

Joint Standards Committee

19th February 2014

Report of the Monitoring Officer

Guidance on Disclosable Pecuniary Interests

Summary

1. This report advises Members of recently revised guidance issued by the Department of Communities and Local Government.

Background

2. The Department of Communities and Local Government issued revised guidance on the new standards arrangements in September. A copy of the guidance is annexed to this report.
3. The key change from the previous version of the guidance is a statement that:

“All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority’s code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union.”

4. This suggests a requirement to register some interests beyond those required by law or under a Council's code. However, only one example of such an interest is given.
5. The City Council's code and the National Association of Local Councils model code (which formed the basis for the Code adopted by each local Parish Council) already contain additional requirements including for the registration of details of:

“Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority; and

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 you are a member or in a position of general control or management”

This not only includes a requirement to register trades union membership but it also covers a wide range of other interests. This requirement seems to more than meet the new guidance and accordingly no changes are considered necessary.

6. The Guidance repeats the controversial advice contained in an earlier version of the guidance that:

“ If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.”

7. Many lawyers have questioned the accuracy of the guidance. The Localism Act provisions which create the offence of failing to disclose a pecuniary interest contain no specific exception based on the materiality of the interest. Case law under the previous national code established a requirement to declare quite minor interests and that code included a specific exemption for the function of setting the council tax. It does though seem hardly likely that the Director of Public Prosecutions will authorise any prosecution of a member in these circumstances. In any event City Councillors are protected by a dispensation given last year which will remain in place until the 2015 local elections.

Recommendations

8. Members are recommended to:

- 1) Note the report
- 2) Confirm that no changes are considered necessary to the City or Parish Codes arising from the issuing of the revised guidance.

Reason: To ensure that Members are aware of the recent guidance and are satisfied that current arrangements are consistent with them.

Contact Details

Author:

Andrew Docherty
Monitoring Officer

CBSS

Tel No. 01904 551004

Report
Approved

Date 04/02/2014

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

None

Annex

Openness and transparency on personal interests - A guide for councillors