

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



**TO ALL MEMBERS OF THE
GENERAL PURPOSES COMMITTEE**

20 July 2012

Dear Councillor

GENERAL PURPOSES COMMITTEE – THURSDAY, 2 AUGUST 2012

Further to the agenda and papers for the above meeting, previously circulated, please find attached the following report which was marked to follow:-

8. Localism Act 2011 - Registration and Declaration of Interests

To further consider the registration and declaration of Members' interests as required by the Localism Act 2011.

Should you have any queries regarding the above please contact me.

Yours sincerely

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Committee Services Officer

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Meeting: General Purposes Committee
Date: 2 August 2012
Subject: Localism Act 2011 – Registration and Declaration of Interests
Report of: Head of Legal & Democratic Services
Summary: The report considers the requirements included in the Localism Act 2011 relating to Member interests.

Advising Officer: John Atkinson, Head of Legal & Democratic Services
Contact Officer: As above
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The effectiveness of the Council's governance arrangements contributes to the achievement of all the Council's priorities.

Financial:

1. The proposals contained in the report have no immediate financial implications.

Legal:

2. The proposals contained in this report comply with the requirements in relation to Standards contained in the Localism Act 2011.

Risk Management:

3. It is important for the Council to be clear about what interests should be registered and whether Members should be required to withdraw from meeting in any circumstances to ensure that there is a sound process for reaching decisions that is not open to challenge.

Staffing (including Trades Unions):

4. Not Applicable.

Equalities/Human Rights:

5. Public Authorities must ensure that decisions are made in a way which minimises unfairness, and without a disproportionately negative effect on people from different ethnic groups, disabled people, women and men. It is important that Councillors are aware of this duty before they take a decision.
6. The registration of and declaration by Councillors of any interests they may have in an item of business being considered by the Council contributes to securing that the decisions reached are transparent.

Public Health

7. Not applicable.

Community Safety:

8. Not Applicable.

Sustainability:

9. Not Applicable.

Procurement:

10. Not applicable.

RECOMMENDATIONS:

The Committee is asked to:

1. **Consider whether any adjustment is needed to the arrangements approved by the Council on 14 June 2012 regarding the position of Members who have disclosable pecuniary interests and whether there are circumstances in which they should be permitted to address the Council or Committee making a decision that relates to that interest.**
2. **Determine whether there are any additional interests that Members should be required to register beyond the disclosable pecuniary interests prescribed in Appendix A.**

Background

11. The Localism Act 2011 contains provisions requiring councillors to register disclosable pecuniary interests. These are prescribed in regulations that were made on 6 June 2012 and came into force on 1 July 2012.

12. When the Committee met on 7 June it considered a report on the requirements of the Localism Act 2011 covering ethical standards, including the arrangements relating to the registration and declaration of Members' interests. The Committee submitted a number of recommendations that were approved by the Council on 14 June 2012. These included the following decisions regarding Members' interests:
- In accordance with sections 29 and 30 of the Act, Schedule 1 of the Code of Conduct shall incorporate the disclosable pecuniary interests specified in the Regulations;
 - The General Purposes Committee shall be authorised to determine what other interests (if any) should be incorporated into the Code of Conduct including arrangements for the recording of gifts and hospitality accepted by Members;
 - Members shall be required (as now) to disclose when they are present at meetings of the Council, the Executive and all Committees, Sub-Committees and Joint Committees of the Council if they have a pecuniary or other interest in an item of business on the agenda of the meeting and the nature of that interest and, where the interest constitutes a disclosable pecuniary interest, to withdraw from the meeting during the consideration of that item of business.
13. During the discussion of this item of business some councillors expressed disquiet about the requirement that they should withdraw from the meeting where they had a disclosable pecuniary interest without first being given the opportunity to address the Council or committee concerned. The previous Code of Conduct allowed a Member with a personal and prejudicial interest in a matter to address the meeting, where members of the public were afforded that opportunity.

The Legal Requirements

14. Section 31 of the Localism Act 2011 provides that a Member may not participate, or participate further, in any discussions where they are present at a meeting of the Council or one of its committees and have a disclosable pecuniary interest in the matter under discussion, nor may they participate in any vote taken on the matter.
15. Where a Member has a disclosable pecuniary interest in an item of business under discussion, they are not required to withdraw from the meeting unless the Council's Constitution provides for the exclusion of a Member in these circumstances.

16. Since the Council meeting the Monitoring Officer has investigated whether the Council has any discretion to permit Members who have disclosable pecuniary interests to address the meeting. It is possible to take the view that when a Member addresses the meeting in these circumstances, he or she is not actually 'participating in any discussion of the matter', that the discussion does not actually begin until the Member has completed representations. However, in such circumstances, my advice is that the Member should be required to withdraw from the meeting at that point.

Other Interests

17. Appendix A contains the list of disclosable pecuniary interests that Members must register.
18. The Council has power to identify additional interests which should be registered.
19. The previous Code of Conduct contained the following personal interests that Members were required to register and declare:

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the member of the Council is a member or in a position of general control or management.

20. It also included the following general category:

a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area.

The requirements in respect of disclosable pecuniary interests relate only to Members and their spouse or partner. They do not cover the wider categories of relative or 'close associate' referred to above.

21. At this stage, it is open to the Council to confine the registration requirements to those interests that are prescribed as disclosable pecuniary interests in Appendix A. However, the Committee should consider whether there are any additional interests that should be included.

Appendices: Appendix A – Schedule 1 Disclosable Pecuniary Interests

Background Papers: None

Appendix A

Schedule 1

Disclosable Pecuniary Interests

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member of Central Bedfordshire Council, Members must notify the Monitoring Officer of any ‘disclosable pecuniary interests’.

A ‘disclosable pecuniary interest’ is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>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.
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 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.

These descriptions on interests are subject to the following definitions;

- “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” includes 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 the person M referred to in section 30 of the Act;
- “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) 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() and other securities of any description, other than money deposited with a building society.

2 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 Non participation in case of disclosable pecuniary interest

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- You may not participate in any discussion of the matter at the meeting.
- You may not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Order X requires you to leave the room where the meeting is held while any discussion or voting takes place.

B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5 Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

6 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.