

REPORT FOR: STANDARDS COMMITTEE

Date of Meeting: 11 September 2012

Subject: **INFORMATION REPORT –
GUIDANCE ON OPENNESS AND
TRANSPARENCY ON PERSONAL
INTERESTS**

Responsible Officer: Hugh Peart, Director of Legal and
Governance Services

Exempt: No

Enclosures: Code of Conduct (to follow)

Section 1 – Summary

This report sets out Guidance from the Department for Communities and Local Government on the disclosure of interests by Members

FOR INFORMATION

Section 2 – Report

A. Background

1. Through the provisions of the Localism Act 2011 Government abolished the previous arrangements by which Codes of Conduct were set and applied to the conduct of Members. Similarly the process for dealing with complaints about the conduct of Members was abolished.
2. The 2011 Act and the related Regulations set new requirements for Councils to put in place. The Act also introduced a category of interest termed, 'Disclosable Pecuniary Interests'.
3. As a consequence of the introduction of these changes the Standards Committee met on 14 June 2012 and made a series of recommendations to Council. These included the adoption of a new Code of Conduct, the establishment of a Register of Members' Interests and information for Members about the need to declare and register interests.
4. At the Council meeting on 5 July 2012 those recommendations were approved by Council.
5. A copy of the final version of the Code of Conduct taking account of the decisions of Council is attached at Annex 'A'.
6. On 2 August 2012 the Parliamentary Under-Secretary of State wrote to all Council Leaders to bring to their attention Guidance that he had issued on that day about how Members should be open and transparent about their personal interests and how monitoring officers should approach their roles under these new Standards arrangements.

B. Code of Conduct

1. The Code of Conduct applies to all Members, be they elected, co-opted or appointed.
2. The Code of Conduct identifies three types of interest:
 - a) Pecuniary Interests that are specified as being Disclosable Pecuniary Interests.
 - b) Pecuniary Interests that are not specified in that manner
 - c) Non-pecuniary interests.

3. Within 28 days of the adoption of the Code or election/appointment you must notify the Monitoring Officer of any disclosable pecuniary interest that you have at that time. If you are re-elected or re-appointed you need only notify the Monitoring Officer of any such interests not already registered.
4. If your circumstances change then you are required to notify the Monitoring Officer within 28 days of the change of circumstances and thereby alter your registrations.
5. It is not for the Monitoring Officer to check that any matter reported for registration is actually subject to a requirement for registration; there is simply a duty to register the notification.
6. If you attend a meeting and become aware that you have a disclosable pecuniary interest in any business before the meeting then you are required to disclose that interest at the meeting and leave the meeting. You cannot remain in the room or move to the public gallery. Thereafter, within 28 days, you must notify the Monitoring Officer of that interest.
7. If part of your responsibilities includes making decisions as a single Member acting alone and you become aware that you have a disclosable pecuniary interest in a matter to be dealt with then you must notify the Monitoring Officer within 28 days of that interest. As a consequence you cannot act further on the issue except for enabling the matter to be dealt with otherwise than by you.
8. The above requirements apply to you directly and are also applied to you if it is an interest of your spouse, civil partner; or a person with whom you are living as a married couple or as civil partners.
9. The above requirements are also affected if the interest that should otherwise be registered relates to matters recognised as being of a sensitive nature or if you have a dispensation from the Standards Committee.

C. Guidance

1. The guidance is intended to give basic practical information about how to be open and transparent and is designed to help Members. It reports that the new Standards regime is intended to create a culture of trust and openness between Members and those they represent.
2. The new arrangements enables each Council to decide their own rules, within the statutory framework. From this it is essential that there is confidence that Members are putting the public interest first; in advance of any interest of their own.

3. Rules about disclosure have existed in many forms for decades. Some of these historical rules were enforced by criminal penalties. The same consequence can arise in respect of some of the new rules.
4. The guidance reminds us of the need to adopt a Code of Conduct, establish a register of interests and for Members to register their pecuniary interests. This has already been done at Harrow.
5. The point is strongly made that `honesty` is one of the principles of Public Life that underpins the Code. This is the basis of the **`duty for holders of public office to declare any private interests relating to their public life and to take steps to resolve any conflicts arising in a way that protects the public interest`**.
6. Registration of interests should be guided by this duty and Councillors should co-operate with the Monitoring Officer to keep the register up to date. It says that waiting until the immediate aftermath of being elected is wholly incompatible with this duty.
7. We are reminded of the duties:
 - a) to disclose interests at meetings and later to have them registered,
 - b) that apply to Members who may be acting alone,
 - c) to have interests registered on election, co-option or appointment,
 - d) to disclose interests at meetings and not to take any further part or vote and that this applies to any form of participation.
8. We are also reminded of the circumstances that constitute pecuniary interests and how they may become disclosable pecuniary interests because they relate to Members or those persons with whom they have a close personal relationship as identified in paragraph B8 above.
9. It is made clear that that the spouse or partner of the Member does not have interests to register. The reality is that the terms of the scheme make their interests registrable as interests of the Member. In the register it is not necessary to differentiate to indicate whether the interest is one that relates to the Member directly or applies indirectly due to it being an interest of a spouse or partner.
10. The guidance began with the reminder that under historical arrangements criminal sanctions did sometimes apply if there was non-compliance. The guidance returns to this theme.
11. It points out that it is a criminal offence:

- a) if, without reasonable excuse, a Member fails to tell the Monitoring Officer about a disclosable pecuniary interest for initial inclusion in the register or as an update; or following realization of its existence due to the nature of business being considered at a meeting when you are present or when acting alone,
 - b) to knowingly or recklessly provide false or misleading information
 - c) if, without reasonable excuse, a Member participates or votes on business at a meeting where that business involves a disclosable pecuniary interest or they continue to work on a matter as a single member when you have a disclosable pecuniary interest.
12. In any of these situations the penalty can be a fine of up to £5,000 and disqualification from being a Member for up to 5 years.
13. We are reminded that the Council's Register of Interests must be available for public inspection in the Harrow area and be published on the Harrow website because the public must have ready access to publically available information.
14. For clarity we are informed that it is not necessary for Members' signatures to be published online. Also that where information is of a sensitive nature; that is when both the Member and Monitoring Officer consider that disclosure of the registered details could lead to the Member or person connected to them being subject to violence or intimidation: then the details of the registration need not be given. It will be sufficient to state that the Member has an interest but details are withheld.
15. Information will not be held for ever. It will be removed when a Member ceases to have the registered interest or the person ceases to be a Member. It is important to keep registrations under review to keep them up to date and transparent.
16. Transparency also requires that when an interest is disclosed at a meeting it is not sufficient to remove yourself from the `meeting` but that you must leave the room. This is part of the Harrow Code of Conduct.
17. Although the rules are extensive they do permit the Council to relax their application by the grant of a dispensation. At Harrow this will be a matter for the Standards Committee on receipt of a written application.
18. A Dispensation can be granted if:
- a) without it, so great a proportion of Members would be prohibited from taking part resulting in the conduct of business being impeded.

- b) without it, political representation would be upset so as to alter the likely outcome of a vote
- c) it would be in the interest of people living in the area.
- d) without it, every member of the Executive would be prohibited from taking part in the business.
- e) it would otherwise be appropriate to grant it.

D. Current Position

1. The Council has adopted a Code of Conduct in accordance with the Localism Act and the Monitoring Officer maintains a register in which Members interest are recorded. This meeting the requirements set out in the Guidance.
2. The guidance is intended to help all those who have chosen to serve their community and to ensure openness and transparency in their conduct in those roles while, at the same time, respecting the legitimacy of their privacy.

Section 3 – Financial Implications

None associated with this report

Section 5 – Equalities Implications

None associated with this report

Section 6 – Corporate Priorities

High standards of conduct among Members contributes to promoting all of the Council's Corporate Priorities

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 31.08.2012		

Section 7 - Contact Details and Background Papers

Contact: Jessica Farmer, Head of Legal Practice - 02084241889

Background Papers: None