

**Public Meeting of
Joint Standards Committee**

To:

Cllrs Scott, Barton, Taylor and Runciman
Cllrs Crawford (Parish Council Member), Martin (Parish
Council Member) and Simpson (Parish Council Member)

Date: Wednesday, 12 September 2012

Time: 3.00 pm

Venue: The Guildhall, York

AGENDA

- 1. Appointment of Chair**
To appoint a Chair of the Committee.
- 2. Appointment of Vice Chair**
To appoint a Vice-Chair of the Committee.
- 3. Declarations of Interest**
At this point, Members are asked to declare any personal, prejudicial or disclosable pecuniary interests they may have in the business on this agenda.
- 4. Minutes** (Pages 3 - 8)
To approve and sign the minutes of the meeting of the Standards Committee held on 26 June 2012.
- 5. Minutes of Sub-Committees** (Pages 9 - 12)
To approve and sign the minutes from the Joint Standards Committee Sub-Committee meeting held on 2 August 2012.

6. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Tuesday 11 September 2012.**

7. Implementation of New Standards (Pages 13 - 32) Arrangements

This report provides Members with information regarding progress with the implementation of the new standards arrangements by Councils in York.

8. Complaints Monitoring (Pages 33 - 36)

This report provides Members with information regarding the processing of complaints that Members of the City or Parish Councils may have breached the Code of Conduct.

9. Work Plan

The Committee will be invited to consider a work plan for the year.

10. Urgent Business

Any other business which the Chair considers is urgent under the Local Government Act 1972.

Democratic Services Officer responsible for this meeting:

Name: Jayne Carr

Contact Details:

- Telephone – (01904) 552030
- E-mail – jayne.carr@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Further information about what's being discussed at this meeting

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The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Minutes

MEETING	STANDARDS COMMITTEE
DATE	26 JUNE 2012
PRESENT	MRS BAINTON (INDEPENDENT MEMBER, IN THE CHAIR) MR DIXON (INDEPENDENT MEMBER) MR HALL (INDEPENDENT MEMBER) COUNCILLOR BARTON (CYC COUNCIL MEMBER) COUNCILLOR RUNCIMAN (CYC COUNCIL MEMBER) COUNCILLOR SCOTT (VICE-CHAIR, CYC COUNCIL MEMBER) COUNCILLOR TAYLOR (CYC COUNCIL MEMBER) COUNCILLOR CRAWFORD (PARISH COUNCIL MEMBER) COUNCILLOR FORSTER (PARISH COUNCIL MEMBER) COUNCILLOR MELLORS (PARISH COUNCIL MEMBER)
IN ATTENDANCE	COUNCILLOR SIMPSON (PARISH COUNCILLOR)

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

1. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. None were declared.

2. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 17 May 2012 be approved and signed by the Chair as a correct record.

3. MINUTES OF SUB-COMMITTEES

RESOLVED: That the minutes of the Standards Committee Assessment Sub-Committee meeting held on 1 June 2012 be approved and signed as a correct record.

4. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the council's Public Participation Scheme.

5. JOINT COMMITTEE

[See also Part B minute]

Consideration was given to a report that asked the Committee to recommend terms of reference for the new, non-statutory Joint Standards Committee to the member Councils.

The Monitoring Officer clarified the situation in respect of Parish Councils and their representation on the Joint Standards Committee.

It was agreed that 3.1(b) of the Terms of Reference should be amended to read "One voting member of each of the three Parish Councils".

- RESOLVED:
- (i) That the Councils be recommended to confirm their agreement to the establishment of the Joint Committee with the terms of reference as annexed to the report (subject to the amendment detailed above).
 - (ii) That a further report on the issue of dispensations be considered at a future meeting of the Joint Committee.

REASON: To ensure that terms of reference are in place for the new Joint Committee.

6. TRANSITIONAL PROVISIONS AND IMPLEMENTATION ARRANGEMENTS

[See also Part B minute]

Members considered a report that advised them of transitional provisions contained in Regulations and which made further recommendations as to steps the Council may need to take as regards implementation.

Attention was drawn to the provision which now allowed existing independent Members to be appointed to the new role of independent person provided that the appointment was made before 1 July 2013. There remained a requirement for the position to be advertised.

The independent Members withdrew from the meeting whilst the Committee discussed interim arrangements in respect of the independent persons.

- RESOLVED:
- (i) That the transitional provisions be noted.
 - (ii) That the procedures for handling complaints be as annexed to the report.
 - (iii) That an appointment panel comprising Councillor Scott, Parish Councillor Crawford and the Monitoring Officer be nominated to make recommendations to Council in respect of the Independent Person role.

REASON: To ensure the effective implementation of requirements of the Localism Act taking account of transitional provisions.

7. VOTE OF THANKS

It was noted that this would be the final meeting of the Standards Committee. The Chair and the Members of the Committee who would not be serving on the new Joint Committee were thanked for their contribution to the work of the Committee.

PART B - MATTERS REFERRED TO COUNCIL

8. CODE OF CONDUCT

Consideration was given to a report that presented a draft Code of Conduct for Members' consideration. The draft Code had been prepared, as requested at the previous meeting, using the existing model as a template.

It was noted that NALC had recently produced a straightforward code which was being recommended to Parish Councils. Copies of the NALC Code were tabled for information.

Members were asked to consider a number of questions in respect of the draft code, as detailed in the report. The Committee agreed the following:

- It would be appropriate to include a definition of when a Member is “acting as such”
- A prohibition on Members scrutinising their own decisions was not a matter for the Code.
- Paragraph 3.5(d) to be amended to state only that “The disclosure is reasonable; and is in the public interest; and is made in good faith”.
- Noting that the “respect” and “disrepute” provisions had been retained, Members were content that the new filtering arrangements provided the right way to deal with this issue rather than changing the Code.
- There was a need for the non-statutory category of interests.
- Wording to be included in the Code to make provision for prejudicial interests.
- The Council should be recommended to adopt a standing order requiring members with a DPI (or a prejudicial interest) to withdraw from the room.
- There should be a requirement to register interests arising from the Council making an outside body appointment.
- Paragraph 2.2 of the draft code to be amended to read “*A co-opted member is a person who is not an elected member of the authority*”

Members also discussed whether there should be a requirement for gifts and hospitality to be registered. It was agreed that:

- Members be required to register any individual gift or hospitality worth more than an estimated value of £50 which they had received by virtue of their office.

RECOMMEND: (i) That, subject to the amendments detailed above, the draft Code of Conduct be approved and the revised copy be submitted to Council for adoption.

- (ii) That the new Code of Conduct be kept under review by the new Joint Standards Committee.

REASON: To ensure that an effective Code of Conduct for Members is in place in accordance with the requirements of Localism Act.

9. JOINT COMMITTEE

[See also Part A minute]

Consideration was given to a report that asked the Committee to recommend terms of reference for the new, non-statutory Joint Standards Committee to member Councils.

The Monitoring Officer clarified the situation in respect of Parish Councils and their representation on the Joint Standards Committee.

It was agreed that 3.1(b) of the Terms of Reference should be amended to read "One voting member of each of the three Parish Councils".

- RECOMMEND:
- (i) That Council confirm its agreement to the establishment of the Joint Committee with the terms of reference as annexed to the report (subject to the amendment detailed above).
 - (ii) That the powers to deal with dispensations be delegated to the Joint Committee.
 - (iii) That the Monitoring Officer be appointed as Proper Officer for the purpose of receiving applications for dispensation.

REASON: To ensure that terms of reference are in place for the new Joint Committee.

10. TRANSITIONAL PROVISIONS AND IMPLEMENTATION ARRANGEMENTS

[See also Part A minute]

Members considered a report that advised them of transitional provisions contained in Regulations and which made further recommendations as to steps the Council may need to take as regards implementation.

Attention was drawn to the provision which now allowed existing independent Members to be appointed to the new role of independent person provided that the appointment was made before 1 July 2013. There remained a requirement for the position to be advertised.

The independent Members withdrew from the meeting whilst the Committee discussed interim arrangements in respect of the independent persons.

RECOMMEND: That, as an interim measure, the three existing independent Members carry out the Independent Person role pending the appointment of two Independent Persons at the Council meeting in October.

REASON: To ensure the effective implementation of requirements of the Localism Act taking account of transitional provisions.

Chair

The meeting started at 3.00 pm and finished at 4.25 pm.

City of York Council

Committee Minutes

MEETING	JOINT STANDARDS COMMITTEE - SUB-COMMITTEE
DATE	2 AUGUST 2012
PRESENT	COUNCILLOR BARTON (CYC COUNCILLOR) COUNCILLOR CRAWFORD (PARISH COUNCILLOR) COUNCILLOR TAYLOR (CYC COUNCILLOR)

3. APPOINTMENT OF CHAIR

RESOLVED: That Councillor Taylor be appointed as Chair of the meeting.

4. DECLARATIONS OF INTEREST

Members were asked to declare any personal, prejudicial or disclosable pecuniary interests they may have in the business on the agenda. None were declared.

5. COMPLAINTS AGAINST MEMBER OF CITY OF YORK COUNCIL

Consideration was given to two complaints against a Member of City of York Council. The complaints alleged that the subject Member may have failed to comply with the Code of Conduct which applies to Councillors of the City of York Council.

Having considered the evidence provided in support of the complaints, the sub-committee were of the view that further investigation was not required and

RESOLVED: (i) That there had been a prima facie breach of the obligation to treat others with respect contained in Paragraph 3.1 of the Code.

(ii) That the Monitoring Officer be requested to write to the subject Member advising him as to the Sub-Committee's view of his conduct.

- (iii) That the investigation that was currently being undertaken in respect of one of the complainants had not been compromised and should continue as planned.
- (iv) That it be recommended to the Chief Executive that the minutes of the meeting referred to in the complaints should omit the reference to one of the complainants and include only the part of the response related to the questions that had been submitted.
- (v) That a protocol in respect of behaviours expected during the course of a complaint being considered not be put in place at this time but that Members be expected to comply with sub-judice principles whilst investigations were ongoing.

REASONS:

- (i) The comments made had gone beyond what might reasonably be expected in the context of robust political discussion. They were not related to the questions that had been submitted and the fact that they had been made in writing was evidence of an intention to be disrespectful.
- (ii) To ensure that the subject Member was aware of the sub-committee's views of his conduct.
- (iii) There was no evidence that Members or officers involved in the process had been compromised.
- (iv) To ensure that the disrespect shown to one of the complainants was not exacerbated by being included in a document that would be in the public domain.

- (v) A review of the complaints process is due to take place in six months time and hence consideration of a protocol could take place at that time if appropriate. The application of sub-judice principles ensured that the Council and individual Members were not damaged by unfounded complaints being made public.

Councillor Taylor, Chair

[The meeting started at 4.00 pm and finished at 4.20 pm].

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Joint Standards Committee**12th September 2012**

Report of the Monitoring Officer

Implementation of the New Standards Arrangements**Summary**

1. This report provides Members with information regarding progress with the implementation of the new standards arrangements by Councils in York.

Background

2. As Members know, on 1st July the previous statutory standards arrangements which have existed for the last ten years were abolished. Although there continue to be legal requirements in respect of certain standards matters a great deal is now left to local discretion. New local arrangements have had to be implemented with some elements being introduced at a very late stage owing to the late introduction of legislation.

Codes of Conduct

3. The City Council adopted a new Code at its July Council meeting. This Code followed the draft recommended to it by the Committee. The Committee should timetable a review of the Code as part of its forward plan. Each Parish Council has also had to adopt its own Code. The Parishes have been asked to confirm that they have done so and advise on the format that has been followed. Those Councils who have responded to date have confirmed that they have based their Code on the NALC model.

Registers of Interests

4. New Regulations require “disclosable pecuniary interests” as defined in regulations to be notified to the Monitoring Officer. Codes of conduct can (and do) require additional interests to be registered. All City Councillors have completed a new register of

interests and these are available online. Parish Clerks are co-ordinating this process in their own Councils on behalf of the Monitoring Officer. An update on progress will be provided at the meeting.

5. The Monitoring Officer has the power to determine that sensitive interests do not need to be registered. The Monitoring Officer has granted one request to use those powers and, in response to a second enquiry, has indicated that he is not satisfied that the grounds have been made out.

Guidance and Training

6. Guidance has been issued to City Councillors on the new arrangements (Annex 1). The intention is to add to that guidance as issues arise and in response to questions. NALC have issued guidance in support of their model code. CLG have also issued guidance (Annex 2).
7. A training session for City Councillors will be arranged as part of the Member development programme. The Local Councils Association has a training event at the end of September which will include a session on the ethical framework led by Paul Hoey, formerly of the Standards Board.

Appointment of Independent Persons

8. The Council is advertising for independent persons. The closing date for applications is the 10th September. The Committee will receive an update on this matter at the meeting.

Recommendations

9. Members are asked to note the report.

Reason: To ensure that Members are kept updated on the implementation of the new arrangements.

Contact Details

Author and Chief Officer Andy Docherty
Responsible for the report: Assistant Director Governance and ICT
Telephone: 01904 551004

Report Approved **Date** 06.09.12

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

For further information please contact the author of the report

Background Papers:
None

Annexes

- Annex 1 Guidance issued to City Councillors
- Annex 2 CLG Guidance

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A Quick Guide to the New Code of Conduct

Overview

What does the Code Cover?

The City Council's Code has three parts. The first part deals with general behavioural issues with which Members will be familiar from the old Code. It requires Members to treat others with respect, not bring the Council into disrepute, to treat confidential information properly, to use the Council's resources appropriately, to respect the impartiality of Council staff and to have regard to advice from statutory officers.

The second part deals with disclosable pecuniary interests which must be registered by law and can prevent members' participating in meetings.

The third part deals with other interests which the Council has decided should be registered or declared in certain circumstances.

Disclosable Pecuniary Interests

What is a disclosable pecuniary interest?

These are interests which the Secretary of State requires to be registered. They are set out in the First Schedule to the Council's Code. Importantly they include the interests of a Member's spouse or partner. These interests must be registered by law and failure to declare in line with legal requirements is a criminal offence.

What if I don't know about my partner's interests?

You only have to register the interests of your partner if you are aware of those interests.

When do I have to register a disclosable pecuniary interest?

You should ensure that your register is kept up to date. The criminal offences in respect of non registration, however, only apply if you fail to register an interest within 28 days of you taking office or if you are

present at a meeting and you have such an interest which you fail to register within 28 days of the meeting.

What happens if I have a disclosable pecuniary interest in something being discussed at a meeting?

You cannot participate in the discussion at the meeting, you cannot vote, if the interest is not registered you must disclose it. It is a criminal offence to breach any of these requirements.

The Council's Standing Orders require a Member with such an interest to withdraw from the room.

Could I use public speaking rights if I have a disclosable pecuniary interest?

Under the old code a Member with a prejudicial interest could speak as a member of the public before withdrawing from the meeting room. The new law does not have that same specific exemption. There is a question mark as to whether using public speaking rights amounts to participating in the discussion. In the absence of any clear guidance on this at the moment and the potential criminal penalties, the general view of local government lawyers is to advise that Members are cautious and do not use public speaking rights.

My trades union contributed to my election expenses. Do I have a disclosable pecuniary interest in any matter affecting its Members?

No. The old code said that you had a personal interest in any business which *related to or was likely to affect* one of your registered interests. The new legal requirement is worded differently: "if you are present at a meeting and you have a disclosable pecuniary interest in any matter".

The best interpretation which we can put on those words is that the business must be *about* your disclosable pecuniary interest before you have to declare it. It is difficult to see how that can ever arise in the trades union situation. It could though arise in other circumstances – for example if the Council was deciding whether to award a contract to your employer.

Remember as well that, although you may not have a disclosable pecuniary interest, you may still have a personal or prejudicial interest.

Who decides whether to prosecute?

Only the Director of Public Prosecutions can authorise a prosecution. ACSES which is the professional body representing Monitoring Officers has suggested that the DPP should issue a public statement on the approach to be taken on prosecution decisions.

Will I be able to register using the online system?

Yes, we are in the process of adapting the modgov system to enable this. However, in order to ensure that interests are registered in good time a form has been made available for making the registrations which can be returned to Democratic Services for uploading.

Other interests

What else needs to be registered?

Schedule 2 to the Code lists other interests which the Council has decided should be registered. These relate to other bodies which Members are involved with. Members will be familiar with the list from the old Code. You do not need to register any interests that your partner might have in these bodies.

What about gifts and hospitality?

The Council has retained a requirement to register gifts and hospitality received but has raised the estimated value for £25 to £50.

When do I need to declare these interests at meetings?

The new Code has made a change. If you only have a personal interest in a matter then, so long as it is registered, you do not need to declare it at a meeting.

If you have a prejudicial interest in a matter you will still need to leave the room and so would declare your interest in the usual way.

What other personal interests do I need to declare?

If the business of the council would have a particular effect on you or someone with whom you have a close association then you should still declare it

I could still do with some more advice

We are all on a learning curve with the new arrangements. Advice is available from Andy Docherty, Glen McCusker, the Democratic Services team and the lawyers who support the Planning Committee. We would though ask you to try to raise questions as soon as you can so that you get the best advice possible.



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of honesty - that **'holders of public office have a duty to declare any private interests**

³ <http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>

relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are

⁴ http://www.public-standards.gov.uk/Library/Seven_principles.doc

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests of your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a

criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex

Description of disclosable pecuniary interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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Standards Committee**12th September 2012**

Report of the Monitoring Officer

Complaints Monitoring**Summary**

1. This report provides Members with information regarding the processing of complaints that Members of the City or Parish Councils may have breached the Code of Conduct.

Background

2. Relatively few complaints are received relating to City and Parish Councillors in York. Until the law changed any complaint which was received would be referred to an assessment sub Committee to decide whether the matter should be investigated. If the matter was investigated then a report had to be presented to a sub Committee for consideration and, if a breach of the Code was identified in the report then the case also had to be referred to a hearing sub Committee.
3. A streamlined system has been introduced since July under which the initial assessment decision generally falls to the Monitoring Officer in consultation with the independent persons. In order to allow Members to have proper oversight of the decisions being made it is intended that regular monitoring reports should be presented to the Committee. The style and content of future reports may be something that Members wish to discuss.

Municipal Year 2011/12

4. In the year to May 2012 three new cases were received. None resulted in an investigation although two resulted in the Monitoring Officer being asked to take "other action" by way of reminders being issued to the Members concerned as to the requirements of the Code. The Review Sub Committee also met on four occasions

during the year at the request of complainants to review decisions taken by the assessment sub Committee

5. One further case was considered by an assessment sub committee in June 2012. That case was referred for investigation. Owing to the law changing the case fell to be determined under the new arrangements. There was an admitted breach of the Code and the matter was resolved to the complainant's satisfaction by way of an apology being given. The Monitoring Officer was therefore able to dispose of the case without a hearing – an option which would not previously have been available.
6. Between 1st July and 31st August three cases have been received. In one case the Monitoring Officer decided not to use his delegated powers and referred the matter to an Assessment Sub Committee. The Sub Committee decided not to refer the allegation for investigation but made recommendations to the Chief Executive relating to the minuting of a meeting.
7. A second case had some elements similar to the first and the Monitoring Officer reached a similar decision. The complainant has confirmed that he is satisfied with the outcome.
8. The third complaint disclosed no breach of the Code and resulted in a decision to take no further action.

Recommendations

9. Members are asked to note the report, identify any issues arising and consider how they would like to receive this information in future.

Reason: To ensure that effective arrangements are in place to enable Members to monitor complaints.

Contact Details

Author and Chief Officer Responsible for the report: Andy Docherty
Monitoring Officer
Telephone 01904 551004
Andrew.docherty@york.gov.uk

Report Approved

Date 6 September 2012

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

For further information please contact the author of the report

Background Papers:

None

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