

Guidance for Councillors on Personal Interests

Summary

1. This report advises the Committee of recently updated guidance issued by the Government in respect of the new standards regime.

Background

2. The Government has recently issued the guidance which appears at annex A to this report. Although it does not do so explicitly the guidance attempts to deal with some of the flaws in the legislation. For example it indicates that Members should notify their disclosable pecuniary interests whether or not they have been elected since the new arrangements were implemented.
3. The guidance confirms that disclosable pecuniary interests should be declared where the business being discussed *relates* to the disclosable pecuniary interest. This is more useful wording than the Act itself which says it applies where a member *has* a disclosable pecuniary interest in the business.
4. The guidance suggests that dispensations are not required in respect of Council tax or precept setting because these do not materially affect a Member's interest in land. Council tax is however a land based tax and so the business of setting the tax clearly does *relate to* that disclosable pecuniary interest. The legislation does not contain any proviso in respect of materiality (in contrast to the former Code's provisions regarding significance). No doubt the DPP will take notice of this guidance and no prosecutions will be brought in respect of Members participating in Council tax setting. Unfortunately, there is no clarity as to how far the extra statutory "materiality" exemption might extend.

5. The guidance indicates that Members with a disclosable pecuniary interest cannot participate in a meeting even as a member of the public. Many lawyers disagree with this statement. However, it seems best to suggest that Members in this position should seek a dispensation. That advice was contained in the draft Planning Code that the Committee considered at its last meeting.

Recommendations

6. Members are recommended to:

- 1) Note the report

Reason: To ensure Members are aware of developments in this area

Contact Details

Author:

Andrew Docherty
Monitoring Officer

CBSS

Tel No. 01904 551004

|

Report
Approved

Date 05/04/13

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 A – DCLG Guidance