

Guidance on the Declaration of Interests in Securities

Introduction

The Localism Act 2011 places an obligation on members to register disclosable pecuniary interests (referred to in this note as a “DPI”) and to refrain from speaking and voting in relation to matters in which they have such an interest at Common Council and committee meetings. Because the obligation to register a DPI arises within 28 days of election there is a further obligation to declare and register any DPI which has not been registered where it arises at a Common Council or committee meeting. This note sets out the requirements in relation to the registration of securities. Failure to register a DPI without a reasonable excuse is a criminal offence which can result in a fine and/or disqualification for up to 5 years.

What are Securities?

For the purposes of the rules on registration and declaration “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 and any other securities of any description other than money deposited with a building society” (Regulation 1 of The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012).

What Securities must be registered?

Members must register any beneficial interest in securities where:-

- (a) The body, to the member’s knowledge has a place of business or land within the City of London’s area; 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 (whichever is the lower); or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares in any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

What is a “beneficial interest”?

A beneficial interest arises where there is a right to the economic benefit of the securities i.e. a right to the income from the securities or a share of it and a right to the proceeds of sale or part of the proceeds.

What degree of knowledge is required?

A member will be taken to have knowledge of the necessary facts if:-

They have actual knowledge; or
They wilfully shut their eyes to the obvious; or
They wilfully and recklessly fail to make such inquiries as an honest and reasonable man would make; or

They have knowledge of circumstances which would indicate the facts to an honest or reasonable man; or

They have knowledge of circumstances which would put an honest and reasonable man on enquiry.

Thus genuine and reasonable ignorance of the facts is required if the obligation to register a DPI is to be avoided.

There is no general obligation to undertake extensive enquiries and thus a member with significant holdings in, say, a unit trust is unlikely to be required to ascertain the value of the beneficial interest in each company within the trust and whether they have a place of business in the City provided that this is not apparent from the material routinely supplied to unit trust holders.

What is a “reasonable excuse”?

There is no statutory definition and whether a “reasonable excuse” for failure to register a DPI exists will depend on all the circumstances of the case. The Court will consider the actions of a member from the perspective of a prudent person exercising reasonable foresight and due diligence having proper regard to their responsibilities.

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