **FUTURE MEETING ARRANGEMENTS**
Verbal update from the Comptroller & City Solicitor in respect of the Standards Committee's future working arrangements, frequency of meetings and future meeting dates. Following discussion, the Committee will be asked to agree the future working arrangements.
For Decision
9. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**
10. **ANY OTHER BUSINESS**

STANDARDS COMMITTEE

THURSDAY, 7 JUNE 2012

Minutes of the meeting of the STANDARDS COMMITTEE held at Guildhall, EC2 on THURSDAY, 7 JUNE 2012 at 11.00am.

Present

Members:

Deputy Robin Eve
Dr Colin Kolbert (Independent)
Howard Lederman (Independent)
Deputy Edward Lord
Julian Malins
Matthew Richardson
Anthony Williams (Independent)

Officers:

Rakesh Hira	- Town Clerk's Department
Lorraine Brook	- Town Clerk's Department
Michael Cogher	- Comptroller & City Solicitor
Edward Wood	- Comptroller & City Solicitor's Department

Deputy Robin Eve took the chair

1. APOLOGIES

Apologies for absence were received from Alderman Fiona Woolf, Alan Graham (Independent), and Felicity Lusk (Independent).

2. DECLARATIONS BY MEMBERS OF PERSONAL OR PREJUDICIAL INTERESTS IN RESPECT OF ITEMS TO BE CONSIDERED AT THIS MEETING

There were none.

3. ORDER OF COMMON COUNCIL

The Order of the Court of Common Council, dated 19 April 2012, appointing the Committee and approving its Terms of Reference were received.

Election of Chairman

The Committee proceeded to elect a Chairman in accordance with Standing Order No. 29.

The Town Clerk read out a list of Members eligible to stand as Chairman and Dr Colin Kolbert, being the only Member indicating his willingness to serve, was duly elected Chairman for the ensuing year, and took the Chair.

Election of Deputy Chairman

The Committee proceeded to elect a Deputy Chairman in accordance with Standing Order No. 30.

The Town Clerk read out a list of Members eligible to stand as Deputy Chairman and Julian Malins, being the only Member indicating his willingness to serve, was duly elected Deputy Chairman for the ensuing year.

4. MINUTES

The minutes of the meeting held on 28 February 2012 were approved as a correct record.

5. STANDARDS REGIME UNDER THE LOCALISM ACT 2011

A joint report of the Town Clerk and the Comptroller & City Solicitor on the Standards regime under the Localism Act 2011 was considered. The report highlighted that as a code of conduct must be adopted by 1 July 2012, as a statutory requirement, it be proposed that the City's existing code of conduct be re-adopted for the time being, until such time as the regulations defining disclosable pecuniary interests had been clarified.

The Comptroller & City Solicitor explained that this was an interim report and that it was the government's desire to move away from the current Standards regime. He pointed out that further regulations/guidance from government was still awaited and that there was an obligation for complaints to be investigated locally when the code of conduct had been breached. It was noted that any new code of conduct would need to be based on the Nolan Principles and that further information on interests was yet to be provided. In relation to the role of the Independent Person it was noted that there was a statutory requirement for an Independent Person to be consulted when making a decision on a complaint that had been investigated. It was noted that shortlisting of Independent Person candidates had been done and interviews would be taking place on 14 June 2012.

The Committee queried why a decrease in the composition of a future Standards Committee had been proposed and some concern was expressed regarding the need to maintain impartiality, particularly if complaints were to be heard and adjudicated solely by elected Members. Following a discussion about the importance of maintaining a level of independent membership on the Committee to preserve the Nolan principles, there was a consensus amongst those present that the proposed composition should be increased to 5 Commoners, 1 Alderman and 4 Co-opted Members (drawn from external representatives), in addition to the three Independent Persons who would fulfil the statutory requirements.

The Comptroller & City Solicitor confirmed that he would explore the arrangements for co-opting "independent" members onto the Committee, and clarify, in due course, on the issue of voting rights.

A discussion took place on the appointment of the Independent Person/s and Members queried whether the appointment of three Independent Persons would complicate proceedings. The Comptroller and City Solicitor explained that only one Independent Person would be appointed on a case-by-case basis to hear a complaint so that multiple persons were not involved in considering an allegation. The Committee endorsed this approach and suggested that there should be a prescribed procedure for how any future complaints would be considered, by whom and when to ensure clarity about the future arrangements.

Members noted that following the introduction of these interim arrangements as of 1 July 2012, they would be asked to give further consideration in due course to the introduction of a new code of conduct, including new provisions in relation to interests. It was agreed that following the introduction of those new standards arrangements a review period should be specified to ensure that the new arrangements were both appropriate and practical.

RESOLVED – That Members agree that:-

- (i) the number of Common Council Members on the Standards Committee be increased to five together with one Alderman and four Co-opted Members;

To recommend to the Court of Common Council that:

- (ii) the City's existing code of conduct set out at Appendix 1 in the report be adopted, for the time being, as the code of conduct to be effective once section 27 of the Localism Act 2011 comes into force;
- (iii) the revised constitution and terms of reference for the Standards Committee set out at Appendix 2 be adopted, subject to the amendments above, from the point that section 28 of the Localism Act 2011 comes into force; and
- (iv) three Independent Persons be appointed from the point that section 28 of the Localism Act 2011 comes into force.

5. **QUESTIONS**

Current Complaint

It was noted that a current complaint which had been lodged against a Member would be dealt with under the current standards regime and, depending on the outcome of the Assessment Sub Committee and any subsequent hearing, local sanctions may be imposed.

6. **URGENT ITEMS**
There were none.

The meeting closed at 11.36am

CHAIRMAN

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Committee(s):	Date:	
Standards Committee Policy & Resources Committee Police Committee Court of Common Council	21 September 2012 4 October 2012 Urgency 25 October 2012	
Subject: New Member code of conduct and interest provisions under the Localism Act 2011		
Report of: Town Clerk and Comptroller & City Solicitor		
Summary		
<p>A report was presented to the Police Committee, Standards Committee, Policy & Resources Committee and the Court of Common Council in June 2012 concerning the new standards regime under the Localism Act 2011. It was always intended to bring back another report once the regulations defining a disclosable pecuniary interest had been made. Those regulations are attached to this report (Appendix 2), together with new guidance from the Department for Communities and Local Government (Appendix 3). Disclosable pecuniary interests may arise in relation to employment, sponsorship, contracts, land, licences, corporate tenancies and securities, and pertaining to a Member or their partner. Technically, Members are required to notify the monitoring officer of all current disclosable pecuniary interests within 28 days of being elected or co-opted, or re-elected or re-appointed. However, once the new standards arrangements have been approved by the Court of Common Council, the Town Clerk will be writing to all Members asking for information about their current disclosable pecuniary interests. Members need to consider what (if any) other interests should be notified and disclosed, and in what manner – the most likely additional category of interest would be gifts and hospitality. Members also need to adopt a new code of conduct, and it is recommended that this should be in the form suggested by DCLG (Appendix 1).</p>		
Recommendation:		
(i) to note the statutory definition of a disclosable pecuniary interest; and		
To recommend to the Court of Common Council:		
(ii) any arrangements that are considered appropriate for the notification and disclosure of interests other than disclosable pecuniary interests; and		
(iii) that a code of conduct in the form set out at Appendix 1 be adopted as the City's code of conduct with effect from 26 October 2012.		

Main Report

Background

1. A report was presented to the Police Committee, Standards Committee, Policy & Resources Committee and the Court of Common Council in June 2012 concerning the new standards regime under the Localism Act 2011 (“the Act”).
2. A code of conduct, including appropriate provision in respect of the registration and disclosure of pecuniary interests, and interests other than pecuniary interests, had to be adopted by 1 July 2012, in order to comply with the requirements of the Act.
3. The Department for Communities and Local Government (“DCLG”) did not produce the regulations defining a disclosable pecuniary interest in time for this to be incorporated into the June report. It was therefore not possible for Members to consider what other interests, if any, should additionally be registered and disclosed. The City’s existing code of conduct, with the existing provisions regarding personal and prejudicial interests, was therefore re-adopted as a temporary measure.
4. The necessary regulations have now been made, and Members are asked to finalise a new code of conduct and interest provisions.

Code of conduct

5. The City is under a duty to promote and maintain high standards of conduct by Members, and is required to adopt and publicise a code of conduct dealing with the conduct that is expected of Members when they are acting in that capacity.
6. These requirements apply to the Common Council of the City of London in its capacity as a local authority or police authority. However it is assumed that Members will, as previously, wish to apply the code of conduct to all of the Common Council’s functions.
7. The code of conduct applies to elected Members and co-opted Members (in this report referred to collectively as “Members”). Non-Members of the Court of Common Council with voting rights on City committees are co-opted Members for these purposes.
8. The code of conduct does not have to be in any prescribed form, but must include such provision as the City considers appropriate in respect of the registration and disclosure of pecuniary interests and other interests. When viewed as a whole the code must also be consistent with the seven ‘Nolan’ principles: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership.

9. At present the City is still operating a code of conduct based on the old statutory model code of conduct. In the June report, Members were provided with a copy of an “illustrative text” for a code of conduct produced by DCLG, as well as a “template” code of conduct produced by the Local Government Association (“LGA”). Members were asked to comment on the content of a new code of conduct for the City, based on either the DCLG or LGA draft or on alternative provisions.
10. It is recommended that a code of conduct in the form suggested by DCLG (set out again at Appendix 1) be adopted as the City’s code of conduct with effect from 26 October 2012. A code of conduct in this form is likely to be consistent with other codes of conduct operating nationally, and represents the ‘light touch’ approach favoured by Government. It is of course still open to the City to adopt, as an alternative, the LGA code or one of its own devising. The statutory provisions in relation to disclosable pecuniary interests will be incorporated in to whatever code is adopted. Given that the old code is viewed by the DCLG as forming part of a discredited system – see the letter that accompanied the DCLG code at Appendix 1 – a modified version of the old code is not recommended.
11. A breach of the code of conduct, save the statutory provisions in relation to pecuniary interests is not a criminal offence – as set out in June report, this is a matter to be dealt with by the Standards Committee. The sanctions include formal censure, withdrawal of hospitality, and removal from one or more committees.

Disclosable pecuniary interests

12. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the Regulations”) came into force on 1 July 2012 and are set out at Appendix 2. Disclosable pecuniary interests may arise in relation to employment, sponsorship, contracts, land, licences, corporate tenancies and securities. For the purposes of the Act, a Member has a disclosable pecuniary interest if they have an interest of a description specified in the Regulations. A Member also has a disclosable pecuniary interest if their spouse or civil partner (or a person with whom they are living as husband and wife, or as if they are a civil partner) has such an interest, provided that the Member is aware of this.
13. Disclosable pecuniary interests must be notified and disclosed in the manner set out below – there is no need for the Court of Common Council to make a resolution in relation to this.
14. Under the Act, Members are required to notify the monitoring officer of all current disclosable pecuniary interests within 28 days of being elected or co-opted, or re-elected or re-appointed. Technically therefore, most Common Councilmen do not have to provide details about their disclosable pecuniary interests until after the elections in March 2013, and for many Aldermen this date would be much later. However, such a situation would not be compliant with the City’s general duty under the Act to promote and maintain high

standards of conduct by Members. Nor would it be compliant with the proposed code of conduct, which requires Members to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest. Therefore, once the new standards arrangements have been approved by the Court of Common Council, the Town Clerk will be writing to all Members asking for information about their current disclosable pecuniary interests (and any other relevant interests – see below).

15. The monitoring officer must maintain a register of Members' interests which is available for inspection and published on the City's website, similar to the current arrangements. There is however no continuing duty to update the register due to a change of circumstances until a relevant item of business arises at a meeting which the Member attends. Failure to register disclosable pecuniary interests is a criminal offence.
16. Where disclosable pecuniary interests have been notified to the monitoring officer, there is no requirement to disclose them at a meeting. Otherwise a Member must disclose any disclosable pecuniary interest, of which he is aware, that relates to any matter to be considered, or being considered, at the meeting. He must also then register that interest within 28 days. The duty to disclose arises on attendance at the meeting, rather than simply before the start of consideration of the matter. A Member with a disclosable pecuniary interest is barred from discussing or voting on the matter. Failure to comply with these provisions is a criminal offence. There is no automatic requirement for a Member with a disclosable pecuniary interest to withdraw from the room.
17. Members found guilty of a criminal offence under the above provisions are liable to a fine not exceeding level 5 on the standard scale (currently £5,000) and may be disqualified as a Member for up to 5 years.
18. Special provision is again made in respect of sensitive interests and dispensations, and advice in relation to these matters is available from the Town Clerk or the Monitoring Officer.
19. DCLG has produced a new guide for councillors entitled "Openness and transparency on personal interests" which is attached at Appendix 3.

Other interests

20. The Court of Common Council is in addition under a duty to determine what (if any) other interests should be notified and disclosed, and in what manner.
21. Members will note that the descriptions of disclosable pecuniary interest specified in the Regulations are very similar to the classes of interest specified in the City's existing code of conduct.
22. One major difference is that, provided any office is not carried on for profit or gain, then no disclosable pecuniary interest arises. So, for example, if a Member is appointed or nominated to an external body by the City, or

otherwise holds an unremunerated office with an external body exercising functions of a public nature, or directed to charitable purposes, then no disclosable pecuniary interest arises – whereas under the existing code of conduct a personal or prejudicial interest can arise in appropriate circumstances. It is thought that this change will be welcomed by Members, and it is not proposed to make provision for the notification and disclosure of such interests.

23. Another obvious difference in the Regulations is that gifts and hospitality are not classed as disclosable pecuniary interests. Members are asked to give consideration to whether gifts and hospitality should continue to be notified and disclosed and, if so, of what value? Should gifts and hospitality simply be disclosed when a relevant item of business arises at a meeting which the Member attends? Or does there need to be a continuous duty to register new gifts and hospitality within 28 days, as under the current system? How long should such an interest remain on the register? What effect should the existence of such an interest have upon participation – should this vary according to the value of the gift or hospitality?
24. Members are also asked to consider whether it is appropriate for any other interests to be notified and disclosed. However, Members must in any event act in accordance with the Nolan principles and, under the proposed code of conduct, there are general duties that would be triggered by the existence of other interests, even if these are not specifically required to be notified and disclosed. For example, “You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest...” In addition, “You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.”
25. A failure to comply with any provisions relating to interests other than disclosable pecuniary interests is not a criminal offence, but a breach of the code of conduct.

Further action

26. All Members will be offered guidance and training on the new standards regime once the new code of conduct and interest provisions have been approved by the Court of Common Council, and Members are invited to comment on how such guidance and training might best be provided.
27. In respect of the format of the Register of Interest form, the existing version will be revised to reflect the new requirements – disclosable pecuniary interests, and any other interests determined by the Court of Common Council. The new form will be circulated to all Members following the meeting of the Court on 25 October 2012, for completion, and will be accessible online as soon as possible.

Conclusion

28. The Regulations defining a disclosable pecuniary interest have now been made, and the Town Clerk will be writing to all Members in due course in order to update the register of Members' interests. Members need to consider whether it is appropriate for any interests other than disclosable pecuniary interests to be notified and disclosed. Members also need to adopt a new code of conduct, and it is recommended that this should be in the form suggested by DCLG.

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11 April 2012

Dear Colleague,

I am writing to let you know that my Department is today making available an illustrative text for a code of conduct for members and co-opted members of local authorities. This text provides local authorities with an example of what a local authority's code of conduct for the new standards arrangements might look like.

We have made provision in the Localism Act 2011 for the abolition of the Standards Board regime, and the Standards Board itself was abolished on 31 March. The Act also makes provision for new standards arrangements including the involvement of an independent person in allegations of misconduct, a new criminal offence for failing to declare or register interests, and the requirement for local authorities to adopt a code of conduct that is consistent with the seven 'Nolan' principles of standards in public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as making provision for the registration and disclosure of pecuniary and non-pecuniary interests.

The model code of conduct was a key part of the Standards Board regime, a top-down, centrally imposed regime that became a vehicle for vexatious complaints. Moving to new arrangements means that local authorities will be free to discard the model code and adopt their own, Nolan compliant, code. In order to give local authorities an idea of what a Nolan compliant model code featuring provisions about pecuniary and not pecuniary interests might look like, I am attaching an example. As you will see, it is very different to the model code that formed part of the Standards Board regime, while clearly requiring that members act in a manner that promotes and maintains high standards of conduct.

Together, these measures will ensure high standards in public life, prevent corruption, and put a stop to petty, vexatious complaints that consume local authority resources and damage the reputation of local government.

We have produced this example of a local code to provide certainty to local authorities who wish to adopt a lighter touch code compared to the centralist, top-down model code, and to help local authorities (especially parish councils) who might otherwise consider they need to commit valuable resource to creating a code to ensure compliance with the Localism Act. I hope you find the example code of conduct helpful.

A handwritten signature in black ink, appearing to read "Bob Neill", written over a light blue circular watermark.

BOB NEILL MP

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

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2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

**The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012**

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

(a) 2011 c.20.
(b) 2000 c. 8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012

£4.00

E3611 06/2012 123611T 19585





Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

August 2012

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August 2012

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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

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).

- the Broads Authority
- 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.

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 honesty - that **'holders of public office have a duty to declare any private interests**

³ <http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>

relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'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. 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

⁴ http://www.public-standards.gov.uk/Library/Seven_principles.doc

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.

associated) and wider 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.

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

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.

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