
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